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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GENARI GRE'SEAN MCNEIL,

APPELLANT

APPELLATE CASE NO. 2023-000591

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
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EXHIBIT #91 (DISC—HOSPITAL VIDEO), STATE’S EXHIBIT #92 (DISC—RING
VIDEO), AND STATE’S EXHIBIT #93 (DISC—BIROCHAK BWC).**

STATE OF SOUTH CAROLINA - COUNTY OF RICHLAND
FIFTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
) Docket No.
 PLAINTIFF,) 2019GS4006963
) 2019GS4006964
) 2019GS4006965
V.) 2019GS4006966
) 2019GS4006967
)
GENARI MCNEIL)
)
 DEFENDANT.) **JURY TRIAL**

March 20th through March 22, 2023
Richland, South Carolina

B-E-F-O-R-E:

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THE COURT: Thank you very much. You can grab a seat.

1 And Mr. McNeil is present, represented by his
2 attorney, Mr. Sutherland, who is also present. And y'all
3 have been through jury qualifications this morning.

4 What do we need to take up prior to picking a jury?
5 Anything from the State?

6 MR. SCOTT: No, your Honor.

7 THE COURT: From the defense?

8 MR. SUTHERLAND: No, sir. Not at this time.

9 THE COURT: So he's charged with burglary first
10 degree. Let me make sure I have this right. Possession of
11 a weapon during a violent crime, armed robbery and then a
12 murder involving a Mary Carmichael and a murder involving
13 Jahquan -- am I saying that right?

14 MR. SCOTT: Yes, your Honor.

15 THE COURT: Peterson; is that right?

16 MR. SCOTT: That's correct.

17 THE COURT: And this is one incident?

18 MR. SCOTT: It is, sir.

19 THE COURT: Then we have two victims; is that
20 right?

21 MR. SCOTT: Correct.

22 THE COURT: And then the incident location is?

23 MR. SCOTT: [REDACTED] Skyland. And just for reference,
24 that's right off of Greystone Boulevard.

25 THE COURT: [REDACTED] Skyland Drive; is that right?

1 MR. SCOTT: Correct.

2 THE COURT: And that's off of Greystone?

3 MR. SCOTT: It is.

4 THE COURT: Then ballpark me on time of day, not an
5 exact, but just a roundabout.

6 MR. SCOTT: 10 o'clock. 10:00 p.m.

7 THE COURT: It's p.m.?

8 MR. SCOTT: Yes.

9 THE COURT: Do you agree with all that
10 Mr. Sutherland?

11 MR. SUTHERLAND: Yes.

12 MR. FOWLER: May 11th, 2019.

13 THE COURT: May 11th, 2019.

14 Then the State, as far as voir dire, asked that I
15 ask the panel if anyone has every been prosecuted by the
16 Fifth Circuit Solicitor's Office in addition to my normal
17 questioning; is that correct?

18 MR. SCOTT: That's correct.

19 THE COURT: And then Mr. Sutherland submitted some
20 requested voir dire, which I have received. Is there any
21 objection to any of those questions from the State?

22 MR. SCOTT: I don't remember seeing anything that
23 stood out to me so I'll say no.

24 THE COURT: Most of them are my standard questions.
25 There are a couple of additional, which I would have asked.

1 One of them asked about: Have you ever been the victim of a
2 violent crime? I would ask that question like I normally do
3 where I ask both sides it and we take those people up
4 individually that need to respond. And, of course, the
5 attorneys will be welcome to come up front and hear all of
6 that information.

7 There's a law enforcement question. Most of what
8 the defense submits, I ask and so I will ask the rest of
9 those as well in some way, shape or form.

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: I think it will elicit the responses
12 that you're looking for. But we don't need to take up any
13 other pretrial. We can take that up after jury selection;
14 is that correct?

15 From the State?

16 MR. SCOTT: Correct.

17 THE COURT: And with the defense?

18 MR. SUTHERLAND: Yes, sir.

19 THE COURT: Ballpark me on how long you think the
20 pretrial is going to take, 30 minutes, or do we have a
21 *Denno*?

22 MR. SUTHERLAND: We have a *Denno*. I don't think
23 they're going to have -- we might have a snitch come in and
24 ID him, but I think we can do *Biggers* on him before he
25 testifies.

1 THE COURT: Okay.

2 MR. SUTHERLAND: But I don't think there's any
3 identifications to really -- we're just looking at the
4 *Jackson versus Denno*.

5 THE COURT: Okay, 30? Or, I mean, do I need to
6 block off 30 minutes or an hour for pretrial? Tell me,
7 somebody.

8 MR. SUTHERLAND: Oh. That's right. He's going to
9 do a certificate for the hospital video and I'm fine with
10 that.

11 THE COURT: Okay. I'm not holding you to the
12 timeframe. I'm just trying to figure out when to tell the
13 jury to come back.

14 MR. SUTHERLAND: Let's just say an hour, to be
15 safe. It won't take long.

16 THE COURT: Are you okay with that, Mr. Scott?

17 MR. SCOTT: I am. I'm texting the lead
18 investigator. He's my only witness for that *Denno*.

19 THE COURT: Okay.

20 MR. SCOTT: I know he had something to do this
21 morning.

22 THE COURT: That's no problem. So what we'll do is
23 first pick the jury. We'll go eat lunch. When we come
24 back, we'll do the pretrial stuff. That will give your
25 investigator time to get here and then we can drive forward

1 after that. And if it ends up being a little short on the
2 pretrial, that's okay.

3 MR. SUTHERLAND: Yes, sir. I've got my standard
4 motions that I've put in there --

5 THE COURT: Right. Right. And most of those we
6 can usually move through fairly quickly -- we'll, of course,
7 do all of those.

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: All right. Let's bring up the panel.
10 Listen up. If you are in the audience, I am more
11 than happy for you to be here and I appreciate your
12 participation in the process and I appreciate the sacrifice
13 that you are making for being here.

14 However, I will not tolerate any outburst from
15 anyone in any way, shape or form. And if you want to find
16 the fastest way to not be able to watch this case or
17 participate in it, it will be me excluding you from the
18 courthouse if there are any outbursts.

19 I understand this is very emotional. I believe
20 you, that it's very emotional. I understand that there are
21 a lot of emotions that run high during jury trials. But if
22 you cannot control your behavior or your outbursts, then I
23 will have you removed from the courtroom period.

24 (Prospective jurors enter courtroom.)

25 THE COURT: We are going to go ahead and take the

1 roll. So if I say your name, please say "present" or
2 "here." If I say your name wrong, I'm really sorry. I
3 don't mean to but I am doing the best I can.

4 (Whereupon, the roll was called.)

5 THE COURT: Good morning, everyone. My name is
6 Robert Hood. I'm one of your resident circuit court judges.
7 You are here this morning for a jury selection in the first
8 criminal case that is on the docket for this week.

9 You were qualified this morning by Judge Curtis; is
10 that right?

11 Next door?

12 Okay. Very good.

13 So we're going to shift gears on how things are
14 working for the next hour or so. We are going to pick a
15 jury in the first case that is on the docket for the week.
16 If you actually make it on this jury and that means, instead
17 of sitting there, you are sitting over there, you will then
18 listen to me for when to come back and what time to be here
19 and all those kinds of good things.

20 If you do not make it on this jury, you'll go back
21 downstairs to the jury assembly room and then the judges, as
22 they need you, will call you up from that point.

23 You are here for jury selection in a criminal case.
24 The first thing that we do in a criminal case is the State
25 is allowed to call their case. And so Mr. Scott or Mr.

1 Fowler, you may call your case.

2 MR. SCOTT: Thank you, your Honor.

3 The State calls the captioned case of the State
4 versus Genari McNeil. Mr. McNeil has been indicted on five
5 counts. Indictment 2019-GS-40-06963 is a True Bill
6 Indictment for burglary in the first degree.

7 2019-GS-40-06964 is a True Bill Indictment for
8 possession of a weapon during the commission of a violent
9 crime.

10 2019-GS-40-06965 is a True Bill Indictment for
11 armed robbery.

12 2019-GS-4-06966 is a True Bill Indictment for the
13 murder of Mary Carmichael.

14 2019-GS-40-06967 is a True Bill Indictment of the
15 murder of Jahquan Peterson.

16 THE COURT: Thank you, Mr. Scott.

17 So ladies and gentleman, the State has called their
18 case and there are five charges that are pending against
19 Mr. McNeil. I'm going to read the allegations to you in
20 this case. That means I'm going read the indictments to
21 you.

22 Now, it's important for you to note that these
23 indictments I'm about to read to you are not proof of
24 anything, nor are they evidence of anything. These
25 indictments are simply the formal instruments which give

1 this Court the authority to hear this case.

2 To these indictments, Mr. McNeil has pled not
3 guilty and has requested a trial by jury and places the
4 burden of proof in this case upon the State of South
5 Carolina to convince a jury beyond a reasonable doubt of his
6 guilt.

7 Now, the first indictment, which ends in 6963 for
8 burglary first degree. This indictment alleges that on or
9 about May 11th, 2019, Genari McNeil, did, in Richland
10 County, enter the dwelling of Rufus Carmichael, and/or Mary
11 Carmichael, and/or Jahquan Peterson, located at [REDACTED] Skyland
12 Drive, without consent and with the intent to commit a crime
13 therein and when effecting entry or while in the dwelling or
14 in immediate flight, the defendant was armed with a deadly
15 weapon and/or caused physical injury to a nonparticipant in
16 the crime, and/or used or threatened the use of a dangerous
17 instrument.

18 The second indictment, which ends in 6964, is for
19 possession of a weapon during the commission of a violent
20 crime. This indictment alleges that on or about May 11th,
21 2019, Mr. McNeil, did, in Richland County, possess a firearm
22 or visibly displayed what appeared to be a firearm or
23 visibly displayed a knife during the commission of or
24 attempted commission of a violent crime.

25 The third indictment, which ends in 6965, is for

1 armed robbery. This indictment alleges that Mr. McNeil,
2 did, in Richland County, on or about May 11th, 2019, commit
3 robbery by feloniously taking from the person or presence of
4 Mary Carmichael and/or Jahquan Peterson by means or force or
5 intimidation, goods or monies of Mary Carmichael and/or
6 Jahquan Peterson, such goods or monies being described as
7 money and/or other items with the intent to deprive the
8 owner permanently of such property while armed with a pistol
9 or other deadly weapon or while alleging either by action or
10 words that he was armed by using a representation of a
11 deadly weapon or any object which a person present during a
12 commission of a robbery reasonably believed to be a deadly
13 weapon.

14 The next indictment, which ends in 6966, is for
15 murder. This indictment alleges that Mr. McNeil, did, in
16 Richland County, on or about May 11th, 2019, kill the
17 victim, Mary Carmichael with malice aforethought, either
18 expressed or implied, by means of shooting and the victim
19 did die as a proximate result thereof.

20 The next indictment, which ends in 6967, is also
21 for murder. This indictment alleges that Mr. McNeil did, in
22 Richland County, on or about May 11th, 2019, kill the
23 victim, Jahquan Peterson with malice aforethought, either
24 expressed or implied, by means of shooting and the victim
25 did die as a proximate result thereof.

1 Now, again, ladies and gentlemen, these indictments
2 are not evidence of anything. They're not proof of
3 anything. They're merely the charging documents which gets
4 the case into this Court. When you were asked questions
5 this morning by Judge Curtis, you were asked questions about
6 your general qualifications to serve.

7 Are you old enough?

8 Do you live in the right county?

9 Do you have sufficient education, right?

10 These are the kinds of questions you should have
11 been asked. The questions we're going to ask now are
12 completely different. This questions are case-specific. So
13 the questions are going to be:

14 Do you know the lawyers?

15 Do you know the parties?

16 Do you know the witnesses?

17 Do you know anything about case?

18 Do you have any involvement in the case?

19 Do you know anybody connected to the case?

20 And what I find or what I have found over years of
21 doing this is that some jurors that are sitting where you're
22 sitting now, they kind of put their own extra qualifications
23 on the questions that I'm asking.

24 Like I'll ask a question and they'll say to
25 themselves, "He doesn't really mean that," or "That's not

1 what he's talking about," or "I'm not sure I should answer
2 that question."

3 This is not the place to do that, okay? If you
4 watch TV or you watch movies or you read books or you watch
5 the news, you see in some places it will take a day or two
6 days or three days or a week to pick a jury, okay? We're
7 going to do this in about a hour. But we believe that you
8 are going to tell me the truth, okay? That's a fundamental
9 part of this working correctly, is that you answer my
10 questions truthfully.

11 So if you think you need to answer the question or
12 if you're questioning to yourself silently, "Should I answer
13 that question?" The answer is yes, you should answer the
14 question. There are no wrong answers. We're simply
15 gathering information so that the lawyers can make good
16 decisions about who to put on the jury and who not to, okay?

17 So if you hear a name on the witness list and you
18 might know that person or you could know that person or you
19 went to college with somebody with the same name, just stand
20 up and tell us. Right. We're just gathering information.
21 There's nothing wrong with knowing a witness or knowing
22 someone involved in the case. The problem becomes when you
23 don't tell me that, okay? Does that make sense? So err on
24 the side of answering the question. That's how I want you
25 to think about this process.

1 Now, in that line of thought, we need to swear you
2 in. So if you will please stand and raise your right hand.
3 And if you accept this oath please say, "I do," or "I will"
4 at the end.

5 MADAM CLERK: Please swear or affirm that you shall
6 true answer, make to all such questions, as they be directed
7 to you by the Court or by one of thereof. You shall speak
8 the truth, the whole truth and nothing but the truth, so
9 help you God?

10 THE JURORS: I do.

11 MADAM CLERK: You may be seated.

12 THE COURT: All right. So what we're going to do
13 is, if you need to answer a question, I want you to stand
14 up, okay? Do not wave at me. Do not look at me, like, do I
15 need to answer? Do not look at your neighbor. He does not
16 know if you need to answer, okay? If you need to answer a
17 question, stand up.

18 The first thing we'll do is, we'll have to find you
19 on our list, okay, because you have all been shuffled in
20 order. You're no longer in alphabetical order. You're no
21 longer in numerical order. You're in a completely and
22 totally random order. If you need to answer, just stand up
23 right where you are. We'll figure out who you are and then
24 we'll let you answer the question, okay? So I'm going to
25 start by letting the lawyers introduce themselves to you.

1 And we'll start with the State.

2 If you gentlemen will introduce yourselves and
3 anybody you have with you, please.

4 MR. SCOTT: Good morning. I'm Dale Scott, Senior
5 Solicitor here in the Fifth Circuit. That is the circuit in
6 which you all reside and that covers Kershaw and Richland
7 Counties. I work for your elected solicitor, that's Byron
8 Gipson.

9 I'm going to be trying this case this week before
10 you-all. Assisting me is Nick Fowler, who is our Assistant
11 Solicitor with our office. Sharon Wilson, my paralegal will
12 be shuffling papers around and helping me out. I'm going to
13 call a number of law enforcement agents, other witnesses,
14 and present the case before you.

15 THE COURT: Thank you, Mr. Scott.

16 So the question is: Is anyone related by blood or
17 marriage, close personal friends with, have any connection
18 to business, personal, social or otherwise, either to
19 Mr. Scott or Mr. Fowler?

20 Has anyone ever been represented by Mr. Scott or
21 Mr. Fowler or on the other side of the case from them?

22 If so, please stand.

23 Does anyone have any connection whatsoever to
24 anyone that works in the Fifth Circuit Solicitor's Office?

25 The Fifth Circuit Solicitor's Office encompasses

1 the solicitors offices in both Richland County and Kershaw
2 County.

3 Does anybody have connection to anyone that works
4 at the Solicitor's Office in either Richland or Kershaw
5 County?

6 If so, please stand.

7 All right. Mr. Sutherland, will you introduce
8 yourself and your client, please.

9 MR. SUTHERLAND: Yes, sir.

10 My name is Tivis, the first name. It's like Elvis,
11 but you drop the "E-l" and you put a "T-i" in front. Last
12 name is Sutherland. And this is Nari. He's my client and
13 I'm his lawyer.

14 THE COURT: All right. Thank you, Mr. Sutherland.

15 So is anybody related by blood or marriage, close
16 personal friends with, have any connection to business,
17 personal, or otherwise, either Mr. Sutherland or Mr. McNeil?

18 If so, please stand.

19 Has anyone ever been represented by Mr. Sutherland
20 or on the other side of a case from him?

21 If so, please stand.

22 Great. The next thing I'm going to do is read you
23 a list of potential witnesses. Now, let's go over a couple
24 of things with this list.

25 Number one: These people do not have to be here

1 right now. We try to schedule them out as we think the
2 trial will proceed. So they're not required to be here
3 right now. And even though there are a lot of names on this
4 list, that doesn't mean that all of them will be called. It
5 simply means, they could be called, okay?

6 So please listen for any names or any people that
7 you may know. If I say "CPD," I mean the Columbia Police
8 Department. If I say, "the sheriff's department," I mean
9 the Richland County Sheriff's Department.

10 Here we go: Bobby Bosko, with CPD. These next 18
11 are going to be with the Columbia Police Department. Ivan
12 Birochak, Ronald Manning, Joseph Dwyer, Taylor Steiner,
13 Kermit Scott, George Potash, Brad Markevicz, George Simpson,
14 Victoria Legan, George Wise, Zachary Jackson, Kevin Schmidt,
15 Emmitt Gilliam, Jimmy Sherrod, Nicholas Fortner, Stanley
16 Branham, Brian VanHouten, Ryan McIntyre, Rachel Grant.

17 And Rachel Grant is with the sheriff's department
18 and these next few will be with the sheriff's department.
19 Rachel Grant, with the sheriff's department. Ashleigh
20 Dixon, Melody Galinski, Josh Fabel, Scott McManus, Howard
21 Kleber, David Castro are all with the Richland County
22 Sheriff's Department.

23 Chad Smith is with SLED, which is also known at the
24 State Law Enforcement Division. Nicole Hardin with SLED.
25 Suzanne Cromer with SLED. Doris Yarbrough with SLED. David

1 Escalante with the Coroner's Office. Jon VanHouten.
2 Johnette Pinckney. Jevante Richmond. Kenneth Kirchner.
3 Kenneth Turner. Shannon Gottliebse. Samuel Fleming, who
4 is a medical doctor. Valerie Steinmeyer, Velvet Dubose,
5 Darren Monroe, who is a medical doctor.

6 The question is, is anyone related by blood or
7 marriage, close personal friends with, have any connection
8 to business, personal, social or otherwise to any of the
9 potential witnesses in the case?

10 If so, please stand.

11 Okay. Let's start on the front.

12 Tell me your name, ma'am.

13 PROSPECTIVE JUROR: Denise Porter.

14 THE COURT: This is 247.

15 And who do you know, Ms. Porter?

16 PROSPECTIVE JUROR: I don't know any of them
17 personally. My son-in-law was a CPD officer, so some of
18 those names sound familiar to me.

19 THE COURT: Is he still with the Columbia Police
20 Department?

21 PROSPECTIVE JUROR: He's not. He's been gone for a
22 couple of years.

23 THE COURT: And approximately, when did he leave?

24 PROSPECTIVE JUROR: He went from there to USC. So
25 roughly three years from CPD.

1 THE COURT: Okay. And you didn't hear his name?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Thank you, ma'am.

7 In this corner?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Juror Number 60, who do you know?

10 PROSPECTIVE JUROR: Rachel Grant.

11 THE COURT: And how do you know Rachel Grant?

12 PROSPECTIVE JUROR: We went to church together.

13 THE COURT: Would that affect your ability to be
14 fair and impartial in this case?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Thank you, ma'am. Anybody else on the
17 witness list?

18 If you actually make it on this jury, one of the
19 things you will hear me tell you is that I'm not allowed to
20 tell you what the facts are, okay? I'll tell you that the
21 facts belong to and the law belongs to me. But I have to
22 tell you what the allegations are to see if you know
23 anything about the case or if you've heard anything about
24 the case. So what I'm going to say is not evidence. This
25 is simply the allegations in the case.

1 So this incident allegedly occurred at [REDACTED] Skyland
2 Drive, which is off Greystone Boulevard here in the Richland
3 County area at about 10 o'clock at night on May 11th, 2019.
4 And the victims in the case are Mary Carmichael and Jahquan
5 Peterson.

6 And Jahquan's name is spelled J-A-H-Q-U-A-N.

7 Again, what I just said is not evidence. It's not
8 proof of anything. Those are simply the allegations in this
9 case.

10 What I need to know is, does anyone know anything
11 about this case?

12 Have you heard anything about the case?

13 Read anything about the case?

14 Seen anything about the case?

15 Think you know what this case is about?

16 Overheard somebody talk about the case?

17 Overheard somebody say something this morning about
18 the case?

19 I'm asking this question as broad as humanly
20 possible 'cause I really want to know if anybody in the room
21 knows anything about this case in any stretch of the word,
22 what the word "know" means.

23 If you think you know what this case is, I want you
24 to tell me. So who needs to answer that question?

25 Nobody?

1 Okay. Good. Let's move on to some more standard
2 questions.

3 Is there any member of the jury panel that has
4 formed an opinion or expressed an opinion about any issue or
5 matter in this case?

6 If so, please stand.

7 Is there any member of the jury panel who is aware
8 of any bias or any prejudice that you may have towards
9 either the State or the Defendant in this case?

10 If so, please stand.

11 Is there any member of the jury panel a member of
12 or contributor to any group which has as its primary concern
13 the promotion of law enforcement or victims rights? This
14 would include groups like SADD, or MADD or CAVE, or
15 defendant's right such as the Innocence Project?

16 I'm going to skip to the next set of questions.

17 Has anyone in the room or a member of your family
18 ever been prosecuted by the Fifth Circuit Solicitor's
19 Office?

20 So has anyone in the room or a member of your
21 family ever have criminal charges pending in Richland or
22 Kershaw County that were prosecuted by the Fifth Circuit
23 Solicitor's Office?

24 If so, please stand.

25 Has anyone in the room or a member of your family

1 ever worked for a prosecutor's office?

2 So some examples would be: Any Solicitor's Office
3 in the State of South Carolina, the Attorney General's
4 Office, the US Attorney's office or in some other state
5 where they maybe called direct's attorneys or state's
6 attorneys.

7 Has anyone in the room or a member of your family
8 ever worked for any prosecutors office?

9 Okay. In the corner, tell me your name, sir.

10 PROSPECTIVE JUROR: Carl Holloway.

11 THE COURT: And last name is what?

12 PROSPECTIVE JUROR: It's Holloway.

13 THE COURT: Just one second, okay?

14 PROSPECTIVE JUROR: 140.

15 THE COURT: There you go, 140. And who worked for
16 the prosecutor's office?

17 PROSPECTIVE JUROR: My father prosecuted for Forest
18 Acres for 43 years.

19 THE COURT: Would that affect your ability to be
20 fair and impartial in this case?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Thank you very much.

23 Okay. Right next to him, your name, please.

24 PROSPECTIVE JUROR: Dana Lindsey, 182.

25 THE COURT: Thank you. Just one second.

1 182, who worked in a prosecutors office?

2 PROSPECTIVE JUROR: My brother-in-law in Naples,
3 Florida.

4 THE COURT: And would that affect your ability to
5 be fair and impartial in this case?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Huh?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Okay. Just have a seat.
10 And your name?

11 PROSPECTIVE JUROR: I'm Felita Green, 112.

12 THE COURT: Just one second, please.

13 Who worked in a prosecutors office?

14 PROSPECTIVE JUROR: So I don't know whether this
15 qualifies but the National Advocacy Center.

16 THE COURT: Sure.

17 PROSPECTIVE JUROR: It's where one of my sisters
18 works.

19 THE COURT: Would that affect your ability to be
20 fair and impartial in this case?

21 PROSPECTIVE JUROR: No, it wouldn't.

22 THE COURT: Thank you. Anybody else?

23 MR. SCOTT: Your Honor, what number was that?

24 THE COURT: That was 112.

25 MR. DALE: 112, Thank you.

1 THE COURT: Ms. Green, correct?

2 PROSPECTIVE JUROR 112: Yes, sir.

3 THE COURT: Did you get that one, Mr. Sutherland?

4 MR. SUTHERLAND: Yes, sir.

5 THE COURT: Has anyone in the room or a member of
6 your immediate family ever worked in any kind of law
7 enforcement?

8 Anybody in the room ever worked in law enforcement
9 or a member of your family ever worked in law enforcement,
10 even if it's not in South Carolina?

11 Let's start here in the black jacket. Your name?

12 PROSPECTIVE JUROR: Jonathan Kent.

13 THE COURT: One more time.

14 PROSPECTIVE JUROR: Jonathan Kent, Juror 167.

15 THE COURT: Kent, who worked in law enforcement?

16 PROSPECTIVE JUROR: My grandfather was an MP.

17 THE COURT: Would that affect your ability to be
18 fair and impartial in this case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Thank you.

21 Right behind him. What's your name?

22 PROSPECTIVE JUROR: John Dewar, 76.

23 THE COURT: Dewar, 76. Mr. Dewar, who is in law
24 enforcement?

25 PROSPECTIVE JUROR: My father was a corrections

1 officer for forever.

2 THE COURT: Would that affect your ability to be
3 fair and impartial in this case?

4 PROSPECTIVE JUROR: No.

5 THE COURT: Okay. Coming across the back in the
6 purple shirt. Your name?

7 PROSPECTIVE JUROR: Charles Harwell.

8 THE COURT: Last name is what?

9 PROSPECTIVE JUROR: Harwell, 127.

10 THE COURT: Just one second. All right. 127, who
11 is in law enforcement?

12 PROSPECTIVE JUROR: My father was in Richland
13 County.

14 THE COURT: Would that affect your ability to be
15 fair and impartial in this case?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Thank you.

18 Right next him. Your name?

19 PROSPECTIVE JUROR: Deonne Lykes, 184.

20 THE COURT: Langston?

21 PROSPECTIVE JUROR: Lykes, L-Y --

22 THE COURT: Lykes?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: There he is. 184, who is in law
25 enforcement?

1 PROSPECTIVE JUROR: My step-dad, he was a warden of
2 a Richland Prison.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Thank you.

7 Front row, your name?

8 PROSPECTIVE JUROR: Kobe Mayo.

9 THE COURT: One more time.

10 PROSPECTIVE JUROR: Kobe Mayo, 196.

11 THE COURT: There you go. 196, who was in law
12 enforcement?

13 PROSPECTIVE JUROR: My brother currently works for
14 Richland County.

15 THE COURT: Okay. And is he a witness in this
16 case?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: And would that affect your ability to
19 be fair and impartial in this case?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: Thank you.

22 Right behind him. Your name again, ma'am.

23 PROSPECTIVE JUROR: Denise Porter, 247.

24 THE COURT: Who's in -- your son's in law
25 enforcement?

1 PROSPECTIVE JUROR: My son-in-law was.

2 THE COURT: Right. Anybody else?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Who else?

5 PROSPECTIVE JUROR: Aunt in Maryland was a police
6 officer and my father-in-law was in the Department of
7 Corrections.

8 THE COURT: Okay. Awesome. Thank you.

9 And right behind her. Your name?

10 PROSPECTIVE JUROR: Kaite Messier.

11 THE COURT: Metier?

12 PROSPECTIVE JUROR: Messier.

13 THE COURT: There you are. 355, who's in law
14 enforcement?

15 PROSPECTIVE JUROR: My brother-in-law.

16 THE COURT: In where?

17 PROSPECTIVE JUROR: Kershaw.

18 THE COURT: Would that affect your ability to be
19 fair and impartial in this case?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: Thank you.

22 Right here in the front. Your name?

23 PROSPECTIVE JUROR: Brittany Simpson.

24 THE COURT: Simpson?

25 PROSPECTIVE JUROR: Yes. It's 289.

1 THE COURT: 289, who's in law enforcement?

2 PROSPECTIVE JUROR: My dad used to work for DJJ and
3 the Department of Corrections, he's retired.

4 THE COURT: Okay. And would that affect your
5 ability to be fair and impartial in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Okay. And ma'am, in the brown jacket,
8 you can sit down.

9 Right next to her. Your name?

10 PROSPECTIVE JUROR: Leonard Robinson.

11 THE COURT: What's the name?

12 PROSPECTIVE JUROR: Robinson.

13 THE COURT: 262.

14 PROSPECTIVE JUROR: Yes, sir.

15 THE COURT: Who's in law enforcement?

16 PROSPECTIVE JUROR: My brother-in-law's down in
17 Georgia.

18 THE COURT: And would that affect your ability to
19 be fair and impartial in this case?

20 PROSPECTIVE JUROR: No, sir.

21 THE COURT: Right next to him. Your name?

22 PROSPECTIVE JUROR: Robin Hudson, Number 144.

23 THE COURT: There you are. 144, go ahead.

24 PROSPECTIVE JUROR: I have two cousins that are
25 currently police officers in St. Louis, Missouri.

1 THE COURT: Would that affect your ability to be
2 fair and impartial in this case?

3 PROSPECTIVE JUROR: No, sir.

4 THE COURT: Over here, your name?

5 PROSPECTIVE JUROR: Cheryl Toerck, 314.

6 THE COURT: There you are. 314, go ahead.

7 PROSPECTIVE JUROR: My brother-in-law used to be a
8 police officer in Texas.

9 THE COURT: Would that affect your ability to be
10 fair and impartial in this case?

11 PROSPECTIVE JUROR: No, sir.

12 THE COURT: The gentleman standing. Your name?

13 PROSPECTIVE JUROR: Gerrell Hingleton.

14 THE COURT: What?

15 PROSPECTIVE JUROR: Gerrell Hingleton.

16 THE COURT: Hingleton? There you are.

17 132, go ahead.

18 PROSPECTIVE JUROR: Yes. I have a cousin who used
19 to work in law enforcement.

20 THE COURT: Would that affect your ability to be
21 fair and impartial in this case?

22 PROSPECTIVE JUROR: No, sir.

23 THE COURT: Thank you. Right in front of him.
24 Your name, ma'am?

25 PROSPECTIVE JUROR: Myers, 225.

1 THE COURT: 225, go ahead.

2 PROSPECTIVE JUROR: Nephew, Lexington County.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No.

6 THE COURT: And last, but not least, your name?

7 PROSPECTIVE JUROR: Dawn Davis.

8 THE COURT: 69, go ahead.

9 PROSPECTIVE JUROR: My cousin.

10 THE COURT: Where?

11 PROSPECTIVE JUROR: Ohio.

12 THE COURT: And would that affect your ability to
13 be fair and impartial in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Thank you. What's your name?

16 PROSPECTIVE JUROR: Benjamin Coomes, 57.

17 THE COURT: Okay. Go ahead.

18 PROSPECTIVE JUROR: My grandfather was a police
19 office in Greensboro, North Carolina.

20 THE COURT: And would that affect your ability to
21 be fair and impartial in this case?

22 PROSPECTIVE JUROR: No.

23 THE COURT: Has anyone ever been a witness for the
24 State in the prosecution of someone?

25 So the next question I'm going to ask is a broad

1 question. There's no way for me just to ask it, you know,
2 "Is this true?" So let me kind of explain the question to
3 you, then we'll process through how you need to answer to
4 it.

5 What I'm going to say is, I'm going to define a
6 couple words for you. The first term I'm going to define
7 for you is "immediate family member." So what I mean by
8 immediate family member is this: Your spouse, your partner,
9 someone that you live with. I'm not going to try to define
10 that. This isn't in a political statement, but somebody
11 that you live with and there's a permanent nature to it.
12 Your children, your parents, and your siblings. So when I
13 say "immediate family member" that's what I mean.

14 So what I want to know is if you or a member of
15 your immediate family have any kind of connection to a
16 violent crime? What I mean by that is on either side of the
17 violent crime. So let's give some examples. If your
18 brother is in prison for a sexual assault, I would expect
19 you to come tell me that.

20 If one of your children was investigated for a
21 burglary, but never arrested, I would want you to come tell
22 me that.

23 If your dad went to prison for some kind of
24 aggravated assault, I would want you to come tell me that,
25 okay?

1 If your home was broken into and no one was ever
2 arrested, they never solved the crime, I would want you to
3 come tell me that. Even if you weren't home. You were on
4 vacation and when you came back, your home was broken into
5 20 years ago and no one was ever arrested, no was ever
6 charged, they never figured out what happened, I would want
7 you to come tell me that.

8 So the question is kind of broad. It is broad for
9 a reason but I don't want -- that means either side of the
10 case, either the side of the case where you or the immediate
11 family member was a victim or you or an immediate family
12 member was accused or the actual offender.

13 And don't put some kind of qualifier on it like
14 well, no one was ever arrested so I'm not going to tell him,
15 or someone was arrested but the charges were dropped or --
16 you know, don't put that kind of qualifier on it.

17 Show of hands, how many people need answer that
18 question? Okay.

19 I want y'all to form a line here with
20 Ms. Stevenson. And everyone else just stay where you are.

21 Everyone else please stay quite, the attorneys are
22 welcome to come up.

23 Who's first?

24 MADAM CLERK: 140, Carl Holloway.

25 THE COURT: Come on up. I need you to talk loud

1 enough where this young lady can hear you. I don't need the
2 whole world to hear you.

3 PROSPECTIVE JUROR: Okay.

4 THE COURT: Go ahead.

5 PROSPECTIVE JUROR: It was an extremely long time
6 ago. I was probably eight years old, but my family's house
7 was broken into and there were no arrests made but they
8 stole a bunch of stuff. So that's --

9 THE COURT: When you were a child?

10 PROSPECTIVE JUROR: When I was a child. That was
11 an example you gave specifically so...

12 THE COURT: Perfect. That's why I give it. Would
13 that affect your ability to be fair and impartial in this
14 case?

15 PROSPECTIVE JUROR: I don't believe so, no.

16 THE COURT: Okay. Thank you.

17 MADAM CLERK: Number 171, Robert Kitt.

18 THE COURT: Mr. Kitt, how you doing, man?

19 PROSPECTIVE JUROR: I'm all right.

20 THE COURT: Good. Go ahead.

21 PROSPECTIVE JUROR: My house has been broken into
22 and I also had brother who been up on murder charges.

23 THE COURT: And what happened to that case?

24 PROSPECTIVE JUROR: He got paroled. There wasn't
25 no -- he didn't get no charge or nothing. He got suspended

1 charges.

2 THE COURT: Okay. Would any of that affect your
3 ability to be fair and impartial in this case?

4 PROSPECTIVE JUROR: A little bit. Not much.

5 THE COURT: No? Are you able to be fair and
6 impartial to both sides or not?

7 PROSPECTIVE JUROR: I don't think so.

8 THE COURT: Okay. Just grab a seat. Don't discuss
9 that with anyone.

10 MADAM CLERK: Number 208, Robyn McNeal.

11 THE COURT: Hey, what's up?

12 PROSPECTIVE JUROR: My father spent the night in
13 jail for shooting off a BB Gun at the ground.

14 THE COURT: Would that affect your ability to be
15 fair and impartial in this case?

16 PROSPECTIVE JUROR: No, sir.

17 THE COURT: Okay. Thank you.

18 MADAM CLERK: Number 144, Robin Hudson.

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR: My stepson has a pretty lengthy
21 rap sheet in Lexington County.

22 THE COURT: Would that affect your ability to be
23 fair and impartial in this case?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Okay.

1 MADAM CLERK: Number 247, Denise Porter.

2 THE COURT: Yes.

3 PROSPECTIVE JUROR: My home was robbed a number of
4 years ago. 29, 30 years ago.

5 THE COURT: Were you home?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Would that affect your ability to be
8 fair and impartial in this case?

9 PROSPECTIVE JUROR: Yes, a little bit.

10 THE COURT: It's not a 50/50 question.

11 PROSPECTIVE JUROR: Probably.

12 THE COURT: Okay. Just grab a seat.

13 MADAM CLERK: Number 84, Kelly Edrington.

14 THE COURT: Come on up.

15 PROSPECTIVE JUROR: My house was broken into in
16 2015 or '16.

17 THE COURT: Anybody arrested?

18 PROSPECTIVE JUROR: No.

19 THE COURT: Would that affect your ability to be
20 fair and impartial in this case?

21 PROSPECTIVE JUROR: No, sir.

22 MADAM CLERK: Number 276, Tammy Schossler.

23 THE COURT: Go ahead.

24 PROSPECTIVE JUROR: Multiple years ago I was living
25 in an apartment complex. So my property was burglarized by

1 a convicted killer who's -- I opted not to press charges
2 because I was living next door to him and so no prosecution.

3 THE COURT: Would that affect your ability to be
4 fair and impartial in this case?

5 PROSPECTIVE JUROR: No, sir.

6 THE COURT: Okay. Thanks.

7 MADAM CLERK: Number 69, Dawn Davis.

8 THE COURT: There you are. Go ahead.

9 PROSPECTIVE JUROR: He's not my partner now, but my
10 son's father was convicted of sexual assault against my
11 daughter and --

12 THE COURT: Is there any allegation of sexual
13 assault in this case, Mr. Scott?

14 MR. SCOTT: No. No.

15 THE COURT: This is not a sexual assault case.

16 PROSPECTIVE JUROR: Okay. I just wanted to let you
17 know.

18 THE COURT: No. No. I wanted to make sure you
19 knew that before I ask you, can you be fair and impartial in
20 the case? There's no evidence of sexual assault or anything
21 like that.

22 PROSPECTIVE JUROR: Okay.

23 THE COURT: Thank you.

24 MADAM CLERK: Number 57, Benjamin Coomes.

25 THE COURT: What's up?

1 PROSPECTIVE JUROR: My house was broken into
2 November of 2019.

3 THE COURT: Was anybody arrested?

4 PROSPECTIVE JUROR: No one was arrested or charged.

5 THE COURT: And would that affect your ability to
6 be fair and impartial in this case?

7 PROSPECTIVE JUROR: No.

8 THE COURT: Okay, thank you.

9 MADAM CLERK: Number 83, Karen Dykes.

10 THE COURT: Tell me your last name.

11 PROSPECTIVE JUROR: Dykes.

12 THE COURT: Go ahead.

13 PROSPECTIVE JUROR: I have a brother who's about to
14 be -- waiting for murder.

15 THE COURT: What county did that occur in?

16 PROSPECTIVE JUROR: Calhoun.

17 THE COURT: Would that affect your ability to be
18 fair and impartial in this case?

19 PROSPECTIVE JUROR: (Nonverbal response.)

20 THE COURT: You have to answer out loud?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: Okay. Just grab a seat.

23 MADAM CLERK: Number 76, John Dewar.

24 THE COURT: Dewar?

25 PROSPECTIVE JUROR: Yes, sir.

1 THE COURT: Come on up.

2 PROSPECTIVE JUROR: My brother was arrested for
3 domestic violence and then it got dropped.

4 THE COURT: Would that affect your ability to be
5 fair and impartial in this case?

6 PROSPECTIVE JUROR: No.

7 THE COURT: Thank you.

8 MADAM CLERK: Number 240, James Pearson.

9 THE COURT: Hello, come on up. Mr. Pearson?

10 PROSPECTIVE JUROR: In 1971, got my home broken
11 into.

12 THE COURT: Long time ago?

13 PROSPECTIVE JUROR: Yeah, a long time ago.

14 THE COURT: And would that affect your ability to
15 be fair and impartial in this case?

16 PROSPECTIVE JUROR: Absolutely not.

17 THE COURT: Thank you.

18 MADAM CLERK: Number 354, David Keller.

19 THE COURT: What's your name?

20 PROSPECTIVE JUROR: David Keller.

21 THE COURT: Hold on one second. I should have been
22 looking and I was talking. Go ahead.

23 PROSPECTIVE JUROR: My parents had a vacation home
24 broken into, robbed.

25 THE COURT: Were you there?

1 PROSPECTIVE JUROR: Nobody was there.

2 THE COURT: Would that affect your ability to be
3 fair and impartial in this case?

4 PROSPECTIVE JUROR: No, it would not.

5 THE COURT: Thank you.

6 MADAM CLERK: Number 97, Charles Funk.

7 THE COURT: Mr. Funk, come on up.

8 PROSPECTIVE JUROR: The address [REDACTED] -- this was my
9 former home and when I lived downtown at [REDACTED], there was
10 one break-in and a second attempt by a different group I
11 caught on camera.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR: Approximately 2011 and 2018.

14 THE COURT: Okay. Would that affect your ability
15 to be fair and impartial in this case?

16 PROSPECTIVE JUROR: No, sir. I just wanted to be
17 honest with you.

18 THE COURT: Okay. Thank you.

19 MADAM CLERK: 106, Reba Glymph-Fant.

20 THE COURT: There you are. Go ahead.

21 PROSPECTIVE JUROR: My son was arrested for protest
22 and breaking curfew. It was expunged.

23 THE COURT: Would that affect your ability to be
24 fair and impartial in this case?

25 PROSPECTIVE JUROR: No.

1 THE COURT: Thank you.

2 MADAM CLERK: Number 112, Felita Green.

3 THE COURT: 112, go ahead.

4 PROSPECTIVE JUROR: My house was broken into in
5 March 2012 and I don't know who.

6 THE COURT: Would that affect your ability to be
7 fair and impartial in this case?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Thank you.

10 MADAM CLERK: Number 248, Derider Pringle.

11 THE COURT: Hello, how are you? Go ahead.

12 PROSPECTIVE JUROR: It happened in '93.

13 THE COURT: What happened?

14 PROSPECTIVE JUROR: My home was burglarized.

15 THE COURT: Anybody arrested?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Would that affect your ability to be
18 fair and impartial in this case?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Thank you.

21 THE CLERK: Number 199, Crosby McDaniel.

22 THE COURT: Go ahead.

23 PROSPECTIVE JUROR: I was a victim of multiple
24 burglaries and home invasions.

25 THE COURT: Were you present for any of them?

1 PROSPECTIVE JUROR: For the home invasion.

2 THE COURT: Would that affect your ability to be
3 fair and impartial in this case?

4 PROSPECTIVE JUROR: I believe so.

5 THE COURT: Thank you. Grab a seat.

6 MADAM CLERK: Number 192, Alaysia Mason.

7 THE COURT: Hold on. What's your name?

8 PROSPECTIVE JUROR: Alaysia Mason.

9 THE COURT: Go ahead.

10 PROSPECTIVE JUROR: Actually, I don't have anything
11 but my uncle is a state attorney for the state of
12 California.

13 THE COURT: Thank you.

14 MADAM CLERK: Number 262, Lenard Robinson.

15 THE COURT: Hello. Go ahead.

16 PROSPECTIVE JUROR: This was about 20 years ago
17 when I was in the military, somebody broke in my house and
18 stole my stereo.

19 THE COURT: Were you there?

20 PROSPECTIVE JUROR: No.

21 THE COURT: Would that affect your ability to be
22 fair and impartial in this case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Thank you.

25 MADAM CLERK: Number 353, Latonya Dewese.

1 THE COURT: Go ahead.

2 PROSPECTIVE JUROR: Brother, gun and drug charges.

3 THE COURT: The defendant?

4 PROSPECTIVE JUROR: Huh?

5 THE COURT: The defendant?

6 PROSPECTIVE JUROR: (Nonverbal response.)

7 THE COURT: He was arrested?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: How long ago was that?

10 PROSPECTIVE JUROR: He been locked up for five
11 years.

12 THE COURT: What county was that in?

13 PROSPECTIVE JUROR: He's at that other prison.

14 THE COURT: What county did it happen in?

15 PROSPECTIVE JUROR: From York.

16 THE COURT: Would that affect your ability to be
17 fair and impartial in this case?

18 PROSPECTIVE JUROR: It shouldn't.

19 THE COURT: It's a yes-or-no question.

20 PROSPECTIVE JUROR: I'll just say no.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR: I mean, yes. I said it
23 backwards. Sorry.

24 THE COURT: You're not able to be fair and
25 impartial to both sides?

1 PROSPECTIVE JUROR: I don't feel comfortable doing
2 that.

3 THE COURT: Okay. Just grab a seat.

4 MADAM CLERK: Number 167, Johnathan Kent.

5 THE COURT: Yes.

6 PROSPECTIVE JUROR: My brother had his car broken
7 into at Five Points.

8 THE COURT: He wasn't the one beaking into cars, it
9 was his car?

10 PROSPECTIVE JUROR: No, his was broken into.

11 THE COURT: That's good.

12 And would that affect your ability to be fair and
13 impartial in this case?

14 PROSPECTIVE JUROR: No.

15 THE COURT: Is there anything else you want me to
16 ask them?

17 MR. SUTHERLAND: What happened to the one with, can
18 you say no to the government or something?

19 THE COURT: You can't ask that stuff.

20 Okay. You good with all those?

21 MR. SUTHERLAND: Yes, sir.

22 THE COURT: Take a couple minutes while I entertain
23 the jury.

24 What's going to happen now is, ladies and
25 gentlemen, the attorneys are going to take a few moments to

1 look over the list and process through who they want to keep
2 and who they want to strike.

3 The rules are that each side gets to excuse so many
4 jurors for free. What I call "for free" 'cause there's a
5 big fancy word for it, so they're going to process through
6 that.

7 So while they're processing through that, we're
8 going to play who drove the furthest? So who thinks they
9 drove the furthest today? Raise your hand.

10 (Whereupon, a brief recess was held.)

11 THE COURT: Ready? You good to go?

12 MR. SUTHERLAND: Yes, sir. Ready.

13 THE COURT: You good to go?

14 MR. SCOTT: We are.

15 THE COURT: So what's going to happen now, ladies
16 and gentlemen, you will be called up one at a time. When
17 your name is called, gather all your belongings, everything
18 that you have with you. And you're going to come down and
19 stand right here where this microphone is and you're going
20 to face out to the audience. What's going to happen then is
21 they're going to ask the State, do they want to keep you or
22 excuse you?

23 Then they're going to ask the defense, do they want
24 to keep you or excuse you?

25 If either side says "excuse," just go grab a seat

1 in the back of the courtroom.

2 If both sides say "present" or "swear" the juror,"
3 then you'll come right over here and grab a seat. So bring
4 all your belongings with you. You don't need to say
5 anything. You just need to come forward when your name is
6 called.

7 MADAM CLERK: Number 112, Felita Green.

8 THE COURT: Y'all know the number of strikes,
9 right?

10 MR. SCOTT: Yes, sir.

11 MR. SUTHERLAND: Yes, sir.

12 THE COURT: We'll pick two alternates.

13 MADAM CLERK: Yes, your Honor.

14 What says the State?

15 MR. SCOTT: Please present the juror.

16 MADAM CLERK: What says the defense?

17 MR. SUTHERLAND: Please swear the juror.

18 MADAM CLERK: Please have a seat in the jury box.

19 Number 78, Kayla Dillow, what says the State?

20 MR. SCOTT: Please present the juror.

21 MADAM CLERK: What says the defense?

22 MR. SUTHERLAND: Please excuse the juror.

23 MADAM CLERK: Please have a seat in the back of the
24 courtroom.

25 Number 289, Brittany Simpson, what says the State?

1 MR. SCOTT: Please present the juror.

2 MADAM CLERK: What says the defense?

3 MR. SUTHERLAND: Please swear the juror.

4 MADAM CLERK: Please have a seat in the jury box.

5 Number 223, Charles Murphy, what says the State?

6 MR. SCOTT: Please present the juror.

7 MADAM CLERK: What says the defense?

8 MR. SUTHERLAND: Please swear the juror.

9 MADAM CLERK: Please have a seat in the jury box.

10 Number 196, Kobe Mayo, what says the State?

11 MR. SCOTT: Please present the juror.

12 MADAM CLERK: What says the defense?

13 MR. SUTHERLAND: Please excuse the juror.

14 MADAM CLERK: Please, have a seat in the back of
15 the courtroom.

16 Number 322, Mitchell Walls, what says the State?

17 MR. SCOTT: Please present the juror.

18 MADAM CLERK: What says the defense?

19 MR. SUTHERLAND: Please swear the juror.

20 MADAM CLERK: Please have a seat in the jury box.

21 Number 225, Gail Myers, what says the State?

22 MR. SCOTT: Please present the juror.

23 MADAM CLERK: What says the defense?

24 MR. SUTHERLAND: Please swear the juror.

25 MADAM CLERK: Please have a seat in the jury box.

1 Number 69, Dawn Davis, what says the State?

2 MR. SCOTT: Please present the juror.

3 MADAM CLERK: What says the defense?

4 MR. SUTHERLAND: Please swear the juror.

5 MADAM CLERK: Please have a seat in the jury box.

6 Number 132, Gerrell Hingleton, what says the State?

7 MR. SCOTT: Please excuse the juror from this

8 trial.

9 MADAM CLERK: Please have a seat in the back of the
10 courtroom.

11 Number 26, Carlton Boyd, what says the State?

12 MR. SCOTT: Please present the juror.

13 MADAM CLERK: What says the defense?

14 MR. SUTHERLAND: Please swear the juror.

15 MADAM CLERK: Have a seat in the jury box.

16 Number 314, Cheryl Toerck, what says the State.

17 MR. SCOTT: Please present the juror.

18 MADAM CLERK: What says the defense?

19 MR. SUTHERLAND: Please excuse the juror.

20 MADAM CLERK: Please have a seat in the back of the
21 courtroom.

22 Number 55, Denise Johnson, what says the State?

23 MR. SCOTT: Please present the juror.

24 MADAM CLERK: What says the defense?

25 MR. SUTHERLAND: Please swear the juror.

1 MADAM CLERK: Please have a seat in the jury box.
2 Number 167, Johnathan Kent, what says the State?
3 MR. SCOTT: Please present the juror.
4 MADAM CLERK: What says the defense?
5 MR. SUTHERLAND: Please swear the juror.
6 MADAM CLERK: Please have a seat in the jury box.
7 Number 283, Caroline Shaver, what says the State?
8 MR. SCOTT: Please present the juror.
9 MADAM CLERK: What says the defense?
10 MR. SUTHERLAND: Please swear the juror.
11 MADAM CLERK: Please have a seat in the jury box.
12 Number 140, Carl Holloway, what says the State?
13 MR. SCOTT: Please present the juror.
14 MADAM CLERK: What says the defense?
15 MR. SUTHERLAND: Please excuse the juror.
16 MADAM CLERK: Please have a seat in the back of the
17 courtroom.
18 Number 144, Robin Hudson, what says the State?
19 MR. SCOTT: Please excuse the juror from this
20 trial.
21 MADAM CLERK: Please have a seat in the back of the
22 courtroom.
23 Number 11, Karen Bailey, what says the State?
24 MR. SCOTT: Please excuse the juror from this
25 trial.

1 MADAM CLERK: Please have a seat in the back of the
2 courtroom.

3 Number 326, Colleen Webb, what says the State?

4 MR. SCOTT: Please present the juror.

5 MADAM CLERK: What says the defense?

6 MR. SUTHERLAND: Please swear the juror.

7 MADAM CLERK: Please have a seat in the jury box.

8 Number 60, Tracy Corn, what says the State?

9 MR. SCOTT: Please present the juror.

10 MADAM CLERK: What says the defense?

11 MR. SUTHERLAND: Please excuse the juror.

12 MADAM CLERK: Please, have a seat in the back of
13 the courtroom.

14 Number 51, Patricia Cohen, what says the State?

15 MR. SCOTT: Please excuse the juror from this
16 trial.

17 MADAM CLERK: Please have a seat in the back of the
18 courtroom.

19 Strike count is four for the State, five for the
20 defense.

21 Number 292, Reginald Smith, what says the State?

22 MR. SCOTT: Please present the juror.

23 MADAM CLERK: What says the defense?

24 MR. SUTHERLAND: Please swear the juror.

25 MADAM CLERK: Please have a seat in the jury box.

1 THE COURT: We'll pick two alternates. Strikes
2 will be one and two on each alternate.

3 MADAM CLERK: Number 262, Leonard Robinson, what
4 says the State?

5 MR. SCOTT: Please excuse the juror from this
6 trial.

7 MADAM CLERK: Please have a seat in the back of the
8 courtroom.

9 Number 97, Charles Funk, does the State challenge
10 for cause?

11 MR. SCOTT: Please present the alternate.

12 MADAM CLERK: What says the defense?

13 MR. SUTHERLAND: Please excuse the juror.

14 MADAM CLERK: Please have a seat in the back of the
15 courtroom.

16 Number 184, Deonne Lykes, does the State challenge
17 for cause?

18 MR. SCOTT: Please present the alternate.

19 MADAM CLERK: What says the defense?

20 MR. SUTHERLAND: Please excuse the juror.

21 MADAM CLERK: Please have a seat in the back of the
22 courtroom.

23 Number 355, Katie Messier, does the State challenge
24 for cause?

25 MR. SCOTT: Please present the alternate.

1 MADAM CLERK: Does the defense challenge for cause?

2 MR. SUTHERLAND: Please excuse the juror.

3 MADAM CLERK: I'm sorry?

4 MR. SUTHERLAND: Please excuse the juror.

5 MADAM CLERK: You've already used --

6 THE COURT: You've used your two strikes.

7 MR. SUTHERLAND: I'm sorry, please swear the juror.

8 MADAM CLERK: Please have a seat in the jury box.

9 THE COURT: The strikes will start over for the
10 second alternate.

11 MADAM CLERK: Number 235, Madison Palmer, what says
12 the State?

13 MR. SCOTT: Please present the alternate.

14 MADAM CLERK: What says the defense?

15 MR. SUTHERLAND: Please swear the juror.

16 MADAM CLERK: Please have a seat in the jury box.

17 THE COURT: Any exceptions to the jury selection
18 process from the State?

19 MR. SCOTT: No, your Honor.

20 THE COURT: From the defense?

21 MR. SUTHERLAND: No, sir.

22 THE COURT: Ladies and gentlemen, if you're in the
23 audience, congratulations, you do not make it on this jury.
24 I do want to say thank you very much for your service. I'm
25 going to turn you back over to the clerk's office now.

1 If you'll head back downstairs for instructions
2 from the jury court coordinator.

3 Thank you very much. Have a good day.

4 Let me get them out of the room and then I'm going
5 to give you about five minutes worth of information and then
6 I'm going to release you for a long lunch. I know it's
7 almost lunch or it's lunchtime. So just give me five
8 minutes of your undivided attention and you can go enjoy
9 lunch and we'll get things cranked up this afternoon. If
10 you'll just give me a minute.

11 (Pause in proceedings.)

12 THE COURT: Ladies and gentlemen, you are now the
13 jury in this case and I'm about to release you for lunch.
14 In order to do that, I need to kind of give you a roadmap of
15 how things are going to work and some rules.

16 When you come back from lunch, I'm going to give
17 you a more detailed set of instructions but I need to give
18 you some rules to kind of hold you over until then. So
19 let's kind of start with, who is everybody in the room so
20 you know that.

21 So in the back corner, you have Mr. Dye.

22 Raise your hand Mr. Dye.

23 There you go. Is it 93 or 94?

24 MR. DYE: 91.

25 THE COURT: 91. 91 years old, Mr. Dye. He will

1 take good care of you. He gets younger every year.

2 This is Ms. Stevenson right down here.

3 Raise your hand.

4 There go.

5 Mr. Brown's in the back of the room. You can see
6 him by the glare off the top of his head. This is the only
7 time you will see all three of the bailiffs awake at the
8 same time, okay? So enjoy this moment. No. Those are
9 going to be your bailiffs for the trial. They'll take
10 really good care of you. They're going to show you how to
11 come in. They're going to show you how to go out. They're
12 going to give you name badges. They're going to take your
13 phones from you. They're going to be in charge of you,
14 okay, over the next couple of days.

15 They're great. They do a great job. I pick on
16 them. They pick on me. It's part of our love/love
17 relationship that we all have with each other.

18 Seated over here to my right, this is
19 Ms. DiScioscia and she is our court reporter. And I like to
20 say that the court reporter is the most important person in
21 the room, okay. The reason I say that is because she is
22 always working, okay. So whether one attorney is asking
23 questions or I'm giving you jury instructions, there are
24 times when kind of between me and the attorneys, we kind of
25 have breaks where we're not actively doing something.

1 Well, she is always actively doing something
2 because she is taking down every word that is said in this
3 courtroom. So if she needs a break or if she needs to take
4 a break, we give her that opportunity because she is keeping
5 a record of what occurs here and I want that record to be
6 accurate.

7 If during the trial you see me kind of referee
8 people, I'll be like "shh" or stop talking or don't talk or
9 time out, you'll see me kind of play referee. That happens.
10 Everybody is going to get the opportunity to speak but she
11 can only take down one voice at a time.

12 So when people speak over each other, it becomes
13 confusion for her and her hands as they're going. So if you
14 see me referee people, I'm just -- everybody's going to get
15 a chance to speak but we can only speak one person at a
16 time.

17 Seated next to me, this is McKenzie. She's my law
18 clerk. She has graduated from law school, taken the bar
19 exam, passed the bar exam. Then she spends her first year
20 practicing law working for me. While this case is going on,
21 I'm also the chief judge for this entire circuit. So I have
22 like, I don't know, somewhere between 15,000 and 18,000
23 cases I'm responsible for. Which means, she is spinning all
24 kinds of other plates in the air that have absolutely
25 nothing to do with this case. So if you see her come in or

1 go out or she's on her computer, she could be working on
2 this case. She could be doing something that's set for six
3 months from now. There's just a lot of plates that are in
4 the air that she's constantly spinning.

5 This is Ms. Falcone right below me from the clerk's
6 office. She'll be swearing in the witnesses and handling
7 the exhibits. They're security in every courtroom in the
8 courthouse. So security is just standard operating
9 procedure. You don't need to read anything into that or
10 make any summations from that. We have security in our
11 courtrooms. And that's true whether or not we're in a
12 murder trial or whether we're in a car wreck case. That's
13 just the way it is and that's just the way things are. So
14 you don't need to read anything into that or draw any
15 conclusions from that.

16 Let's talk about some rules. I want to start with
17 the most confusing rule because it's the most important.
18 The most confusing rule but the most important rule is this:
19 The 14 of you are not allowed to talk about this case with
20 anyone and that includes each other, okay? So you can't
21 talk about this case. You can't discuss anything about this
22 case. Would anybody in any way shape or form, by text
23 message, blog, email, some kind of app that I don't even
24 know what it is, right, you can't use it for any purposes
25 during this case. And you're not allowed to talk about the

1 case with each other. So you can talk about how far the
2 Gamecock women are going to make it in the Final Four,
3 right?

4 All right. You can talk about how the Gamecock
5 baseball team swept Georgia this weekend, which is pretty
6 much a miracle. You can talk about how much Dabo Swinney
7 gets paid. You can talk about, is this a fake spring or is
8 it not a fake spring? You can talk about your kids. I
9 don't care what you talk about, just don't talk about this
10 case. And don't let anybody talk to you about the case.

11 Now, that's going against human nature, especially
12 once we start doing witnesses and testimony and things like
13 that. Human nature is to go back in the room and go, did
14 you hear what she just said? Did you hear that? Did you
15 pick that?

16 That's what we do everyday with things that we see
17 and how we process through things, right? And we're not
18 going to do that here.

19 The second thing is this: You're not to do any
20 research on this case. Your title is not investigator.
21 Your title is juror. So I understand that you-all have
22 phones on you that are more powerful than any computer I
23 ever owned during my entire childhood. And you can get
24 information or send information or acquire information based
25 upon, basically, anything in the world that you want to, but

1 you can't become an investigator. You are not the
2 investigator. You should not be researching this case,
3 looking up this case, researching people's names, trying to
4 figure out how old I am, even though I look so young, right?
5 That's a joke. But you're not the investigator. Do not
6 become one in this case.

7 When I do car wreck cases, like when two people get
8 in a car wreck and then they sue each other, I tell the
9 jurors, don't even go by the intersection where the wreck
10 occurred. And the reason is this: Because you don't know
11 that what that intersection looks like today is what it
12 looked like on the day of the accident. Trees grow, bushes
13 get cut down, buildings get destroyed. New buildings get
14 built, right? So it's not an aid to you. You shouldn't be
15 an investigator. You're going to learn everything you need
16 to know about this case, in court, from the witnesses, okay?

17 Next thing is this: You shouldn't have any contact
18 with anybody involved in the case. So I've read you a
19 list of the witnesses. Nobody knew any witnesses. You
20 can see who the parties are and who the lawyers are. If
21 they see you, they're going to ignore you. They're not
22 going to speak to you. They're not even going to say hello
23 or good morning or good afternoon. They're not being rude;
24 they're just following my instructions, okay? An innocent
25 good morning or good afternoon seen by the other side is

1 always misconstrued so they're just going to ignore you.

2 I know of no news media about that is present in
3 the courtroom so you're welcome to watch the news as you
4 normally watch the news. But you shouldn't be getting
5 online and trying to do any researching on this case as far
6 as the news goes.

7 Last thing I'm going to tell you is this, before I
8 release you for lunch. I need you to be on time. Some of
9 you may enjoy reputations where your family says, "she will
10 be late to her own funeral."

11 "We should lie to him about what time things start,
12 because we're tired of waiting on him."

13 Some of you historically show up late to everything
14 in your life. This is your week to turn over a new leaf. I
15 will be here. I will be on time. A lot of judges have
16 reputations of, "Well, they can't until I get there."

17 I don't play that game. The reason I don't and I
18 want to explain that to you is because I'm at work, right?
19 They're all at work, right? You're being taken away from
20 your family, your friends, your loved ones and your work to
21 come up here and serve. It's a sacrifice. I want to make
22 the best use of your time.

23 What I need you to understand is that if you are
24 late, nothing can happen until all 14 of you are here. If
25 one of you is late, you're making all 13 other jurors wait.

1 All the bailiffs wait. All the courthouse staff wait. The
2 court reporter, the judge, law clerk, the lawyers, and the
3 four or five witnesses that we have lined up. You're
4 literally making about 30 people wait.

5 So if you need to tell yourself that we're starting
6 at an earlier time, tell yourself that but I need you to be
7 on time. I've known these lawyers for a long time, and they
8 know me. And starting late is not something that masks me
9 happy, right? So they're not going to be late. That's just
10 not their MO. That's not how they work. But I can't do
11 anything until a bailiff tells me, "We've got them all."

12 So do your best to be on time. If something
13 happens or an emergency happens, just call the clerk's
14 office so we know where you are and how to find you.

15 So don't discuss the case. Keep an open mind.
16 Don't do any research on the case. Don't have any contact
17 with anybody involved in the case and be on time.

18 For scheduling purposes, I have about 45 minutes to
19 an hours worth of work I have to do on the case before you
20 come back. It's 1:25 p.m. I want you back in the jury room
21 and ready to go at 3:15 p.m. 3:15 p.m., okay?

22 Now, remember everything that I just said. We're
23 going to come back at 3:15 p.m. Enjoy your lunch. Enjoy
24 the day and we will see you back at 3:15 p.m.

25 Anything from the State before I release the jury,

1 Mr. Scott?

2 MR. SCOTT: No, your Honor.

3 THE COURT: Mr. Sutherland?

4 MR. SUTHERLAND: No, sir.

5 THE COURT: Okay. 3:15 p.m. Thank you very much.

6 Head out the back door.

7 (Jurors were excused for lunch.)

8 THE COURT: 2:30 p.m. good?

9 MR. SCOTT: 2:30 is perfect.

10 MR. SUTHERLAND: For pretrial?

11 THE COURT: Yeah.

12 MR. SUTHERLAND: Yes.

13 THE COURT: 2:30 p.m. is good. See you all at 2:30
14 p.m.

15 (Whereupon, Court was adjourned for lunch recess.)

16 THE COURT: Take your seats.

17 We're back on the record in State versus McNeil.

18 The defense has some pretrial motions. Let's kind of go
19 through those. The first one is, we need to sequester the
20 witnesses; is that correct?

21 MR. SUTHERLAND: Yes, sir.

22 THE COURT: That will be reciprocal obviously.

23 That will not apply to the lead investigator, any expert
24 witness or the victim's family members, immediate family
25 members.

1 Any other witnesses that need to be --

2 MR. SCOTT: Birochak, we'll go ahead and have him
3 exit the courtroom before testimony.

4 THE COURT: Okay. Keep in mind, I don't know who
5 these people are. So if you see somebody walk in and they
6 could be a witness or you think they might be a witness,
7 say, "Time out, may we approach?" But I don't know who they
8 are.

9 But again, your motion to sequester is granted.

10 Next defense motion is the motion to settle the
11 record.

12 MR. SUTHERLAND: They've got one snitch and I don't
13 have his rap sheet. I've pulled his documents from his
14 federal case but I do not have his rap yet. And just before
15 he testifies, I would hope to get it and just have a couple
16 of minutes to look at it.

17 THE COURT: What is his name?

18 MR. SUTHERLAND: Jevante Richmond, a/k/a "Man."

19 THE COURT: Richmond?

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Any other rap sheets that need to be
22 turned over?

23 MR. SUTHERLAND: I think it's all government agents
24 and then maybe neighbors. I don't think the neighbors --

25 MR. SCOTT: The neighbor did not have anything on

1 her rap.

2 THE COURT: What's her name?

3 MR. SCOTT: Velvet Dubose.

4 THE COURT: Okay.

5 MR. SCOTT: Our paralegal is going to get Jevante
6 Richmond's rap sheet right now.

7 THE COURT: Hopefully, we'll get that to you today.
8 Is that enough time?

9 MR. SUTHERLAND: Yes, sir. Sure.

10 THE COURT: Wonderful. Okay. It looks like your
11 third one is to renew your Rule 5 motion for discovery; is
12 that right?

13 MR. SUTHERLAND: Yes, sir. I just make it a habit
14 of doing that before every trial.

15 THE COURT: I understand.

16 MR. SUTHERLAND: Yes, sir.

17 THE COURT: You should. It's a good habit to have.
18 Any other discovery that needs to be turned over
19 that the State's aware of?

20 MR. SCOTT: No, your Honor.

21 THE COURT: The next one. Number 4. Any
22 identification? Is there any identification issues that
23 we're going to have?

24 MR. SCOTT: Nothing as far as *Neil v. Biggers*. I
25 know Tivis has taken some concern. There's a phone dump and

1 a picture of the defendant on his phone.

2 THE COURT: On his own phone?

3 MR. SCOTT: Correct.

4 THE COURT: Okay.

5 MR. SCOTT: I think we'll be fine covering that. I
6 think maybe his argument is we can't say that's the
7 defendant in the picture. It came from the defendant's
8 phone.

9 MR. SUTHERLAND: And that's just my view. My view
10 is they say they got this off the defendant's phone, but
11 they can't have a government agent go up there and say, this
12 is the defendant.

13 THE COURT: But there's no photo lineups or --

14 MR. SUTHERLAND: No, sir.

15 THE COURT: -- in-person lineups or anything like
16 that?

17 MR. SUTHERLAND: No, sir.

18 THE COURT: Okay. Then the next one is *Denno*,
19 which we'll come back to.

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: Then the next one is 404(b) and Lyle;
22 is that right?

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: Any of that?

25 MR. SCOTT: The State depends on --

1 MR. SUTHERLAND: Well, I always have a general
2 objection to prior bad acts.

3 MR. Scott: No, I don't plan on introducing
4 anything like that.

5 THE COURT: Very good. The next ones about
6 photographs. Are there crime scene photos or autopsy
7 photos?

8 MR. SUTHERLAND: There are crime scene and autopsy
9 photos. They have turned over to be some diagrams that the
10 coroner did that I think are good. You know, because if you
11 can establish by common testimony and whenever they might
12 display, there's no reason to show brains and a bunch of
13 blood and stuff like that.

14 I've also got of the crime scene -- I mean, this is
15 not to scale but I think this is okay. It's representations
16 of where the particular deceased persons were laying in the
17 house.

18 THE COURT: Okay.

19 MR. SUTHERLAND: They wanted to put in some body
20 camera. I think they said seven minutes. I would ask that
21 it be cut off at 6:12 because it shows the second -- the
22 female. I think it would fall under gruesome
23 representations.

24 THE COURT: What's the intention? Let's start with
25 photographs and then we'll come to body cam. Let's start

1 with photographs and then go to body cam.

2 MR. SCOTT: Okay. I think we have the printed out
3 versions.

4 THE COURT: We have to have something we can mark
5 so we can know what we're talking about here.

6 MR. SCOTT: I'll just go through any of the ones we
7 intended that might show the victims. This is going to be
8 State's proposed 25.

9 Your Honor, all these pictures, this happened in, I
10 don't know, maybe 800-square feet of an apartment room and
11 into a hallway, a stairwell and down the living room.
12 There's something like 12 or 14 shell casings in various
13 parts of the room. The defendant's DNA is found in the
14 apartment room where this happened. Three pistols were
15 found at the crime scene. We have some Ring footage, Ring
16 doorbell footage that happens just proceeding Jahquan
17 Peterson's death at the front stoop. And then he leaves out
18 of view with the two assailants and then you hear gunshots
19 fairly quickly.

20 Of course we don't have video of what happens
21 actually inside during the killing. A lot of these pictures
22 will help orient the jury with kind of time and space and
23 where everything is in this little apartment room.

24 THE COURT: Okay.

25 MR. SCOTT: This, as you can see, Judge, I wouldn't

1 call this gory by any means. It's just Mr. Peterson as he
2 was found. Here he is again. This is important to note the
3 casings against this wall as well as right here by this TV
4 stand. The armed robbery -- your Honor, there is marijuana
5 and monies strewed all about the apartment. And also as
6 they left, they fled the apartment, they left money, a trail
7 of money outside in the parking lot. And this is capturing
8 the shell casings here as well as some cash that we would
9 allege the culprits left behind. This is the Mary
10 Carmichael.

11 THE COURT: What number is that one going to be?

12 MR. SUTHERLAND: This one is a similar photo of my
13 principal concern here. There's no --

14 THE COURT: We've got to get numbers on all of
15 them?

16 MR. SUTHERLAND: Yes, sir.

17 MR. SCOTT: This is State's No. 46.

18 THE COURT: Okay.

19 MR. SCOTT: Again, some background, your Honor. To
20 the left is a kitchen and you can kind of see it in this
21 picture. But again, to orient the jury with the layout,
22 this is a pistol we believe the defendants left behind.
23 There's a number of shell casings located on the floor. As
24 you can see the blood starts semi up the stairs and goes
25 down.

1 What we intend to present to the jury, as two
2 assailants were in the midst of robbing and shooting Jahquan
3 Peterson, Mary Carmichael then returned fire from the upper
4 level of the apartment room. It's a two-story split level,
5 kind of, apartment. She hit the defendant. He left his DNA
6 behind and returned fire and killed her and she tumbled down
7 the stairs right here. There's a number of casings that
8 were ultimately found on the steps that we're going to have
9 the crime scene investigator talk about.

10 THE COURT: Okay.

11 MR. SCOTT: The next one is 47. As you can see it
12 stops right here in this picture. We kind of get a number
13 of things. Down here, there's a gun in the kitchen. The
14 next one is just looking a little bit further up. There's
15 six bullet holes in the sheetrock right here where they shot
16 at Ms. Carmichael. In this picture, this is Number 47 that
17 depicts that.

18 Those are all the pictures of the crime scene that
19 I think would be objectionable. And then there are autopsy
20 photos as well.

21 THE COURT: Okay. Let's go ahead and do those.

22 MR. SCOTT: This is a bullet wound, I believe.

23 THE COURT: What number is this?

24 MR. SCOTT: 77. One of the bullet wounds for
25 Mr. Peterson, in his leg area, I believe. This is a fatal

1 shot. This is State's Number 78. We could probably reduce
2 it down and do some type of cropping. I don't find that to
3 be gory or grotesque. It's just depicting a bullet wound.
4 This is prior, another wound to Mr. Peterson and you also
5 see a second gunshot wound to the chest.

6 THE COURT: What number is that?

7 MR. SCOTT: This is State's 79.

8 State's 80. We can probably pick between 79 and
9 80. They're a little redundant. Again, it appears to be a
10 gunshot wound to the torso. That's one that's been cleaned
11 off.

12 THE COURT: Is that 81?

13 MR. SCOTT: 81. Yes, your Honor. Probably won't
14 need that one. I think that was just one of those that we
15 had --

16 THE COURT: Yeah, whatever number that is, that's
17 inadmissible. What number is that?

18 MR. SCOTT: 82.

19 THE COURT: 82 is definitely out. I don't need to
20 hear any argument about that. I can tell that one, just
21 from looking at it, Mr. Sutherland.

22 MR. SUTHERLAND: Yes, sir.

23 MR. SCOTT: Number 83 would be an exit wound.
24 Another gunshot wound to the leg. I'm sorry, that's 83.
25 Did I say that right?

1 THE COURT: You did.

2 MR. SCOTT: That's another. 84, we're trying to
3 depict here is this gunshot wound to the leg. 85, that
4 might be the better one. That's the same picture they've
5 blown up. We can elect 85 over 84, if that would help.

6 This is Mary Carmichael.

7 THE COURT: What number is this?

8 MR. SCOTT: This is 86. There's going to be
9 testimony to her fatal wound. She receives one gunshot
10 wound. This is the wound that was cleaned by the
11 pathologist and will testify to that effect. Here it's
12 under the left eye and pulled out of her upper left back.
13 Again, this depicts where the slug was pulled out. This is
14 just an X-ray of Ms. Carmichael. This is State's 78. I
15 think those would be the extent of autopsy pictures.

16 THE COURT: So let's go through each of those. Any
17 objection to State's 25?

18 MR. SCOTT: Tell you what we'll do. Pull out --

19 THE COURT: This from a 403 standpoint, not from a
20 "Is the right witness called." It's purely 403.

21 MR. SCOTT: This is 25.

22 MR. SUTHERLAND: Your Honor, with respect to 25, I
23 believe that it does show the crime scene without showing
24 too much gore, any blood, any bullet holes. I'm fine -- I'm
25 fine with that one.

1 THE COURT: Okay. So 25 assuming the right
2 foundation questions are asked, is okay.

3 46?

4 MR. SUTHERLAND: 46 and 47, again, they gave me
5 this crime scene representation that they were going to put
6 up with their position of 46 and 47. And that is really, in
7 my view, that's pretty bad on the gruesome side there. We
8 have what we have -- -

9 THE COURT: You're pointing at 46 now?

10 MR. SUTHERLAND: And the splattering all up on the
11 stairs. I believe it's too much. And there's another
12 representation of it right here that would be suitable and
13 competent testimony would be able to talk about this.

14 MR. SCOTT: I would argue, if blood is gory and
15 overly grotesque, we can't try a murder case. We'll never
16 get to show the crime scene photos. We don't see any
17 wounds. I mean, she was shot in her face. If blood is the
18 rubric in which we determine whether it's grotesque or
19 overly gory, maybe this is. But there's plenty of crime
20 scene photos that happen that depict blood to some degree
21 and it's such a dynamic scene.

22 Again, we believe she was shot at the top of these
23 stairs and sort of tumbled down here. And the placement of
24 her, where she ends up was some of that blood evidence full
25 of bullet holes and shell casings. I think it helps the

1 jury better understand the scene and what happened.

2 THE COURT: And same argument with 47?

3 MR. SUTHERLAND: Yes, sir. The same argument with
4 47. With competent testimony and just representation, which
5 they handed me this morning, would be fine to establish
6 that, sir.

7 THE COURT: Okay. So 25, 46 and 47, assuming the
8 proper foundation is laid, will be admissible. The Court is
9 kind of balancing analysis in determining the prejudicial
10 affect over weight against the probative value. I think 25,
11 there's no objection but 46 and 47 go directly to the
12 State's theory of how the case or how the incident
13 progressed.

14 Further, while they do show the female victim on
15 the ground in where she appears to be deceased and there is
16 some blood on the stairs, they're not overly gory or
17 gruesome to the extent to where it would raise an overly
18 emotional reaction to the photos.

19 Now, let's go through the autopsy.

20 Any objection to 77?

21 MR. SUTHERLAND: Looking at 77, I think that's
22 fair, your Honor.

23 THE COURT: Okay. 77 is good assuming the proper
24 foundation.

25 78?

1 MR. SCOTT: This is 78 right here.

2 MR. SUTHERLAND: In my view, they could zoom in on
3 that wound and not --

4 THE COURT: Can we do something just to zoom in on
5 the wound?

6 MR. SCOTT: Yeah.

7 THE COURT: I agree, we don't need the whole
8 plethora. A picture of the wound is okay.

9 MR. SCOTT: For the record, we are going to crop
10 State's 78 just to show you --

11 THE COURT: There you go. That's right.

12 79? We don't need all that. Crop it.

13 MR. SCOTT: What we might do and I think we'll do
14 is elect to use 79 over 78 and we'll do the necessary
15 cropping.

16 THE COURT: That's fine. Okay.

17 We have 80.

18 MR. SCOTT: 80, here, again. 80, we'll use and
19 again, crop that one.

20 THE COURT: Well, 79 and 80 are basically the same
21 thing.

22 MR. SCOTT: Well, 80 has the wound up top.

23 Okay. We'll use 79.

24 THE COURT: Pick 79 or 80 and crop them, but we
25 don't need them both.

1 And then 81, any objection to that Mr. Sutherland?

2 MR. SUTHERLAND: That's fine. As long as they
3 don't start getting cumulative with the explicit photos.

4 THE COURT: I'm with you. That's why I'm cutting
5 out the redundant ones. I agree we don't need five pictures
6 of same bullet hole.

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: I'm with you on that one. Okay.

9 82? Yeah, that's out.

10 83 exit wound leg, okay.

11 This should be 84. Pick one of those -- are those
12 the same wounds?

13 MR. SCOTT: I think this is the entry. 84 is
14 entry, 83 would be exit.

15 THE COURT: Any objection to those?

16 MR. SUTHERLAND: Maybe you could zoom a little on
17 the second photo.

18 THE COURT: There you go.

19 MR. SCOTT: That's 85. We're going to use 85 and
20 discard 84.

21 THE COURT: Got it. Then 86 -- 86, is the face.

22 MR. SUTHERLAND: I would object to that. That's
23 gruesome. No objection to the X-ray.

24 Again, they've given me diagrams. The coroner has
25 diagrams that depict all these entries.

1 MR. SCOTT: Judge, this is the cleanest one. This
2 is after the pathologist has scrubbed away blood and other
3 biological material. This is just a clean depiction of the
4 fatal wound.

5 THE COURT: I think 86 is too much. I'm happy for
6 the pathologist to explain with a rod or with the way they
7 do things or with the X-ray or with a diagram that she got
8 shot in the face underneath the eye and the direction that
9 it went. She can use you as the diagram for all I care.

10 But, I mean, I've seen more crime scene photos in
11 20 years then I ever care to remember. But usually my
12 unwritten rule is if, at first glance, I kind of -- I have
13 to think about it, it's probably too much. I think 86 is
14 just too much. I'm going to let them explain it.

15 MR. SUTHERLAND: Yes, sir.

16 THE COURT: They can use a diagram. They can
17 diagram on people. They can draw a diagram. They can use
18 the X-ray, but 86 is too much for me.

19 MR. SCOTT: That's it.

20 THE COURT: Okay. Good. Now, something about a
21 body cam, you said?

22 MR. SUTHERLAND: Your Honor has ruled on that and I
23 agree because I think 46 and 47 come in towards the end of
24 that seven minutes and then it depicts the scene.

25 THE COURT: Is that going to give you like what the

1 cop finds when he shows up on the body cam which is going to
2 be what's depicted, eventually photographed in 46 and 47?

3 MR. SUTHERLAND: That's right. And at 6.12, he
4 first comes into view and that's where I told them I thought
5 it should stop.

6 THE COURT: Well, based upon that in my ruling on
7 46 and 47, the whole body cam, the portion playing the seven
8 minutes that you have.

9 MR. SUTHERLAND: Yes, sir.

10 THE COURT: And my ruling upon that will be that
11 same basis of what I gave earlier for 46 and 47.

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: I'm sure that you can have an objection
14 to the other pictures but those are the big ones.

15 MR. SUTHERLAND: Yes, sir.

16 THE COURT: So last thing we need to do is *Denno*.

17 MR. SUTHERLAND: That's it.

18 THE COURT: So let's do that.

19 MR. SCOTT: George Simpson.

20 THE COURT: Tell me your name.

21 MR. SIMPSON: Sergeant George Simpson, City of
22 Columbia Police Department.

23 THE COURT: Thank you.

24

25 G E O R G E S I M P S O N, the Witness herein, having been

1 sworn by the Clerk of Court, was examined and testified as
2 follows:

3

4 MADAM CLERK: Please have a seat in the witness
5 stand and state your full name for the record.

6 MR. SIMPSON: Sergeant George Simpson, City of
7 Columbia Police Department.

8

9

DIRECT EXAMINATION

10 BY MR. SCOTT:

11 Q Sergeant Simpson, May 11, 2019, did you become involved
12 with a homicide or double homicide that occurred at [REDACTED] Skyland
13 Drive in Columbia?

14 A Yes, I did.

15 Q At some point did you receive information that there
16 was somebody at Prisma Health, Richland Memorial Hospital, that
17 had checked in with a gunshot wound?

18 A Yes.

19 Q Do you remember about what time that was that you got
20 that information that the gunshot wound victim checked into
21 Prisma Health?

22 A It was sometime after 10 p.m. on the night of the
23 incident.

24 Q How was this relevant? You've got a double homicide
25 that was found and shortly thereafter, somebody checks in with a

1 gunshot wound at Prisma. This is relevant why?

2 A Because of the fact that once the initial call for
3 service came in at Skyland Drive, we didn't receive any other
4 shots fired calls other than the first call at Skyland Drive
5 followed by an individual showing up at the hospital with a
6 gunshot wound.

7 Q Did you go to Skyland Drive first or did you go to
8 Prisma Health?

9 A Yes. I went to Skyland Drive first since that was the
10 initial scene. I remained there for the processing and evidence
11 collection.

12 Q Okay. At some point, did you go to speak with the
13 gunshot wound victim as Prisma Health?

14 A Yes, I did.

15 Q What was this identity? Who was that?

16 A He said his first name was Genari, last name was
17 McNeil.

18 Q And that's the defendant here today?

19 A Correct. Wearing the grey shirt.

20 Q So approximately some time around 10:00 or so on the
21 night of May 11th, at Skyland, is when officers first get the
22 call about the shooting that ultimately ends up in a double
23 homicide.

24 When did you go to Prisma to speak with Mr. McNeil?

25 A It was that -- it technically would have been that

1 following morning, some time around 11:00 a.m.

2 Q The morning of May 12th you go to Prisma to speak with
3 this defendant?

4 A Correct.

5 Q And at that time had any charges been brought against
6 Mr. McNeil?

7 A No.

8 Q At that point was he a detainee?

9 A No. He was there just receiving treatment at that
10 point.

11 Q Is it true that, I guess the reason you were there was
12 to get some information regarding his gunshot wound, the
13 incident that led to him being shot?

14 A Correct.

15 Q So when you sat down with him, was he alert?

16 A Yes, he was.

17 Q And did he appear to be under the influence of
18 anything?

19 A No.

20 Q Did you identify yourself?

21 A Yes, I did.

22 Q And you identified yourself as a police officer?

23 A Correct.

24 Q And again, he was not detained. He was just a patient
25 who you were trying to speak with about his gunshot wound?

1 A Correct.

2 Q Is that typical, do you guys oftentimes go to the
3 hospital whenever a gunshot wound victim is reported?

4 A Yes.

5 Q That is typical?

6 A Yes.

7 Q So after you establish who you were and began speaking
8 with Mr. McNeil, was he agreeable in speaking with you?

9 A Yes, he was.

10 Q Did you ask him how he was shot?

11 A I did.

12 Q What information did he give you about his shooting?

13 A He initially said that he was walking near a gas
14 station and a car came up and started -- he heard shots. Felt
15 himself get hit. He didn't know what happened. He said that
16 another car arrived and an unknown person took him to the
17 hospital. And then he later changed his story.

18 Q You said he was walking or driving to the gas station?

19 A He said he was walking nearby one of the gas stations.

20 Q Did he indicate where this gas station was?

21 A All he could tell me is that it was near the Obama Gas
22 Station. And he basically gave me a general area near some
23 apartments but then he also gave another area near another set
24 of apartments that weren't close to the first set of apartments.

25 Q He talked about the Obama being near the Colonies; is

1 that right?

2 A Yes.

3 Q The Colony's is on the West Beltline; is that right?

4 A Correct.

5 Q And he also said he didn't live in the city; is that
6 right?

7 A I don't recall where he mentioned he lived.

8 Q Do you remember him having a West Columbia address?

9 A Yes, I do.

10 Q Did he say why he was out late at night walking around
11 the Colony's?

12 A He never mentioned -- well, yes, he did. I'm sorry.
13 He said something about, he was on the way to a girl's house.

14 Q Did he identify who the girl was?

15 A He did, but I don't remember exactly who he said the
16 girl was. But he did say something about a female acquaintance
17 he was trying to go and see. He said that she lived in the
18 second set of apartments that weren't close to the first set he
19 said was nearby.

20 Q To your knowledge, had there been any shots fired type
21 calls in that area around the Obama Mart or in the Colony's that
22 night or at that time?

23 A No shots fired or shots fired reports from either
24 location that he said he had been or this happened at.

25 Q Did you ask him how he had gotten to the hospital?

1 A Yes, I did.

2 Q How did he say he got to the hospital?

3 A He said a car came up and they just took him to the
4 hospital.

5 I asked if he knew the driver of the car or any
6 information about the car. He said no.

7 Q He's still not under arrest after this conversation
8 with you; is that correct?

9 A Correct.

10 Q Do you remember about what point he was checked out of
11 the hospital?

12 A I don't remember the exact time. I know it was several
13 hours later. I just don't remember the exact time. But there
14 is -- the very first point where we got into our interview room,
15 that was the point where he was discharged from the hospital and
16 we transported him to headquarters.

17 Q Everything we just talked about as far as statements,
18 that occurred in a hospital room at Prisma Health?

19 A Yes.

20 Q It was well prior to him being charged with anything;
21 is that correct?

22 A Correct.

23 MR. SCOTT: That's essentially the statement, your
24 Honor, that we would use.

25 THE COURT: Okay.

1 CROSS-EXAMINATION

2 BY MR. SUTHERLAND:

3 Q Sir, how are you?

4 A Good, sir. How are you?

5 Q I'm well. When you got to Prisma, was Steiner or
6 Castro -- I know that there was an officer. Were they there?
7 Do you remember if it was Steiner or Castro when you got there?

8 A I don't remember which officers but there was an
9 officer there.

10 Q And do you know why the officers were outside the room?

11 A So when I first initially heard that he was shot, I
12 already knew that there weren't any other shots fired calls. We
13 were all tied up on that investigation. So I was at the house
14 and also all of the other individuals were at house as well. I
15 told them that I wanted to talk to him and get his side of the
16 story. And also kind of figure out what happened or basically
17 try to see if he was involved. So that's why I asked officers
18 to remain at the scene so I could get to him.

19 Q So they were at the hospital just outside his door?

20 A Yes. At least that's what I believe or somewhere
21 nearby.

22 Q One thing I want to ask you about is, you know, there's
23 seven hours, I think it was an hour at the hospital, the tape
24 that you were talking to him and seven hours at the CPD.

25 A Uh-huh (affirmative response.)

1 Q When you were talking to him at the hospital, a
2 neurologist came in. Do you remember that, a brain surgeon?

3 A I remember a couple of people coming in to do services,
4 but I don't remember the exact people.

5 Q Do you remember anyone saying something about blood
6 being on his brain?

7 A I know he mentioned that to me. 'Cause I asked him if
8 they mentioned anything about his injuries, and he did say that
9 there was -- he would have to confirm with medical personnel
10 that he had blood on his brain.

11 Q When you get him to the police department, you take
12 from the hospital to the police department?

13 A Uh-huh (affirmative response.)

14 Q You handcuff him to a table there. Do you remember how
15 many gunshot wounds you observed on him?

16 A It was at least two.

17 Q Do you remember maybe one in the head?

18 A Uh-huh (affirmative response.)

19 Q Do you remember you and Thomas talking about one in the
20 face, telling him, "You got shot in the face"?

21 A You mean for --

22 Q When you all were talking, "When you got shot in the
23 face, that's why we're trying to talk to you," do you remember
24 that?

25 A I don't remember me saying that.

1 Q Okay.

2 A Or I don't remember who said what. It was very obvious
3 that he had received a gunshot wound to the head.

4 Q And he was shot in the wrist?

5 A Uh-huh (affirmative response.)

6 Q And also in the leg. Did he complain to you about
7 headaches, about not feeling well?

8 A I don't remember him saying anything about not feeling
9 well. I do remember him saying he didn't know what happened.
10 He had felt like he had been knocked out and that was also at
11 the hospital.

12 Q One thing I'd like to ask you about is Miranda. It's
13 not like you're in there interviewing him for seven hours. It's
14 every couple of hours y'all go in for 30 minutes a pop or some
15 sort of technique I guess to keeping people on ice. But you
16 mentioned that you had gone over the Advice of Rights form with
17 him.

18 Did that happen?

19 A Yes, that happened.

20 Q Do you have that Advice of Rights form?

21 A I basically read him his rights from the form. That
22 happened at the hospital, just prior to him being transported
23 back to our headquarters.

24 Q Okay. So you read him his rights at the hospital?

25 A Uh-huh (affirmative response.)

1 Q And did he sign it or not sign it?

2 A No. He didn't sign any forms. He just verbally agreed
3 to speak with me at the hospital.

4 Q So again, I want to go back, just briefly, to Steiner
5 and Castro. I believe Castro went to scene and then relieved
6 Steiner at the hospital.

7 Is that your recollection of -- from the shift of who
8 was outside?

9 A Yes. I know it probably would have happened like that.
10 I don't remember who exactly relieved who, but officers would
11 relieve one another. I just don't remember which officers
12 relieved which one.

13 Q And when you saw him, he was just in a bunch of tubes
14 and machines and all that --

15 A You're speaking in reference to?

16 Q At the hospital.

17 A Yes. I remember him having gauze on the head and I
18 don't know about tubes, but obviously the hospital machinery was
19 there. He was in a hospital bed.

20 MR. SUTHERLAND: Your Honor, I have no further
21 questions. But the motion with respect to that portion --

22 THE COURT: Hold on. Do you have any redirect?

23 MR. SCOTT: Oh, no. I don't.

24 THE COURT: You can step down. Now you can make
25 it.

1 MR. SUTHERLAND: The testimony is that he's in the
2 hospital. The testimony was that he was Mirandized at
3 hospital and they had guards posted outside of his door,
4 outside the hospital door. The investigator testified that
5 he was in there when medical people were coming out. And he
6 also testified that he was a suspect because there was
7 no shots fired or shots fired, this was the only one. And
8 he also testified that where he had supposedly said he was,
9 there wasn't anything there.

10 So I think it's clear that he was a suspect. It's
11 my view that even though he's in the hospital, he's in
12 detention because they have officers guarding the door and
13 changing shifts.

14 So it would be my motion to suppress what they
15 intend to introduce on the basis that was in custody. He
16 was interrogated. He was shot several times. And he
17 wouldn't know any medications that he was on. But it's my
18 view that that was the custodial interrogation. That he's
19 said to be Mirandized only after -- when they were about to
20 leave the hospital.

21 Why did he do that? Clearly, he was the suspect.
22 And clearly, to me, he was in custody. And he had not been
23 Mirandized until right before they left the hospital. We
24 heard testimony. So I would just ask to suppress the
25 statements.

1 THE COURT: Okay.

2 MR. SCOTT: Judge, just to be clear. This
3 interview happens about 12 hours after he checks into the
4 hospital. Again, this is just an investigator who was
5 supposed to be investigating a gunshot wound victim. And
6 Miranda that Mr. Sutherland's referencing, Detective Simpson
7 said it was after he was checked out of the hospital and
8 before he went to Columbia Police Department Headquarters
9 that he was getting a Miranda Wavier form.

10 What I talked about earlier, that him being out on
11 West Beltline, him not knowing who shot him, not knowing who
12 took him to the hospital, that was all very early on in the
13 interview at the hospital prior to the Miranda. Well, prior
14 to him being charged with anything. At the point where
15 Mr. Simpson is speaking with him, he's trying to get to the
16 bottom of why this guy showed up at the hospital with a
17 gunshot wound. Not detained. Clearly he's being
18 interrogated but he is freely and voluntarily answering
19 these questions.

20 Later on he is taken to, like I said, Washington
21 Street Headquarters. At that point he gets Mirandized and
22 does, I don't know, how many hours does he do? It's a
23 number of hours.

24 MR. SUTHERLAND: Six hours and 58 minutes of seven
25 hours.

1 MR. SCOTT: That particular interview, I don't plan
2 on eliciting any testimony regarding -- it would just be the
3 hospital visits. It's about 12 hours after he was checked
4 in. After he had gone through treatment and the doctors
5 said, "Mr. Simpson, you can go in and talk with him."

6 THE COURT: Okay.

7 MR. SUTHERLAND: And just briefly, your Honor. I
8 believe that the testimony was that he went to the hospital
9 because that was the only shooting.

10 THE COURT: Sure.

11 MR. SUTHERLAND: So I believe he went there with
12 the intention to interrogate, posting guards outside his
13 room at the hospital. I don't believe he was free to leave.
14 We didn't have any testimony to that effect.

15 THE COURT: What about the issue of cops outside
16 the room and him being free to leave?

17 MR. SCOTT: I think that's sort of standard. We
18 didn't get into that with Simpson. My understanding was,
19 they're at the scene on Skyland Drive. They get the call
20 that there's a gunshot wound patient. So officers go
21 respond to the scene and then the investigator comes later
22 on after he sort of looked at the crime scene on Skyland and
23 thought of pertinent questions to ask I guess regarding his
24 whereabouts.

25 "How did you come to be here as a victim of a

1 gunshot wound?"

2 It wasn't until much later that they were able to
3 get this DNA from inside. Clearly that's takes analyst
4 doing their thing and testing it. On that particular night,
5 when Simpson goes over there the next morning, all he has to
6 go on is a male victim who shows up with a gunshot wound.
7 He'd already apparently told officers, kind of vague
8 accounts of how he came to be a gunshot wound victim. And
9 my understanding is that it was just standard procedure.

10 Anytime I think Mr. Simpson testified to that, a
11 gunshot wound victim shows up, they routinely send officers
12 to conduct an interview of the gunshot wound victim. That's
13 precisely what Mr. McNeil was at that juncture as far as law
14 enforcement is concerned.

15 THE COURT: Anything else?

16 MR. SUTHERLAND: Just briefly. I think it's
17 significant that both of the officers that were guarding.
18 When I asked, when Castro came to relieve Steiner, Castro
19 came from the crime scene to relieve Steiner and Steiner
20 went to the crime scene.

21 THE COURT: I don't think that's in the record.

22 MR. SUTHERLAND: Oh, I thought -- I'm sorry.

23 THE COURT: I thought he said he didn't know who
24 relived who and when they relieved them.

25 MR. SUTHERLAND: I always tend to remember the

1 answer I want to.

2 THE COURT: That's right. I'm going to find that
3 he was not in custody for the purposes of interrogation. He
4 was in the hospital. I don't know how he got to the
5 hospital. He didn't get to the hospital by police escort.
6 And the fact that there were officers outside the room, I
7 don't find makes a custodial interrogation to the point
8 where he wasn't free to stop the interrogation or free to
9 stop answering questions or invoking of his rights.

10 There's also no medical evidence or testimony in
11 the record as to that he was unable to understand -- not
12 able to understand what was going on or was under the
13 influence of some drug or prescription drug or illegal drug
14 or any other drug or alcohol to the extent to where his
15 faculties were impaired and he didn't understand what was
16 going on.

17 Therefore, I find that his Miranda Warnings were
18 not required because he was not in custodial interrogation
19 based upon the totality of the circumstances and the
20 testimony that was present. I make the finding that that
21 statement is admissible.

22 Y'all are not introducing the seven-hour statement?

23 MR. SCOTT: No.

24 THE COURT: Just that one?

25 MR. SCOTT: Just that one.

1 THE COURT: Okay. What else do we need to take up?

2 MR. SUTHERLAND: That's it, your Honor.

3 THE COURT: Anything else from the State?

4 MR. SCOTT: I don't have anything else, your Honor.

5 THE COURT: Let's take a five-minute bathroom break
6 and then we'll get started.

7 MR. SUTHERLAND: Is it possible for ten 'cause I
8 have to run out to the truck?

9 THE COURT: Sure. Everybody listen to me. We're
10 going to start back in ten minutes. It's 3:15 p.m., that
11 means we're going to start back at 3:25 p.m. If you're not
12 in here at 3:25 p.m., you're not coming in the door until
13 opening statements are over. This isn't the time to come
14 lollygagging in whenever you feel like it.

15 If you're not in here at 3:25 p.m., at 3:25 p.m.,
16 I'm going to lock that back door and you're not going to
17 come in until after opening statements. If you are in here
18 at 3:25 p.m., let's make sure everybody understands the
19 rules.

20 Number one: There will be no outburst in any way,
21 shape or form. You will be kicked out of the courtroom if
22 you make an outburst and you may be taken into custody if
23 you make an outburst.

24 Number two: If you have a phone, you are not
25 allowed to have it out at all, for any reason. If the

1 bailiffs see a phone, the phone is mine. If your phone is
2 not set to off, it should be set to silent. If I hear the
3 phone go off, I'm going to take the phone. The only people
4 in the room that are allowed to have phones are the people
5 that are in front of the bar, meaning lawyers and people
6 involved in the cases. Other than that, there shall be no
7 phones out in the courtroom.

8 Okay. We'll start back at 3:25 p.m., be in the
9 room ready to go.

10 (Brief recess was taken.).

11 THE BAILIFF: All rise.

12 THE COURT: Thank you. Take your seats. Let's
13 bring them in.

14 (Jurors entered).

15 THE BAILIFF: All the jurors are seated, your
16 Honor.

17 THE COURT: Welcome back, ladies and gentleman.
18 Thank you for being on time. We've been in here working for
19 about the past hour to get things to where they are
20 streamlined when you come in. So a lot of the times when
21 we're handling things and you're not in the room, it's just
22 me getting everything lined up so that we can kind of keep
23 things moving while you're in here.

24 The first thing we're going to do this afternoon is
25 you're going to be sworn in. This morning you took an oath,

1 that was to tell me the truth. This oath that you're about
2 to take is different. This oath is your promise to me, to
3 yourselves, to each other, to the lawyers, to the parties,
4 that you will try this case fairly and impartially.

5 We use this oath in this country since the
6 beginning of the jury trial system and it really embodies
7 your duty to be fair and impartial.

8 So if you will please stand and at the end of the
9 oath, if you will say "I do" or "I will" if you accept the
10 oath.

11 MADAM CLERK: Please raise your right hands.

12 (All jurors received the oath.)

13 MADAM CLERK: You may be seated.

14 THE COURT: Thank you very much, Madam Clerk.

15 Before we begin the actual trial of the case, I
16 thought it might be helpful to explain to you how a trial
17 will work.

18 First, the State or the Solicitor's office, they
19 will be allowed to make what's called an opening statement.

20 Now, opening statements are not evidence. They are
21 simply outlines to help you understand what that party
22 expects the evidence will show. The defendant may, if he
23 chooses, make an opening statement, but he does not have to
24 for reasons that I'm going to explain to you in just a
25 moment.

1 Following the opening statements, you will hear the
2 testimony and the evidence in the case. This will consist
3 of testimony from the State witnesses as well as any
4 physical exhibits which may be introduced into evidence.

5 Following the completion of the testimony, the
6 attorneys will again have an opportunity to come before and
7 you make what are closed closing arguments or closing
8 statements. This is an opportunity for the attorneys to
9 summarize the case from their respective points of view.

10 Now, these opening statements are not -- and
11 closing arguments are not evidence. Following the
12 statements by the attorneys, I will instruct you on the law
13 as it pertains to the issues that have arisen during this
14 case.

15 So you are now the jury in this case and I need to
16 take a few moments to explain your duties to you.
17 Essentially, the easiest way to put it is this:

18 It's your duty to decide from the evidence what the
19 facts are. You and you alone are the judges of facts. You
20 will hear the evidence or if it's an exhibit, see the
21 evidence, you will then decide what the facts are and then
22 you will apply those facts to the law that I will give you.
23 And that's how you'll reach a verdict. In doing so, you
24 must follow the law that I give you, whether you agree with
25 it or not.

1 So what is evidence? The evidence is the testimony
2 of the witnesses as well as any documents or anything else
3 received into evidence as an exhibit. And any facts on
4 which the lawyers agree or anything that I tell you you must
5 accept.

6 So let's just make up a silly example. Let's say
7 that all the lawyers agree that on the day in question, the
8 sky was blue. I would tell you, you must accept this fact
9 that on the day in question, the sky was blue. Absent
10 something like that happening, you won't hear me tell you
11 what the facts are.

12 And the easiest way to imagine this is like a line.
13 There's a line between me and you. On your side of the
14 line, sits the facts. I can't tell you what the facts are
15 unless all the lawyers agree on some fact. The flip side of
16 that is on my side of the line sits the law and you can't
17 tell me what the law is. You must follow the law whether
18 you agree with it or not.

19 Now, you should not take anything that I do or that
20 I say as indicating what I think of the case or what I think
21 of the evidence or what I think your verdict should be. The
22 law does not allow me to have an opinion about the facts of
23 the case.

24 Now, this is a criminal case brought by the State
25 of South Carolina. The State has charged the defendant with

1 two counts of murder, one count of burglary in the first
2 degree, one count of armed robbery and one count of
3 possession of a weapon during the commission of a violent
4 crime.

5 I read all those charges to you in the indictments
6 this morning. I remind you that the fact that the defendant
7 was indicted is not evidence of anything. It's not proof of
8 anything. They're simply the description of the charges
9 made by the State against the defendant. The defendant has
10 pled not guilty to these charges and he is presumed innocent
11 unless and until proven guilty beyond a reasonable doubt.

12 Proof beyond a reasonable doubt is proof that
13 leaves you firmly convinced of the defendant's guilt. A
14 defendant has the right not to testify and never has to
15 prove innocence or present any evidence at all. The burden
16 of proof in this case and the burden of proving this case is
17 always upon the State of South Carolina.

18 Now, you are going to hear things and see things in
19 this trial that will appear to be evidence, but they're not
20 actually evidence. Let's talk about things that are not
21 evidence.

22 Number one: The statements that the attorneys make
23 and the arguments that they make, that is not evidence. The
24 attorneys are not witnesses.

25 Number two: The questions that they ask and the

1 objections that they raise are not evidence.

2 Number three: Anything that I tell you to
3 disregard.

4 So there are two kinds of evidence that you may
5 hear during this trial. One is called direct evidence and
6 one is called circumstantial evidence. Direct evidence is
7 what somebody saw, heard, did, touched, sense, smell,
8 something of that nature.

9 Circumstantial evidence is indirect evidence. That
10 is it is proof of one or more facts from which you can then
11 find another fact. So you are allowed to consider both
12 direct evidence and circumstantial evidence and you are
13 allowed to give equal weight to both of them. But it is for
14 you to decide how much weight to give any evidence.

15 During this trial, there are rules that cover every
16 single thing that we do. So Rule Book Number 1 is this
17 book. I don't go anywhere without this book. Rule Book
18 Number 2 is this book. And all these rules have numbers and
19 they come from different sources and things like that. So
20 here's what happens:

21 When a lawyer asks a question or let's say they
22 offer a photograph and a lawyer on the other side of the
23 case says to themselves, I don't think that's allowed by the
24 rules. Then that lawyer will stand up and say "Objection,
25 your Honor." You've seen this on TV or in the movies or in

1 books, right? This really happens, okay? They say,
2 objection and they are allowed to state a brief reason why
3 they're objecting.

4 They may say, "Objection, hearsay."

5 They may say, "Objection, 403."

6 They throw out these numbers and that's why I keep
7 the books with me, to make sure I know what they're talking
8 about, right?

9 So they may say, "objection" and throw out a
10 number, or say, "objection, not relevant" and/or "objection"
11 whatever, okay?

12 Here's what you need to understand. If I sustain
13 the objection, then it's a question the witness cannot
14 answer the question or if it's an exhibit, like a
15 photograph, you can't see the exhibit. If I overrule the
16 objection, then the witness is allowed to answer the
17 question or if it's an exhibit, you're allowed to see the
18 exhibit. Here's what you can't do:

19 Any time that I keep a witness from answering a
20 question or I keep you from seeing an exhibit, you can't
21 guess or speculate about what the answer would have been or
22 what the exhibit would have shown. There are rules that
23 government everything that we do. We play by those rules
24 just like as baseball game, right?

25 There are rules, three strikes, you're out.

1 There's nine innings, the visiting team bats first, the home
2 team bats last, then there's exceptions to those rules,
3 right? Three strikes you're out. Unless the catcher drops
4 the ball and there is no one on first base, right? You
5 understand how the rules work? It's a lot like a baseball
6 game. I'm the umpire and I'm administering the rules as we
7 go throughout the game.

8 There are certain times that certain legal issues
9 come up that I have to decide without you in the room. So
10 I'll say, step back to your jury room. Do not discuss the
11 case. We'll argue the legal issues right out here. I'll
12 make a decision. Then I'll bring you back in and we'll keep
13 moving forward.

14 Whenever that happens and it's not an issue of "if"
15 it's just an issue of "when," when that happens nobody's
16 trying to keep anything from you or hide anything from you.
17 But there are rules, certain rules that require I decide
18 those issues outside of your presence.

19 Now, to decide the facts of this case, you have to
20 figure out which witnesses to believe and which witnesses
21 not to believe. So here are the rules:

22 You can believe every single thing a person says.
23 You can believe nothing that the person says. You can
24 believe part of what the witness says and reject the
25 remaining part.

1 Now, some factors you are allowed to consider but
2 you're not limited to are: What was the witnesses ability
3 to see, hear or know what he or she testified to?

4 How good was the witnesses memory?

5 What was the witnesses' demeanor like when they
6 were testifying?

7 Do they have an interest in the outcome of the case
8 or any bias or any motive or any prejudice?

9 Were they contradicted by something they said or
10 wrote before the trial or by some other evidence that you
11 believe?

12 How reasonable was the witnesses' testimony when
13 its considered in light of the other evidence that you
14 believe?

15 Now, here's the bottom line. You judge people's
16 credibility all day long. You do it so much that you don't
17 even realize you're doing it anymore.

18 I want you to think about the last time you went to
19 McDonald's and you ordered an ice cream and what did they
20 say, "the machine is broken," right? Okay. And in that
21 moment, you may believe that person that works at McDonald's
22 or you may not believe that person that works at McDonald's
23 who tells you the machine is broken. But whether you
24 believe them or don't believe them, you make that decision
25 with your common sense. You don't leave your common sense

1 at the metal detector. Just bring it with you. Use your
2 common sense. That's why they picked you. Don't make
3 credibility of the witnesses some big issue. Just use your
4 common sense in who you believe and who you don't believe.

5 Until I advise you, you are not allowed to talk
6 about the case with anyone that includes each other by text
7 message, telephone, Facebook, twitter, some other kind of
8 app that I don't even know what it is. You can't use it to
9 get information about the case, send information about case
10 or to talk about the case.

11 Everyone's been told not to have any contact with
12 you. If they see you in the hallway and ignore you, they're
13 just following my rules. You should not be watching any new
14 media about this case. There's no news media in the
15 courtroom, so you're welcome to watch the nightly news. But
16 if for some reason this case comes on, you should turn it
17 off. It's important that you keep an open mind and not
18 decide any of the issues in this case until all of the
19 evidence has been presented, the parties have made their
20 closing arguments and I've instructed you on the law, okay?

21 Who out of the jury panel has ever heard of
22 "implicit bias" before? This is not really a new term, but
23 it's a new term in judicial education that they're really
24 trying to get judges educated on and help, I'm trying to
25 help explain it to juries.

1 You should not be deciding this case on what we
2 call "implicit biases." Every single person in this room,
3 including me, has feelings, assumptions, perceptions, fears,
4 stereotypes. That are implicit biases. You may not even be
5 aware that you have this implicit bias. And these hidden
6 thoughts can impact what you see and what you hear and how
7 you remember what you see and hear and how you make
8 important decisions, because you are making a very important
9 decision in this case. I strongly encourage you to evaluate
10 the evidence carefully. And you should resist jumping to
11 conclusions based upon personal likes or dislikes or
12 generalizations or gut feelings or prejudices or sympathies
13 or stenotypes or biases. The law demands that you return a
14 just verdict based solely upon the evidence, your individual
15 evaluation of that evidence, your reason, your common sense
16 and the instructions that I give you.

17 Okay. Where is Mr. Boyd?

18 You are going to be the foreperson of this jury.
19 Not right know but when you come back in this afternoon,
20 you're going to be seated right here where this lady in the
21 blue sweater is. Raise your hand. That's your seat.

22 Where are my two alternates?

23 You two always have to be on the back row. The
24 rest of you can sit anywhere else you want to in the front
25 three rows. I get a lot of questions from jurors about

1 note-taking. I'm going to tell you why I don't allow
2 note-taking.

3 In any life I have tried, I don't know, three,
4 three-week long trials as a lawyer and two, three-week long
5 as a judge. Five, three-week long trials, most of which I
6 would like to forget. None of those jurors ever took a
7 note. And at least one of them was extremely complicated
8 and complex issues going on and they all did just fine.
9 You're going to do just fine too. You don't need to take
10 notes to follow along.

11 The other reason is this: Your notes are not the
12 official record of what occurs in here. The official record
13 belongs to the court reporter. So you wouldn't be able to
14 use your notes during deliberations anyway. That's why I
15 don't allow note-taking. Again, that's probably the most
16 common question I get from jurors is, why can't I take
17 notes? So I try to explain that to them.

18 So I'm going to turn you over to the attorneys. If
19 you'll please give them you undivided attention for opening
20 statements.

21 Mr. Fowler, are you opening?

22 MR. FOWLER: Yes, sir.

23 THE COURT: You may proceed.

24 MR. FOWLER: Please the Court?

25 THE COURT: Yes, sir.

1 MR. FOWLER: It's something that's in movies. It's
2 talked about on the news. It's talked about amongst friends
3 and family. A deep fear, a terrifying experience, a worse
4 nightmare. And Jahquan Peterson experienced that worse
5 nightmare almost four years ago, May 11, 2019 at [REDACTED] Skyland
6 Drive, Apartment [REDACTED]. That's off Greystone Boulevard in that
7 area.

8 Jahquan Peterson got off his shift at work a little
9 after 10 o'clock. He had a plate of chicken wings in his
10 hands. As he walks up to his front door, two masked gunman
11 rush him, approach him from behind. They stick a gun to his
12 face, in his back. He's pistol whipped and forced inside of
13 his apartment. Inside that apartment, Jahquan's girlfriend,
14 Mary Carmichael, she experiences her worst nightmare. Two
15 masked intruders with her boyfriend at gunpoint. So what
16 does Mary do? Mary does everything in her power to defend
17 herself, her boyfriend and her home. A gunfight ensues
18 inside the house. Mary begins firing at the perpetrators.
19 They fire back. A barrage of gunfire as you'll hear
20 throughout this trial.

21 Approximately, ten to 15 minutes later, Genari
22 McNeil arrives at Richland Memorial Hospital with a gunshot
23 wound to face, his wrist, his leg. Now, back at [REDACTED]
24 Skyland, while Mr. McNeil was at the hospital Joshua
25 Peterson, Jahquan's brother, experiences his worst

1 nightmare. His brother won't answer the phone, won't come
2 to the door. So he peers through a window at the top of the
3 front door into a dimly lit apartment. What does he see?
4 His brother lifeless on the ground, laying in the middle of
5 his living room.

6 Police entered the home and they saw the carnage
7 that had unfolded inside that apartment. Jahquan shot four
8 times, two in the torso, two in his legs. Mary Carmichael
9 shot once in the face, dead on her staircase.

10 Shortly after they entered the apartment, police
11 discovered that a neighbor had also experienced one of her
12 worst nightmares. Shortly before 10 o'clock, Velvet Dubose,
13 the next door neighbor who you're going to hear from in a
14 minute, got off of work early that night. Was going home to
15 her wife. She walks up her front stoop and put her keys in
16 the door, two masked individuals run up behind her. She
17 turns, startled. They stop immediately, look at each other
18 confused and then walked back around the corner of the
19 house. She goes into her home shaken, explaining to her
20 wife what just happened. Minutes later she hears a hailing
21 of gunfire. Her and her wife hit the deck.

22 And again, ten minutes after those shots go off,
23 Genari McNeil was at the hospital covered in blood. While
24 he's at the hospital, police are processing the scene. And
25 on the hall wall near the front door are red stains that

1 look like blood. So police collect the samples. And later
2 through forensic testing, those red stains are matched with
3 DNA taken directly from Genari McNeil.

4 So we have to ask ourselves, why was Genari
5 McNeal's DNA inside that dimly lit apartment in the front
6 and on the front door?

7 The answer to that question, ladies and gentlemen,
8 is, Genari McNeil is one of the masked individuals, one of
9 the pair, one of the conspirers to rob Jahquan Peterson. To
10 enter his home at night with the intent to commit a crime.
11 He's part of the team that murdered Mary Carmichael and
12 Jahquan Peterson in their home.

13 Throughout this trial, we're going to give you the
14 evidence that we need to give you to prove that Genari
15 McNeil is guilty of what he's charged with. You're going to
16 see pictures of firearms used in the crime. You're going to
17 see pictures that were recovered from the defendant's
18 cellphone. You're going to see a Ring doorbell footage of
19 Jahquan Peterson's final moments here on this planet.
20 You're going to get to see him and feel his fear as he's
21 rushed by two individuals with guns.

22 And after you've got all the evidence, you will
23 see, ladies and gentlemen, the answer to the question is,
24 that Genari McNeil is guilty beyond a reasonable doubt of
25 burglary, armed robbery, possession of a weapon during a

1 violent crime and most importantly, the murder of Jahquan
2 Peterson and Mary Carmichael. Thank you.

3 THE COURT: Thank you, Mr. Fowler.

4 MR. SUTHERLAND: Please the Court, Judge?

5 THE COURT: Yes, sir.

6 MR. SUTHERLAND: I introduced myself earlier a
7 little bit. My name is Tivis. I'm here representing Genari
8 McNeil. His name is Nari. I haven't always done this. But
9 I've been doing this for a while. You learn a lot and you
10 grow; it's an evolution process. But some of the things
11 that I've learned early on stick with me today and are
12 important today. One of them might not seem that way
13 initially, but I'll explain.

14 So that's my name. And I learned early on that I
15 need to sort of lean in a little bit on my name because what
16 we're going through right now is we're not having any
17 conversation. You know, we're not talking. The government
18 lawyer is talking at you. I am talking at you and that's
19 just because of the road rules, you know, the rules that the
20 Judge mentioned earlier and in the aggregate are supposed to
21 guarantee a fair trial to our fellow citizens and members of
22 the community that the government accuses the crimes and
23 serious, serious crimes like this.

24 We can't talk now, as instructed by the Judge, but
25 we can talk after when the trial is over. And I like to do

1 that. I like people. I like to find out, I like to get
2 feedback from people. And people are curious about some
3 things from the other side.

4 And when I was first doing this, when the jurors
5 would come out, the first thing we need to do is -- is it
6 Tom? Is it Tim? Is Travis? Is it Tavis? And then I'd go
7 into this little explanation of the name. My people are
8 from up in the mountains of Virginia. If you go all the way
9 up 77 and go through the tunnels up there, when you get to
10 Bluefield, West Virginia and you kook a left on 460 and you
11 hit 19 there. From there you get to Virginia State Route 81
12 and go in, around, around and up and up and in the clouds
13 oftentimes on the state side of Virginia.

14 I always thought looking at a map of Virginia, it
15 kind of looked like a snooping dragon. But you know, that
16 was my imagination as a kid. That is where the eye would
17 want to drag.

18 I've been here since I got out of the Army. I went
19 to college, law school over here. Met my wife here. She's
20 a native. She's a school teacher. And all four of my kids
21 are natives.

22 And what I like to do is get right into the
23 substance of what went on here and other things that people
24 are curious about.

25 It's sort of trendiness, popular topic with people

1 is, you know, they come up to me, they point out, "I wish I
2 knew what was important. I wish I knew what was important."

3 As the Court said, get this thing in the mail. You
4 come up here and you're in a big room downstairs. You come
5 up to the big courtroom upstairs. You go back to the big
6 room downstairs. Come back up to the big courtroom
7 upstairs. Most of you get to just leave. Then you run to a
8 little room back there and you're sort in and out, up and
9 down, in and out. Everybody's talking at you. There are a
10 lot of rules.

11 Rules that the Court has been through here. People
12 say, "I wish I knew what was important." It's kind of
13 confusing. It's a loss of control when you're being ordered
14 around like that. I think, as Americans, we have tension
15 with that.

16 Well, I can tell you, to me, the opening statement
17 is one of the most important parts of any trial. Sometimes
18 it is the most important part of any trial.

19 Now, you may say, well, isn't he going to present
20 evidence and all that?

21 But with the opening statement, it is the first
22 time that I hear with precision what the government wants
23 you to believe and how they intend to get you to believe it.
24 I'll say it again because it sounds odd. This is the first
25 time that I hear it -- and I've been on this case a year --

1 it's the first time I hear with precision what they want you
2 to believe and how they intend to get you to believe it.

3 Because I will tell you something that they don't
4 and I don't know why. I wasn't there. Right? I don't know
5 what happened. I wasn't there. I don't know. But they
6 weren't there either. They don't know. What we just heard
7 is a theory. It's a theory. It's a theory that they want
8 to convince you of. And I want to talk about that theory
9 for a little bit and I want to talk about that in opening
10 statements because it's kind of interesting to me. I'm
11 always interested to hear what they say and I'm interested
12 to hear what they don't say.

13 Now, I understand it is their intention in this
14 trial to -- because they talked about him being in the
15 hospital, and to introduce some statements from him. When
16 he's at hospital, he's got police officers guarding his
17 door, changing shifts at the hospital. And the lead
18 investigator in this case goes over to him. They talk for
19 about an hour. At some point he is Mirandized which is
20 required for custodial interrogations.

21 So they want to talk about that but they don't
22 intend to talk about the seven hours that he was chained to
23 an interrogation table at the City of Columbia Police
24 Department. They don't want to talk about that. I've been
25 over that video frame by frame. It's audio of what they

1 have at the hospital but I went over that seven hours frame
2 by frame. That's eight total hours.

3 And it's eight hours when -- you know, they talk
4 about the hospital, the neurologist comes in and talks about
5 him having blood on his brain while they're doing this
6 statement at the hospital. He's got a gunshot wound. I
7 think Nick, the county government lawyer, I know him. I
8 know Dale. I know all these people. They're good people.
9 I'm not saying bad things about them. What I am saying is
10 that they're wrong about what happened here.

11 Nick said, "when he's shot in the face, shot in the
12 wrist, shot in leg." Well, up here, I kind of tap my head
13 because in this interrogation video, there's an open gunshot
14 wound on his head that is bleeding for seven hours. Seven
15 hours he's chained to that table. He's bleeding from the
16 wrist. He's bleeding from the head. They're talking to him
17 the same way you will hear some of the talking that they
18 play at the hospital. They talk, well, we know that you
19 shot somebody.

20 At first, I think Investigator Simpson at one point
21 was like, "Look, man, what are you doing here? You told us
22 you did it. You said you were there smoking weed and that
23 you had to get out of that room when this happened."

24 Right? That's not me saying that. That's them
25 saying that in that seven-hour interrogation that they don't

1 want to talk about. They don't want to talk about that.

2 They talk about this firearm. It's a Glock 27. I
3 will ask, when the firearms expert gets up here, I will ask
4 them, how common is it? I'm a rifle person. I was
5 enlisted. I could never shoot a pistol for anything. And
6 so to this day, I don't have it to try to be some kind of
7 tough guy but I got what people call an AR-15 because it's
8 what I used in the Army. It's what I'm comfortable with.

9 You know, in the dark, I could put my pinky on that
10 thing and I could probably take it apart and put it back
11 together in the middle of the night. Right? That's why I
12 have that. But AR-15's are popular.

13 If you all have heard of firearms called Glocks.
14 Glocks, it's my belief -- and I can ask their experts about
15 this -- that it's the most popular firearm in the United
16 States at least back -- this was when Trump was President.
17 At least back during that presidency. It's maybe a good
18 year, 50,000 a year. This is not evidence, but I think
19 you've all heard of Glock pistols in that year.

20 And it's funny because I think that company was
21 only founded in 1992 and it's become the most popular
22 firearms manufacturer, just according to what I'm saying.
23 They talk about this pistol being in there, goes along with
24 their theory.

25 They say, well, he gets shot and he drops his

1 pistol in there.

2 Well, thankfully we have something called forensic
3 science. Right? We have forensic science. You know, 50
4 years ago, when I was -- I'm 52, but when I was a kid I
5 remember hearing about this stuff, bite mark evidence and
6 microscope examination with hairs. Sounds like witchcraft
7 or something. These days we've got DNA. We've got gunshot
8 residue tests. We have science.

9 They say that this is his gun. Well, I wonder what
10 the science says about whose DNA is on that firearm. They
11 did come up with an excuse. Well, you know, I don't know.
12 He had a glove on or something like that.

13 Well, who is connected to that firearm by the
14 science, by something that we can't -- that we know? They
15 say, "it's his." I say, "I don't know." But it makes as
16 much sense that it ain't, then it is. And we get a science
17 person up here, a DNA expert up here. They got experts on
18 everything from anthropology to serology. They'll throw up
19 there what they need with that theory.

20 The think that took me a while to learn is that
21 they're here to win. They're here to win. When I was first
22 doing this, they teach you in law school and they teach you
23 how to do this. You write an outline for your opening
24 statement. They make you write it out by hand and then you
25 take some notes up there and kind of refer to your notes.

1 But I used to stay up all night the night before. I used to
2 get no sleep. Do the outline. I would type it out.

3 We've been using computers for a while. It would
4 be two and a half, three pages, single spaced. And I know
5 now that that's not good form to come up here with something
6 you can like that, but it's how they teach it and it's what
7 they tell you to do.

8 But I come up here one time and I've got my "can"
9 speech and I was sitting there and the first words --- it
10 might have even been in this courtroom. It was a while ago.
11 Solicitor comes up, first words out of his mouth, he says,
12 "The hand of one is the hand of all." Right? He says, "The
13 hand of one is the hand of all." Talking about accomplice
14 liability.

15 Well, my defendant and the other defendant on trial
16 in that trial did not know each other. They had never met.
17 They didn't know each other from a can of paint so they
18 couldn't conspire, they couldn't come together. And I was
19 sitting over there like, what the hell? And I was
20 nerve-racked because this team had this sort of "can" thing
21 that I had written, you know, to come up here and, you know,
22 about -- honey, come here and listen to this. And she said
23 no, because she's the smart one in the family. Don't grade
24 your husband or don't grade your wife if you're a school
25 teacher.

1 But I just come up here and I said -- I listened
2 and I said what I think -- that's just crazy, these people
3 don't know each other. I don't know where this is coming
4 from. And what I learned a lot about and the lesson from
5 that is about talking about theories. Right? The
6 government is here to win. They were there to win on that
7 day. I went up and said what I said. So I sit. I listen.
8 I paid attention.

9 And, you know, I come up and was like, well, what
10 did they not say? What are they not trying to put in front
11 of you?

12 They're not trying to put -- because I think you
13 would probably be sympathetic to him if you all were to see
14 him chained to an interrogation table, yanked out of the
15 hospital, bleeding from a gunshot wound to the head,
16 bleeding from his wrist. He can't see his leg but he's
17 bleeding from his leg. He's got a hole in his face. Young
18 man telling them, "This hurts." He's swelling.

19 In that one that they are going to introduce, the
20 neurosurgeon comes in there and says, "Your face is going to
21 be swelling for a while," all of this stuff. And they still
22 take him, they chain to him to this table for seven hours,
23 eight hours in total interrogation.

24 The one point in that -- and, you know, he's like,
25 what's going on here? You know, that wasn't me. I don't

1 know what y'all are talking about. Until the point where
2 the investigator says to him, he goes, "Look, you already
3 told us that you were there. Remember that? You were
4 smoking weed when this happened."

5 Why are you saying now that you were walking down
6 the street or whatever it is? I mean you will hear this
7 stuff as it is sort of a continuation from the hospital but
8 you will hear talk about the science.

9 They do gunshot residue test now. It's a
10 significant amount of time. In the interrogations, I think
11 it's the seven-hour chained to the table, bleeding all over
12 the place.

13 They're like, well, you know, we did a test and
14 there's gunshot residue on your hands.

15 And he says, "No," he says, "I didn't shoot
16 anybody. You're wrong."

17 He listens to their sort of -- you know, a cop has
18 a job to do and they can lie. They can't be sued. The
19 Supreme Court in the United States has said that. And
20 that's fine. I mean, that's what we as citizens have to
21 deal with. They can say anything they want to and they're
22 even telling him, "Well, we know you shot somebody because
23 there's gunshot residue on your hands."

24 He said, "there ain't not gunshot residue on my
25 hands." He says, "I didn't shoot anybody."

1 So what makes the most sense? Does their theory
2 make sense? They're going to make it make sense and it can
3 make sense. I mean, it's not like they're just up her
4 willy-nilly saying stuff. Their theory makes sense. But it
5 also makes sense that he was already there. It also makes
6 sense that there were three victims that day. Not two.

7 Two of them are deceased. One gets to the
8 hospital. I think no case is complete without a jailhouse
9 snitch. And I just wish they would charge him with the same
10 thing. If a guy is willing to come up here and snitch
11 because then I can talk about his potential sentence for
12 these offenses. I can't talk about it unless -- this guy is
13 federal -- but he's supposed to get up here and maybe talk
14 about some kind of relationship. And I don't know. Here's
15 what I know.

16 I know -- well, here's what I think I can tell
17 because I still don't have some things that I'm interested
18 in. I think I can tell that if he catches 20 years in
19 federal prison and within a week of him being discharged
20 from the Alvin S. Glenn Detention Center and sent out to FCI
21 Bennettsville, Secret Service Liaison Allen and Investigator
22 Simpson were out at FCI Bennettsville. He said, oh, yeah,
23 he told me back in June when we were in wound care, which
24 is, you go to jail when you're shot and they put you in a
25 thing where they -- you know, they just throw you into like

1 nothing or something like that.

2 Well, when we were in wound care, he told me he did
3 all this stuff and he told me why. Well, let's see if he's
4 on the witness list. Let's see him come. I know he's
5 trying to get this thing -- I've practiced in federal court.
6 He's trying to get this thing called Rule 35, which is where
7 you get up here and you snitch on somebody and you get your
8 sentence reduced, like substantial assistance to the
9 government.

10 Now that's the federal government. This is the
11 State government. It's still the government. There's still
12 a payment. Every time we buy anything, from a hotdog to a
13 house, it's the thing that we pay for. I bought a soda, two
14 packs of smokes, sometimes I get menthol when I'm on trial
15 because I'm a chain-smoker and I need to clear it up a
16 little bit. But that was like \$14, \$15 or something like
17 that. Two to \$3 of that goes to the government and then
18 they use it for these things.

19 The hardest thing to get through to the people and
20 to your clients is, look, it almost doesn't matter. It
21 almost doesn't matter what happens. It's what they can get
22 up here and convince what I'll assume is the members of this
23 community. All right? Because if they can do that, then
24 you -- remember the thing about the hand of one is the hand
25 of all? What the hell is that?

1 It's just as reasonable that he was in there and he
2 was a victim because according to Investigator Simpson, I
3 don't hear this on any of these hours of tape. I don't hear
4 it. But according to Investigator Simpson, "You told us
5 that you were there, that you were smoking weed there and
6 you were in that room and you felt like you had to get out."

7 His words not my words.

8 So all I'll tell you is listen to the signs and as
9 the Judge says, you want to keep an open mind in your common
10 sense. He's right. The presumption of innocence is
11 actually a law. It is a law. He is presumed innocent. The
12 presumption of innocence is actually a law. And it's a law
13 that we obey. He is presumed innocent. And if it's his
14 version or any alternative version that you can think of
15 makes any kind of sense, well, that's a reasonable doubt.

16 Reasonable doubt is just a doubt that would cause
17 an ordinary person to hesitate to act. All right? Because
18 if you hesitate, you've got a doubt. I mean, I can go on
19 because I'm a talker. Like about the name, I could have
20 done about ten minutes on that thing. He was into tractors
21 and whatnot. My great grandfather, he lives on 6,080
22 something acres.

23 But I want you to know, I'm not here to okeydoke
24 around and mess around. I'm not going to ask a bunch of
25 questions. I know we saw this thing on TV. We're having

1 the wrong -- I'm not here to ask a bunch of questions that
2 nobody cares about the answers. If I'm asking the
3 questions, it's because I want to know. I'm curious. Maybe
4 I'm trying to get out something. I may not get it. But I'm
5 trying to get to something. And what I hope is that I'm
6 able to convey through the questions and through the
7 evidence in this case is that it is entirely possible.

8 All you need is a little possibility. All you need
9 is a real possibility that he didn't do this. It is a real
10 possibility that he's a victim in this case. And they want
11 this big -- oh, and about the DNA, because his DNA is in the
12 house. Remember that? And they finger point that man over
13 there. It's one of their favorite things. Well, if they
14 had talked about the second interview chained to the table
15 bleeding all over everything, saying, I'm feeling faint.
16 Well, then they could have just told him -- better than
17 that -- you know, I told him, that he told me, he already
18 said he was the victim. So what's the big deal about this
19 DNA?

20 DNA is a big deal when you talk about firearms, you
21 talk about stuff like that, when you talk about the DNA of
22 individual citizens and members of the community to these
23 different firearms. It is a big deal. You have to think,
24 well, his DNA was there so we know he was there. Well,
25 according to them, he told you he was there. So how is that

1 a big deal?

2 I will stop because I just go and on and on and on.
3 I don't want to be excruciating or painful for you all. But
4 I just encourage you to keep an open mind and I think it's
5 just as reasonable that he's a victim in this case. And
6 again, I wasn't there, I don't know, but they weren't there
7 either. So when you go to pick between the two, you can
8 pick the clean citizen. That's just -- this is supposed to
9 be America. Thank you.

10 THE COURT: Okay. Thank you.

11 Mr. Sutherland?

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: You may call your first witness.

14 MR. FOWLER: State calls Velvet Dubose.

15 MADAM CLERK: Please raise your right hand.

16

17 V-E-L-V-E-T D-E-B-O-S-E, the Witness herein, having been sworn
18 by the Clerk of Court, was examined and testified as follows:

19

20 MADAM CLERK: State your name for the record and
21 please spell your last name.

22 THE WITNESS: Velvet Sheri Dubose, D-u-b-o-s-e.

23

24 DIRECT EXAMINATION

25 BY MR. FOWLER:

1 Q Thank you for being here, Ms. Dubose.

2 Ms. Dubose, I'm just going to jump right into it.

3 Do you recall the events of May 11, 2019?

4 A Yes.

5 Q Where were you living at the time?

6 A [REDACTED] Skyland Drive, Unit [REDACTED].

7 Q Do you know who lived in [REDACTED] Skyland Drive Apartment [REDACTED]?

8 A Yes, I do.

9 Q Do you remember their names?

10 A Q and Mary.

11 Q And you were familiar with them?

12 A Yeah.

13 Q Where were you working at that time?

14 A Westinghouse.

15 Q What were your typical hours at Westinghouse?

16 A 3:00 to 11:30.

17 Q So did you go back to your house on that night after
18 you left work?

19 A Yes. I left work early that night. I got home around
20 10-ish that night.

21 Q What happened when you got home?

22 A It was raining that night so I parked my car and went
23 to go into the house. And I kind of rushed in because it was
24 raining. I had just put the key in the keyhole and I heard some
25 shuffling noise behind me. I looked back and I saw two guys

1 standing behind me in ski masks.

2 Q I want to go back. I skipped over a little something.
3 You said you got out of your car. What kind of car do you
4 drive?

5 A A gray Nissan Altima.

6 Q Gray Nissan Altima.

7 A Uh-huh (affirmative response.)

8 THE COURT: Can you speak up for a little bit for
9 me, please, ma'am?

10 THE WITNESS: Yes. A gray Nissan Altima.

11 THE COURT: Thank you very much.

12 Q (By Mr. Fowler) Do you recall what kind of car Jahquan
13 Peterson drives?

14 A It was a gray Infinity or something like that. I'm
15 sorry. I don't remember exactly.

16 Q But both of you drove gray sedans at the time?

17 A Yes. Gray four-door cars, yes.

18 Q So I'm sorry, take me back. You said you got out of
19 your car. Then what happens?

20 A I went to go into my complex at the time. Went to put
21 my key in the keyhole and like I said, I heard some noise,
22 shuffling, brushing up behind me. So when I looked behind me, I
23 saw two males with ski masks on. They looked at me. I looked
24 at them, kind of like deer in headlights. They whispered
25 something to each other and went on about their business. And I

1 rushed on into the house.

2 Q I'm going to show you two pictures real quick. If
3 that's all right with you.

4 Do you recognize these two pictures?

5 A Yes. Those are my apartments.

6 Q And that's how it looked at that time?

7 A Yes.

8 MR. SUTHERLAND: No objection.

9 THE COURT: What numbers are those?

10 MR. FOWLER: One and two, your Honor. State would
11 move those into evidence.

12 THE COURT: Any objection?

13 MR. SUTHERLAND: No, sir.

14 THE COURT: State's Number 1 and Number 2 will be
15 admitted without objection.

16 (State's Exhibit 1, Photo/Apartment ■, entered into
17 evidence.)

18 (State's Exhibit 2, Photo/Apartment ■, entered into
19 evidence.)

20 MR. FOWLER: Your Honor, may I publish those to the
21 jury?

22 THE COURT: You can.

23 So ladies and gentlemen, while he's setting this
24 up, all lawyers us exhibits differently. It's not my job to
25 tell them how to use their exhibits right. Some people

1 introduce something and never show it to the jury. Some
2 people use systems like this where they'll blowup the
3 pictures on these screens.

4 The important part of what I'm trying to say is
5 this. If you don't feel like you saw something for long
6 enough or you want to spend more time with it, whenever you
7 start deliberating, you will have all the exhibits that are
8 in evidence back in the jury room with you. So you can
9 spend as much time as you want studying the picture even if
10 you feel like, now, well, I didn't get to see it long
11 enough. Does that make sense? You will have the exhibits
12 back with you.

13 You may continue. And Mr. Sutherland, you're
14 welcome to move if you need to move to see things, but I
15 think you know that.

16 MR. SUTHERLAND: Yes, sir. I swear I was just
17 keeping the seat warm for the cops.

18 THE COURT: All right. Great.

19 Q (By Mr. Fowler) Thank you Ms. Dubose.

20 I see a "B" on this door. Would that be your
21 apartment?

22 A That is correct.

23 Q And you said Jahquan and Mary lived there?

24 A That is correct.

25 Q When those two men rushed up on you, where were you

1 standing right about?

2 A Right there on the step (indicating.) Yes.

3 Q And so what happened after you turned and saw them
4 behind you?

5 A Like I said, it was kind of -- had the deer in
6 headlight look on both parties. They whispered something to
7 each other and they went back towards the corner house and I
8 went inside the house.

9 Q Almost as if they had mistaken who you were?

10 A I guess.

11 Q Where did they go? Did you see where they --

12 A They just went towards that direction (indicating.)

13 Q This direction?

14 A Right. That's all I saw and I went in -- I went
15 inside.

16 Q What did you do when you got inside?

17 A I told my wife at the time what just happened because I
18 was a little startled at the time.

19 Q This was a traumatic experience?

20 A Right. I was startled at the time. Like I said, two
21 guys rushed up behind me with a ski mask on, I really didn't
22 know how to digest that. So it was tough. So I discussed it
23 with her.

24 Q After you discussed it with your wife, what do you
25 recall happening next?

1 A About ten minutes later, I heard Jahquan pull up. Then
2 I heard some shuffling noises, you know, just like (indicating)
3 Shuffling noises like that. Then after that, it was a barrage
4 of gunshots. Me and my wife hit the floor because, you know,
5 our apartments right there.

6 Q Do you know about where you heard that initial
7 shuffling noise?

8 A Right by the door. Yes.

9 Q Where did you hear the "barrage of gunshots" as you put
10 it, come from?

11 A Inside his house.

12 Q What, if anything, do you remember about how these two
13 males looked? I know you said they were wearing ski masks, but
14 could you tell if they were white or black?

15 A All I could tell is that they were black males and
16 small statures, skinny. That's all I know.

17 Q I'm sorry, what was that?

18 A Small statures, skinny. That's all I know. I didn't
19 see any facials (sic).

20 Q Because they were wearing ski masks?

21 A Right.

22 MR. FOWLER: No further questions at this time, your
23 Honor.

24 THE COURT: Cross?

25 MR. SUTHERLAND: No questions of this witness, your

1 Honor.

2 THE COURT: Ms. Dubose, have a nice day.

3 Does she need to be kept under her subpoena or is
4 she good?

5 MR. SUTHERLAND: She's good to go.

6 THE COURT: Great. Thank you.

7 Who's next?

8 MR. SCOTT: Ivan Birochak.

9 THE COURT: Ladies and gentlemen, the witnesses are
10 sequestered which means they're not -- except for a certain
11 few them, they're not allowed in the courtroom. So when
12 they call a witness, we'll have to go outside and grab them
13 and bring them in. That's just standard operating
14 procedures.

15 MADAM CLERK: Please raise your right hand.

16

17 I-V-A-N B-I-R-O-C-H-A-K, the Witness herein, having been sworn
18 by the Clerk of Court, was examined and testified as follows:

19

20 MADAM CLERK: Please have a seat in the witness
21 stand. State your full name for the record and please spell
22 your last name.

23 THE WITNESS: My name is Ivan Birochak. Last name,
24 B-I-R-O-C-H-A-K.

25

1 DIRECT EXAMINATION

2 BY MR. SCOTT:

3 Q On May 11, 2019, were you working with the Columbia
4 Police Department?

5 A I was. I was a police officer with the Columbia Police
6 Department. I was assigned to the City of Columbia's K9 Unit.

7 Q About around 10:00 p.m. that night, did you have
8 occasion to respond to [REDACTED] Skyland Drive?

9 A So I had a call for service come out and from Columbia
10 dispatch in reference to a shots fired call. They gave a
11 general area to respond to. It wasn't a specific address. It
12 was Skyland Drive. I can't remember if it was block range or
13 they just had it sandwiched between roads. So I did respond to
14 the area for that call.

15 Q What was the nature of the call?

16 A It was shots heard in the area. Gunfire heard in the
17 area.

18 Q Just for reference, if we all leave here and we get on
19 126, we're taking 126 up towards Spartanburg. If we get off on
20 Greystone, you know, it bears to the right coming from here. If
21 you take a left, you're going to be over to the zoo. If you
22 take a right, what's it that first right, that first stop sign,
23 you take a right and I believe that is Skyland Drive?

24 MR. SUTHERLAND: I'm sorry, Judge. I got to tell
25 you. Leading. Sorry.

1 THE COURT: Agreed. Leading. Just rephrase the
2 question.

3 Q (By Mr. Scott) Give us directions to Skyland Drive
4 please.

5 A From here, you get on 126 outbound. You get off at the
6 Greystone exit. You head away from where the Riverbanks Zoo is
7 for reference point, towards Broad River Road. At that first
8 traffic light, you would take a right which would then bring you
9 down -- I can't recall the name of the road. It kind of changes
10 several names. It goes down. It's going to hit a stop sign.

11 From there, you're going to take a right and that is
12 going to be where Skyland Drive kind of stops. There's
13 different apartment complexes and there's a residential area
14 down there.

15 Q When you get down there on the night of May 11th, how
16 do you know you're being directed specifically to Unit ■ on
17 Skyland Drive?

18 A When I responded to the area, again without the
19 specific address to respond to, when I got to the area, I just
20 rolled down my windows on my patrol vehicle just to see if I
21 could hear anything, any additional gunshots, any additional
22 noises that could attract signs that there might be something
23 wrong in the area.

24 It wasn't really well lit in the that section of
25 street. So I just kind of was slowly rolling through the area

1 with my windows down. And off to my right, as I was coming down
2 Skyland Drive, I start hearing a -- some sort of disturbance.
3 Somebody yelling, screaming, crying, something of that nature on
4 the right which leads me to a parking lot next to a row of
5 townhouse apartments which is how I ended up getting to [REDACTED]
6 Skyland Drive, Unit [REDACTED].

7 Q This was just introduced as State's Number 1.

8 Is that that location you were --

9 A Yes.

10 Q -- you were describing?

11 A And to the right of that is where Skyland Drive is. So
12 I would have pulled in -- well, Skyland Drive into that.

13 Q Okay. So you get out and what was the disturbance you
14 were talking about?

15 A So I get out. Again, it wasn't terribly well lit. It
16 was nighttime. I saw a man standing at the door. He was very
17 upset, very emotional, crying. He kept knocking on the door.
18 And I'm trying to figure out what was going on. So I walked up
19 to him and said, hey, what do we have? He kept saying --

20 MR. SUTHERLAND: I'm sorry, Judge. That's hearsay.

21 Q (By Mr. Scott) Did you learn who this person was?

22 A He said his brother was inside the house and something
23 was wrong with his brother.

24 Q And you said he was rather distraught?

25 A He was, he was crying and kept saying, "something's

1 wrong, something's wrong."

2 Q Did he appear to be trying to get inside the Unit ■, do
3 you remember?

4 A When I approached, he indicated that his family was
5 inside --

6 MR. SUTHERLAND: I'm sorry. That's hearsay, Judge.

7 THE COURT: Overruled. Excited utterance. You can
8 go ahead.

9 THE WITNESS: He said that something was wrong with
10 his family and we needed to kick in the door. I got up
11 there. The doorway had like a little bit of a window at the
12 very top. And he kept looking in and saying that he thought
13 you could see his brother laying on the floor.

14 Q (By Mr. Scott) At some point did you give him
15 permission to go ahead and make entry and kick the door in?

16 A I mean, he -- yeah. He was making entry into the
17 apartment. I just kind of stood back because, again, one of the
18 things that I saw when I first came up was, I guess kind of in
19 my view, credibility to what he was saying was --

20 MR. SUTHERLAND: I'm sorry, credibility is the
21 jury's decision.

22 THE COURT: Sustained.

23 Just answer the question, please.

24 THE WITNESS: Yes, sir.

25 Q (By Mr. Scott) Without too much editorializing, just

1 tell me about your observation.

2 You were saying something you observed, what was that?

3 A So I saw like a to-go container from a restaurant on
4 the ground, a Styrofoam container with what looked like fresh
5 food scattered along the doorstep outside of Unit ■.

6 Q What, if anything else, did you see on the steps and
7 the front porch area?

8 A When I approached, it looked like on the door frame and
9 inside the door was like a red -- which could be blood from
10 like --

11 Q What's that box thing you're wearing on the middle of
12 your chest there?

13 A This is a body cam.

14 Q And was that standard practice for you to wear one of
15 those on May 11, 2019?

16 A Yes, it was.

17 Q So what you just described, that was recorded with your
18 body cam?

19 A It was.

20 Q This is State's 93. Do you recognize that?

21 A Yes.

22 Q How were you able to recognize that?

23 A I viewed this disk before trial and initialled it.
24 That's from my body cam.

25 Q It fairly and accurately represents what you yourself

1 observed on the night of May 11th, 2019?

2 A Yes, it does.

3 Q While he's cueing this up --

4 THE COURT: Would you give me the number one more
5 time?

6 MR. SCOTT: It's 93.

7 THE COURT: I'm sorry. I didn't hear it.

8 MR. SUTHERLAND: Your Honor, I would renew as to
9 the length.

10 THE COURT: Your objection is noted for the record.
11 My ruling and findings are the same and you may publish it
12 when ready.

13 MR. SCOTT: The State would offer State's Exhibit
14 93.

15 THE COURT: Admitted over the defense objection.
16 (State's Exhibit 93, Officer Birochak Body Cam,
17 entered into evidence.)

18 Q (By Mr. Scott) Did you enter into the Unit ■ with the
19 brother at the time he kicked open --

20 A So he kicked the door. I kind of stood back and
21 covered. Once we came into the initial hallway, I ended up
22 seeing a black colored handgun laying there on the, kind of like
23 an initial hallway. Once we started entering into the living
24 room, kitchen area, I saw it looked like a deceased black male
25 lying on the floor inside the living room area. At which point

1 in time I started pushing his brother back outside or whoever he
2 was.

3 Q Were you able to clear the rest of the apartment at
4 that time?

5 A So I had an unsecured firearm laying in the hallway. I
6 had someone that looked like they were deceased. I did the best
7 I could to clear what I could and then I just kind of retried
8 back out of the apartment and waited for another unit to
9 respond.

10 Q At that point did you realize there was a second story
11 to the unit?

12 A I knew when I came into the apartment, there was
13 something high up there. I couldn't exact tell where the
14 apartment went from there, if it was all single level or second
15 story from my recollection. I knew there was too much real
16 estate for me to cover by myself with an unsecured gun,
17 unsecured door and multiple doorways. I kind of had to stop
18 what I was doing and wait for another unit.

19 Q And eventually some other units did arrive to assist?

20 A Yes.

21 Q And you were able to make proper entry into the unit?

22 A We then -- once we had another unit or two respond, we
23 were able to secure the doorway so that way if someone could
24 come in behind us with the unsecured firearm on the floor.

25 Once we were able to get further into the apartment, we

1 navigated to the edge of the living room area, at which point in
2 time we located a stairway which went upstairs to the upstairs
3 area. And that's when we located a female that was deceased on
4 the stairway.

5 THE COURT: Can you get a little closer to that mic
6 for me?

7 MR. BIROCHAK: This mic?

8 THE COURT: Yes. Thank you. Just sit up instead
9 of leaning back. That's good.

10 Are you showing 93?

11 MR. SCOTT: Yes, your Honor. Publishing 93 right
12 now.

13 THE COURT: Okay.

14 Q (By Mr. Scott) That was essentially what you remember
15 from that night.

16 How many guns did you observe while you were there?

17 A I observed an initial handgun, a black handgun laying
18 there in the, I guess hallway when you first come in the door.
19 I observed a handgun over on, I guess there was a sectional or
20 sofa there in the living room laying on -- when I first came in
21 there, I was able to observe that. And then I observed a
22 handgun there in the kitchen there on the floor.

23 Q You talked about -- you saw money strewn about?

24 A From what my memory is of when I first came in, I think
25 it was that second bedroom on the right, there appeared to be

1 money there on the floor and kind of in the entranceway in to
2 the living room.

3 Q After you were able to clear the scene, did you find
4 anything upstairs? Was anybody in the house who lived there?

5 A No. We cleared -- we cleared the rest of the
6 apartment. We didn't find anybody else and we kind of backed
7 out downstairs and held what we had until investigations and EMS
8 got there.

9 Q Did you have any further involvement that night?

10 A Outside of -- just scene control and kind of, once EMS
11 got there, checked on both of the victims. We kind of came back
12 out and held what we had for investigations.

13 Q [REDACTED] Skyland, is that in Richland County?

14 A Yeah. It's the City of Columbia, Richland County.

15 MR. SCOTT: Officer Birochak, answer any questions
16 Mr. Sutherland has for you.

17 MR. SUTHERLAND: Briefly, your Honor.

18 THE COURT: Of course.

19

20 CROSS-EXAMINATION

21 BY MR. SUTHERLAND:

22 Q You mentioned it was pretty dark out there and you
23 asked them if they'd use their blue lights to kind of light it
24 up for you?

25 A The --

1 Q The other units?

2 A The other units, yeah. Just -- just when I first got
3 there, again, if I hadn't heard I guess the brother's, you know,
4 crying --

5 Q You might have kept going?

6 A Right. So I know, just to get other units there, just
7 to have some blue lights to help out with the other responders,
8 as far as EMS and fire and stuff like that.

9 Q So you go in the front and there's a firearm pretty
10 much right there?

11 A Yes, sir.

12 Q And there's another firearm over here on the couch?

13 A So there was a firearm right there in the initial
14 doorway, hallway area past I guess where -- I can't remember
15 exactly where was one notated in the living room. But past I
16 guess where the victim was laying on the floor, there was
17 another firearm in the living room on the couch.

18 Q Then there was a third one in the kitchen are. Did you
19 find that?

20 A So it was after we had cleared, I guess or started to
21 clear, it was seen there kind of over there all the way up
22 against the cabinets on the floor of the kitchen.

23 Q As far as the money, did you inventory the money or was
24 that Potash?

25 A I didn't touch anything. I mean, outside of the

1 incidental touching from just clearing. Once we determine that
2 it looked like some sort of murder had happened there, we, as
3 first responders, as first showing up at the scene, back all the
4 way out and just try to set up the crime scene log and stuff
5 like that.

6 Q Do you remember how much you saw or just that there was
7 money there?

8 A I just remember there being a lot of money strewn about
9 from what I could see just like of --

10 Q Yes, sir. Thank you.

11 MR. SUTHERLAND: No further questions, Judge.

12 THE COURT: Anything?

13 MR. SCOTT: No, your Honor.

14 THE COURT: Thank you, Officer. Have a nice day.
15 How long is your next witness?

16 MR. SCOTT: I intended on calling the CSI guy. He
17 might be fairly lengthy.

18 THE COURT: Let's go ahead and stop.

19 The general rule, ladies and gentlemen, if we get
20 close to 5:00 and the next witness is short, we'll do the
21 next witness. If we get close to 5:00 and the next witness
22 is a long one, we'll just stop for the day. I don't like to
23 break up witness testimony unless I have to. So we're going
24 to go ahead and take a break for today. I need to tell you
25 some important things.

1 Number one: You should keep an open mind about the
2 case.

3 Number two: You should not be discussing the case.

4 Now, human nature, right? Human nature is, by the
5 time you've made it out of this building, you're going to
6 turn on your phone and text somebody, call somebody or email
7 somebody, right? And so you're welcome to do that. You're
8 just not welcome to talk about case or discuss anything
9 you've heard today. And we're going to go against that
10 human nature of, did you hear what he just said or did you
11 see that on the video? Those kinds of things we normally do
12 day in and day out in life.

13 Now, lets talk a little bit about scheduling for
14 tomorrow. Tomorrow is a little bit of an awkward situation.
15 We have a situation -- I have a something that I have to do
16 tomorrow morning that I've been scheduled for in an extended
17 period of time prior to this case. So we will not be having
18 court tomorrow morning because I will be handling that
19 matter which has absolutely nothing to do with this matter.
20 So we're going to start at 2:00. Is that what time we
21 talked about?

22 MR. SUTHERLAND: Yes, sir.

23 THE COURT: We're going to start at 2:00 tomorrow.
24 Now, the only reason I didn't push that off is because I
25 still think we're going to be able to get this case done and

1 completed by Wednesday or Thursday. So it won't cause us to
2 push into the weekend or push into next week or anything
3 like that. I do have something in the morning that I need
4 to take care of that has been scheduled for some time that,
5 again, has nothing to do with this case.

6 So tomorrow we'll start at 2:00. We'll start with
7 the next witness for the State and we'll drive on until
8 about 5:00 or 5:30, right around in there. And then we'll
9 probably be finishing the State's case sometime Wednesday.
10 So that's the plan.

11 You're welcome to do whatever you want to do
12 tomorrow as long as you don't talk about case or do any
13 research on the case or have any contact with anybody
14 involved in this case. Everyone else stay seated while the
15 jury is excused for the evening.

16 Thank you very much for your hard work and we'll
17 see you at 2:00 tomorrow.

18 (Jurors exited.)

19 THE COURT: Anything further from the State on this
20 case before we break?

21 MR. SCOTT: Nothing from the State.

22 MR. SUTHERLAND: Nothing, your Honor.

23 THE COURT: I will need him at 2:00 tomorrow. This
24 case will start at 2:00 tomorrow. We're taking a break. So
25 the record is clear, Mr. Scott had a grandfather that passed

1 and is attending that funeral tomorrow.

2 He let me and Mr. Sutherland know that last week
3 and we had a telephone conference about it and everybody
4 agreed that we would take Tuesday morning off. I didn't
5 want to go into all that with the jury. I was just going to
6 take the blame for it as opposed to having to explain all
7 that. That's why I explained it that way.

8 Thank you very much. Everyone have a nice evening.

9 (Whereupon, Day 1 in the State of South Caroline v.
10 Genari McNeil was concluded, March 20, 2023.)
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1 (Whereupon, State of South Carolina v. Genari
2 McNeil commenced Day 2, March 21, 2023.)

3 THE BAILIFF: Please come to order.

4 All rise.

5 Please make sure all cell phones are turned off.

6 THE COURT: Thank you. Please take your seats.

7 Good afternoon, everybody. Hope you're doing well.

8 Mr. Scott, were you able to get to what you needed
9 to get to?

10 MR. SCOTT: I was, thank you, this morning.

11 THE COURT: Thank you for giving me the heads-up on
12 that.

13 Anything from the defense before we get started?

14 MR. SUTHERLAND: I would say, just briefly, your
15 Honor, about that hospital video, I had talked to Dale about
16 it last week and he said that they were going to put in a
17 certificate from the security guy at the hospital. I told
18 him that you and I know the laws. As I think of it, I
19 thought that that was okay. But I got paranoid like I do
20 during trial. So then I reached out to Nick today and he
21 said well, just put it on the record, you know, if you don't
22 want to consent.

23 But I further went and did some case law -- pulled
24 some case law because I like to have a case behind me when I
25 put something like that on the record.

1 And there's a case that came out around
2 Thanksgiving. It's a Court of Appeals case. It is *Watts*
3 *vs. Chastain*. And I can hand it up to the Court and I think
4 I gave a copy to them.

5 They kind of adopted the electronic monitoring
6 standards for -- the bar is still low, your Honor. But they
7 have to have somebody come out here and testify about the
8 system and the accuracy of the system. I believe on Page 6,
9 they've got a big section on the 901 stuff but I was going
10 to object, you know, initially. But I'll be objecting on
11 the basis of *Watts vs. Chastain* about the admissibility of
12 the hospital video through certificate rather than live
13 testimony.

14 THE COURT: What is the hospital video? I don't
15 even really know what we're talking about.

16 MR. SUTHERLAND: Well, they've got a hospital video
17 when he got shot of him coming through the front door of the
18 hospital.

19 THE COURT: Oh, okay.

20 MR. SUTHERLAND: Or allegedly coming through the
21 hospital.

22 THE COURT: Okay. Do you have a witness for that?

23 MR. SCOTT: I do. I think this a copy of the
24 notice. If you look up Statute 19-5-520 -- and that took
25 effect March 27, 2015 -- statutorily, now, in the State, we

1 have a provision where a notice such as this, we will allow
2 the State to introduce business records without the
3 testimony of a business record custodian.

4 What we have is a sworn affidavit by a
5 representative of Prisma Health attesting to the accuracy of
6 the video and that it is kept in the ordinary course of
7 business to satisfy the business records exception. And
8 gosh, I've used that in a number of murder cases.

9 THE COURT: What's the statute?

10 MR. SCOTT: 19-5-520, federal system. They've been
11 doing this for years and only up until 2015 have we -- it's
12 on the first sentence there.

13 THE COURT: Where's the affidavit?

14 MR. SCOTT: Mr. Sutherland has a copy of it.

15 MR. SUTHERLAND: See, Dale and I were on the same
16 page until I got paranoid.

17 THE COURT: Stop rambling and somebody show me the
18 affidavit.

19 MR. SCOTT: This caught us a little bit off guard.
20 I thought we moved on from this. It caught me off guard.

21 THE COURT: When do you plan on showing the video?

22 MR. SCOTT: Probably the first witness I'm going to
23 call is the criminal crime scene investigator and probably
24 the lead investigator. So probably through the lead
25 investigator.

1 THE COURT: Okay. So somebody needs to show me the
2 affidavit.

3 MR. SCOTT: I have a copy of it here in my file.

4 THE COURT: Thank you. And that was turned over to
5 defense?

6 MR. SUTHERLAND: Yes, sir. I got that.

7 THE COURT: The case you gave me doesn't even
8 mention the statute.

9 MR. SUTHERLAND: It doesn't, sir. It was just a
10 Court of Appeals case that came out a few months ago and I
11 thought it was on point with respect to video. It discusses
12 state trooper videos that they had of the scene. They said
13 the officer got up there. They testified about how they did
14 it and everything so that the video could come in. And I
15 thought, because I was searching for it, it seemed on point.

16 THE COURT: Okay. I'll allow it. Under the
17 19-5-520, I'm not sure that *Watts vs. Chastain* really has
18 any bearing on the issue here. This is something kept in
19 the normal course of business. There's an affidavit to that
20 effect pursuant to the statute of the security manager at
21 Prisma Health. We need to make this a Court's Exhibit so we
22 have it. If you can give it to the court reporter to make
23 it a Court's Exhibit.

24 (Court's Exhibit 1, Certificate of Authenticity,
25 marked for identification.)

1 THE COURT: This gentleman you keep calling a
2 "snitch," what's his name?

3 MR. SUTHERLAND: It's Jevante Richmond.

4 THE COURT: And when do you expect him to testify?

5 MR. SCOTT: Tomorrow.

6 THE COURT: Tomorrow? So we'll deal with the stuff
7 you emailed me about --

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: -- at the end of court today. Somebody
10 just remind me.

11 MR. SUTHERLAND: Yes, sir.

12 THE COURT: I know you sent me some things. I got
13 them all, printed them. I've read them. But let's deal
14 with that once we get the jury out for the day. Then we can
15 come up with some rules and guidelines for that
16 cross-examination.

17 MR. SUTHERLAND: Yes, sir.

18 THE COURT: Okay. Is there anything else from the
19 State before we start back?

20 MR. SCOTT: I just sent my paralegal running to get
21 that affidavit. If I can get her back in here before we
22 start --

23 THE COURT: Okay.

24 MR. SCOTT: She usually keeps me straight with
25 technology.

1 THE COURT: Ms. Stevenson, can you get me a bottle
2 of water?

3 There she is.

4 Okay. Pat, let's bring them in.

5 (Jurors entered.)

6 THE COURT: Welcome back, ladies and gentlemen.
7 Thank you very much for being on time and being ready to go.
8 It is much appreciated. We are still in the State's case.

9 And the State may call there next witness.

10 MR. SCOTT: The State calls George Potash.

11 THE CLERK: Mr. Potash, come on up.

12

13 G-E-O-R-G-E P-O-T-A-S-H, the Witness herein, having been sworn
14 by the Clerk of Court, was examined and testified as follows:

15

16 MADAM CLERK: Please state your name and spell your
17 last name.

18 THE WITNESS: My name is George Daniel Potash.
19 Last name is spelled P-O-T-A-S-H.

20

21 DIRECT EXAMINATION

22 BY MR. SCOTT:

23 Q Where are you employed?

24 A I'm employed by the Columbia Police Department.

25 Q And May 11, 2019, were you also employed with the City

1 of Columbia at that point as well?

2 A Yes, I was.

3 Q And what were your duties?

4 A I was assigned to crime scene investigations unit under
5 the supervision of Inspector Scott.

6 Q Okay. Explain to the jury what the role of a crime
7 scene investigator is.

8 A In short, what we do is we identify and document and
9 collect evidence as directed by the investigator at the scene.

10 Q Who was the lead investigator in this particular case?

11 A I believe it was George Simpson.

12 Q George Simpson who is sitting at the prosecution table?

13 A Yes.

14 Q And we've heard from a first responder yesterday, Ivan
15 Birochak.

16 A Yes.

17 Q The first responder gets there, they clear the scene,
18 then they leave. Is it accurate to say that's when the crime
19 scene investigators come in?

20 A Yes, but they don't actually leave. What they do is,
21 they set up a perimeter and they secure that perimeter to make
22 sure nobody really goes in or out without really me knowing
23 about it.

24 Q Do you know approximately what time you arrived at [REDACTED]
25 Skyland Drive?

1 A Yeah. I have it noted in my report. I was notified at
2 2319 hours and actually arrived at 2340 hours, which is about
3 11:40 p.m.

4 Q What are some of the first things you do once you get
5 there as part of your crime scene investigation?

6 A Well, the first thing we do is, of course we speak to
7 the officer on scene. And then we will evaluate the scene and
8 take photographs.

9 Q So documenting the scene is probably one of the first
10 things you are concerned with doing?

11 A Yes.

12 Q This is State's Number 1. Does that accurately reflect
13 the location that you went to investigate?

14 A Yes, sir.

15 Q It's Apartment ■; is that correct? That's the one on
16 the right in State's Number 1?

17 A I believe. Yes, I believe so. Yes, that's it.

18 Q The open door there?

19 A Yes, that's it.

20 MR. SCOTT: Let me ask defense counsel something
21 real quick.

22 (Attorneys conferring.)

23 Q (By Mr. Fowler) I'm going to show you some pictures.
24 You might want to -- you go into the front door. That's State's
25 Number 3. Do you recognize that?

1 A Yes, sir. That's the front entry door to the
2 apartment. There was an open container of food right at the
3 door. There was some reddish stains around the door entrance
4 and on the floor.

5 MR. SCOTT: Your Honor, the State would offer
6 State's Number 3 for admission into evidence.

7 MR. SUTHERLAND: No objection.

8 THE WITNESS: I can't really see too well with this
9 picture --

10 THE COURT: Hold on. Hold on. Don't talk.

11 MR. SUTHERLAND: No objection, sir.

12 THE COURT: State's Number 3 is admitted without
13 objection. Is that a photo?

14 MR. SCOTT: It is.

15 THE COURT: Anything that's admitted, you're
16 welcome to publish. You don't need to ask permission.

17 MR. SCOTT: Okay. Judge, they're a little bit out
18 of order. But I think Mr. Tivis and I've agreed, I think
19 we've stipulated to the admission of the pictures I plan on
20 showing.

21 THE COURT: Okay.

22 MR. SUTHERLAND: Yes, sir. We've been through them
23 and so I don't have any objections to those that he has.

24 THE COURT: Okay. Awesome. So can you give me
25 those numbers?

1 MR. SCOTT: We just introduced 3. I've got 4, 5,
2 6, 7, 8, 9, 118, 10, 11, 12, 17, 18, 19, 20, 21, 22, 23, 39,
3 40, 41, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37,
4 38, 42, 43, 44, 45, 15, 46, 47, 14, 16, 48, 49, 50, 51, 13,
5 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64. And
6 just --

7 THE COURT: Hold on. Hold on.

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: You're welcome to see them. The answer
10 to that is, yes.

11 MR. SUTHERLAND: Okay.

12 THE COURT: Yeah. Remember we talked about 25, 46
13 and 47?

14 MR. SUTHERLAND: I would need to renew as to those
15 but with the rest of them, I don't have any objection to it.
16 It saves a little time.

17 THE COURT: Okay. So 25 and 47, the objection to
18 403. It's not a foundation. It's not that he doesn't have
19 the foundation for them.

20 MR. SUTHERLAND: Right.

21 THE COURT: But it's a 403. We talked about that
22 earlier. My ruling upon that would be the same and you've
23 made it at the right time for the record.

24 MR. SUTHERLAND: Thank you, your Honor.

25 Okay. We're good.

1 THE COURT: So all of those, Madam Court Reporter,
2 that we just went through, which he did a really good job of
3 keeping in order -- that was a joke -- are admitted. And
4 25, 46 and 47 are admitted over the defense's previously
5 stated objection which has been preserved for the record.

6 (State's Exhibit 3, Photo front door, was entered
7 into evidence.)

8 (State's Exhibit 4, Photo front door jam, was
9 entered into evidence.)

10 (State's Exhibit 5, Photo inside front door, was
11 entered into evidence.)

12 (State's Exhibit 6, Photo front door jam, was
13 entered into evidence.)

14 (State's Exhibit 7, Photo door lock, was entered
15 into evidence.)

16 (State's Exhibit 8, Photo door lock, was entered
17 into evidence.)

18 (State's Exhibit 9, Photo door lock, was entered
19 into evidence.)

20 (State's Exhibit 10, Photo entryway door, was
21 entered into evidence.)

22 (State's Exhibit 11, Photo entryway door, was
23 entered into evidence.)

24 (State's Exhibit 12, Photo entryway door, was
25 entered into evidence.)

1 (State's Exhibit 13, Photo entry closet door, was
2 entered into evidence.)

3 (State's Exhibit 14, Photo bullet holes, was
4 entered into evidence.)

5 (State's Exhibit 15, Photo Marker 37, was entered
6 into evidence.)

7 (State's Exhibit 16, Photo Marker 38 and Marker 39,
8 was entered into evidence.)

9 (State's Exhibit 17, Photo hallway gun, was entered
10 into evidence.)

11 (State's Exhibit 18, Photo hallway gun close-up,
12 was entered into evidence.)

13 (State's Exhibit 19, Photo hallway into living
14 room, was entered into evidence.)

15 (State's Exhibit 20, Photo money and shoes, was
16 entered into evidence.)

17 (State's Exhibit 21, Photo closet and money, was
18 entered into evidence.)

19 (State's Exhibit 22, Photo computer room, was
20 entered into evidence.)

21 (State's Exhibit 23, Photo bullet casing in
22 computer room, was entered into evidence.)

23 (State's Exhibit 24, Photo living room, was entered
24 into evidence.)

25 (State's Exhibit 25, Photo living room, was entered

1 into evidence.)

2 (State's Exhibit 26, Photo living room, was entered
3 into evidence.)

4 (State's Exhibit 27, Photo money, was entered into
5 evidence.)

6 (State's Exhibit 29, Photo Peterson wound, was
7 entered into evidence.)

8 (State's Exhibit 30, Photo Peterson wound, was
9 entered into evidence.)

10 (State's Exhibit 31, Photo casing, was entered into
11 evidence.)

12 (State's Exhibit 32, Photo casing in living room,
13 was entered into evidence.)

14 (State's Exhibit 33, Photo casing in living room,
15 was entered into evidence.)

16 (State's Exhibit 34, Photo gun on couch, was
17 entered into evidence.)

18 (State's Exhibit 35, Photo gun on couch, was
19 entered into evidence.)

20 (State's Exhibit 36, Photo gun on couch, was
21 entered into evidence.)

22 (State's Exhibit 37, Photo top of fridge, was
23 entered into evidence.)

24 (State's Exhibit 38, Photo bullet hole staircase,
25 was entered into evidence.)

1 (State's Exhibit 39, Photo handprint on wall, was
2 entered into evidence.)

3 (State's Exhibit 40, Photo handprint on wall, was
4 entered into evidence.)

5 (State's Exhibit 41, Photo blood smear, was entered
6 into evidence.)

7 (State's Exhibit 42, Photo staircase, was entered
8 into evidence.)

9 (State's Exhibit 43, Photo staircase looking down,
10 was entered into evidence.)

11 (State's Exhibit 44, Photo staircase, was entered
12 into evidence.)

13 (State's Exhibit 45, Photo staircase, was entered
14 into evidence.)

15 (State's Exhibit 46, Photo staircase with
16 Carmichael, was entered into evidence.)

17 (State's Exhibit 47, Photo staircase with
18 Carmichael, was entered into evidence.)

19 (State's Exhibit 48, Photo kitchen, was entered
20 into evidence.)

21 (State's Exhibit 49, Photo kitchen, was entered
22 into evidence.)

23 (State's Exhibit 50, Photo gun in kitchen, was
24 entered into evidence.)

25 (State's Exhibit 51, Photo gun in kitchen, was

1 entered into evidence.)

2 (State's Exhibit 52, Photo kitchen drawer, was
3 entered into evidence.)

4 (State's Exhibit 53, Photo kitchen drawer, was
5 entered into evidence.)

6 (State's Exhibit 54, Photo kitchen drawer, was
7 entered into evidence.)

8 (State's Exhibit 55, Photo bullet, was entered into
9 evidence.)

10 (State's Exhibit 56, Photo money, was entered into
11 evidence.)

12 (State's Exhibit 57, Photo money, was entered into
13 evidence.)

14 (State's Exhibit 58, Photo money, was entered into
15 evidence.)

16 (State's Exhibit 59, Photo fence Marker 27, was
17 entered into evidence.)

18 (State's Exhibit 60, Photo Marker 27 close-up, was
19 entered into evidence.)

20 (State's Exhibit 61, Photo money, was entered into
21 evidence.)

22 (State's Exhibit 62, Photo Marker 1, Marker 2, and
23 Marker 34, was entered into evidence.)

24 (State's Exhibit 63, Photo close-up Marker 34, was
25 entered into evidence.)

1 (State's Exhibit 64, Photo Marker 25, was entered
2 into evidence.)

3 State's Exhibit 118, Photo inside B6, was entered
4 into evidence.)

5 MR. SUTHERLAND: Yes, sir. Thank you.

6 THE COURT: Thank you.

7 Q (By Mr. Scott) So you were talking about -- this is
8 State's Number 3.

9 You said you come in, one of the first things you do is
10 talk about spilled food down at the bottom there?

11 A An open plate of food.

12 Q What about as you walk through the threshold of the
13 front door here, is there anything here that you remember?

14 A Yes. There were reddish stains, some on the floor,
15 some on the door and on the walls.

16 Q As you enter, what of note do you see on the left of
17 the door frame?

18 A There was a Ring doorbell, so a doorbell with a camera
19 in it.

20 Q This is State's Number 4.

21 What of note do you see in State's Number 4?

22 A If you look on the door itself and on the door frame,
23 you see reddish stains. Specifically on the door, the drip
24 pattern.

25 Q What is this door right here?

1 A That's actually the front door.

2 Q Do you remember --

3 A No. No. I'm sorry. Excuse me. That's the frame to a
4 closet.

5 Q Okay. Just to orient the jury --

6 A I got disoriented on the door.

7 Q I'm sorry?

8 A I got a little disoriented on the door.

9 Q It's a confusing scene, I guess.

10 As you enter through the front to the left, that's a
11 closet?

12 A Yes.

13 Q And on the frame of that closet, you were just talking
14 about that particular stain right there on the left?

15 A Yes.

16 Q Was that of note to you?

17 A Yes, it was.

18 Q What, if anything, did you do with that particular
19 stain?

20 A During the collection process, I collected a sample
21 from that stain.

22 Q Did you label that in anyway? Is that B-2?

23 A I believe it was. Let me check my notes.

24 Yes. It would be B-2. It's a reddish stain on the
25 frame of the closet door at the front door which is placed on

1 the interior of the house.

2 (State's Exhibit 101, Swab, marked for
3 identification.)

4 Q (By Mr. Scott) Let me show you what's been marked
5 State's 101.

6 Do you recognize that?

7 A Yes, I do. That would be the sample I collected, B-2,
8 and below it I have my number on it.

9 Q So this sample, it's bloodstain, marked State's 101,
10 would have been a swab you took from the bloodstain in the
11 picture of State's Number 4?

12 A Yes.

13 MR. SCOTT: The State would offer State's 101 for
14 admission.

15 MR. SUTHERLAND: No objections.

16 THE COURT: State's 101 is admitted without
17 objection.

18 (State's Exhibit 101, Swab closet door, was entered
19 into evidence.)

20 Q (By Mr. Scott) Did you note anything as far as the
21 threshold of the entryway door?

22 A Not particularly. Just the reddish stains.

23 Q This is what you, yourself, observed here on the door
24 frame?

25 A Yes.

1 Q Again, this is just -- I guess State's Number 5 would
2 be the same stain on that closet?

3 A Yes. With a photo taken from the inside going out.

4 Q State's Number 6 looks to be just a different angle of
5 that front door; is that right?

6 A Yes.

7 Q Again, do you see that stain that you swabbed?

8 A Yes.

9 Q State's Number 7, what are we looking at?

10 A You're looking at the front door from the interior
11 side.

12 Q What, if anything, do you note as far as the doorknob?

13 A Reddish stains on the doorknob itself.

14 Q What, if anything -- that's the interior of the door;
15 is that right?

16 A Yes.

17 Q So if I was inside the apartment and I had to leave,
18 that would be the doorknob I would turn to go outside?

19 A Yes.

20 Q What, if anything, did you do with the reddish
21 substance located on the doorknob in State's Number 7?

22 A Took a sample. That would have been identified as
23 B-13. B, "Bravo," 13.

24 (State's Exhibit 99, Swab, marked for
25 identification.)

1 Q (By Mr. Scott) Let me show you State's Number 99.

2 Do you recognize that?

3 A It's the envelope for sample B-13 and my handwriting.

4 Q Located in State's 99 is a swab that you took of the
5 bloodstain found on the inside of the doorknob pictured in
6 State's Number 7?

7 A Yes.

8 MR. SCOTT: Your Honor, the State offers 99.

9 MR. SUTHERLAND: No objections.

10 THE COURT: 99 is admitted without objection.

11 (State's Exhibit 99, Swab interior doorknob, was
12 entered into evidence.)

13 Q (By Mr. Scott) In State's Number 7, we're looking at
14 some other reddish stains on the interior of the front door.

15 Is that what you, yourself, observed while you were
16 there?

17 A Yes.

18 Q Was the dead bolt in the locked position? Do you
19 recall seeing that?

20 A When I arrived, it was in that position.

21 Q State's Number 8, that is just another angle of the
22 doorknob there.

23 A Yes.

24 Q State's 9 seems to be another picture of that interior
25 door.

1 A Yes.

2 Q State's Number 10. I think you mentioned earlier as
3 you -- this was the entryway. And you mentioned that there was
4 a drop of blood or a couple drops of blood.

5 A Yes.

6 Q And in State's Number 10, is that represented?

7 A Yes, it is.

8 Q There's a particular drop right there within the
9 threshold of the apartment.

10 What, if anything, did you do with that particular
11 bloodstain?

12 A I collected a sample from the reddish stain and it was
13 labeled Sample B-14.

14 Q I'll show you State's Number 103.

15 Do you recognize that?

16 A Yes. It is an envelope containing sample letter B-14
17 and my handwriting.

18 Q And inside of State's Number 103 contains the swab you
19 took of this bloodstain pictured in State's Number 10?

20 A Yes, it appears to be. Yes, sir.

21 MR. SCOTT: Your Honor, the State offers State's
22 103 for admission into evidence.

23 MR. SUTHERLAND: No objections.

24 THE COURT: 103 is admitted without objection.

25 (State's Exhibit 103, Swabs entryway, was entered

1 into evidence.)

2 Q (By Mr. Scott) State's Number 11. This looks like
3 another angle of bloodstain in the entry?

4 A Yes.

5 Q And State's Number 12, likewise, it looks like in the
6 upper portion, you can see the food you referenced earlier in
7 the entryway?

8 A Yes, sir.

9 Q This is State's Number 13. What is noteworthy about
10 this picture?

11 A It's an interior wall near the kitchen. You can see
12 numerous projectile strikes on the wall. There's two of them
13 there. Both of them appear to be going -- looking at the photo,
14 both of them appear to be going from the right to the left.

15 Q Would that be from the interior, I guess, aiming
16 towards the outside, would that be accurate?

17 A Yes. It's also a thermometer for the apartment.

18 Q For reference, this looks like --

19 A That's the kitchen area.

20 Q -- to the right of State's Number 13.

21 (State's Exhibit 90, Floor Diagram, marked for
22 identification.)

23 Q (By Mr. Scott) State's Number 90, do you recognize
24 that?

25 A Yes, I do.

1 Q What is that?

2 A It is what's commonly referred to a sketch of the crime
3 scene. This particular one was done by Officer Schmitt off of
4 the digital scan that was taken of the crime scene by Inspector
5 Scott.

6 Q And do you endorse that as being a representative of
7 the inside of that apartment?

8 A It's not to scale, but the floor plan is consistent
9 with the apartment that I was in.

10 Q Does it generally indicate where certain pieces of
11 evidence were located?

12 A Yes, it does.

13 MR. SCOTT: Your Honor, State offers State's Number
14 90 for admission.

15 MR. SUTHERLAND: No objection, sir.

16 THE COURT: What's that number one more time?
17 Time.

18 MR. SCOTT: 90.

19 THE COURT: State's 90, 9-0 is admitted with out
20 objection.

21 (State's Exhibit 90, Floor diagram, was entered
22 into evidence.)

23 Q (By Mr. Scott) Now just kind of walk us through, right
24 here at the bottom right is State's 90. That would be the front
25 door --

1 A That was the entrance, that would be the front
2 entryway.

3 Q And correct me if I'm wrong, but the blood on that
4 entryway would have been generally right inside of the apartment
5 here?

6 A Yes.

7 Q And to the left would be that closet that we talked
8 about?

9 A Yes.

10 Q And then of course this door, on the back of it would
11 be the bloodstains from the interior doorknob; is that correct?

12 A That's correct.

13 Q And as you walk through this hallway, what is this to
14 the left?

15 A It would be a restroom, a bathroom.

16 Q To the right, kind of like a computer room or
17 something?

18 A It's a bedroom that they -- appeared to being used as a
19 home office.

20 Q Okay. If you go in, this is kind of a diagram of a
21 gun. Did you, yourself, see a gun there in the hallway?

22 A Yes, I did.

23 Q And as you turn left here, is this the kitchen?

24 A Yes, it is.

25 Q This particular wall here in the kitchen, did you --

1 was there a B-6 that you were able to obtain a sample from?

2 A Yes. B-6 was a sample that I took from a reddish stain
3 that was located on the wall near the bathroom, kind of between
4 the kitchen and bathroom.

5 Q So somewhere along this wall was another --

6 A Yes.

7 Q We see a bathroom right there on the left.

8 A Uh-huh (affirmative response.)

9 Q And a kitchen through to the right.

10 A Yes.

11 Q And this is B-6?

12 A Yes, it is.

13 Q That was another swab you took a sample from?

14 A Yes, it was.

15 (State's Exhibit 102, Swab, marked for
16 identification.)

17 Q (By Mr. Scott) Let me show you State's 102 and see if
18 you recognize that.

19 A It's an envelope containing Marker B-6 and my
20 handwriting, it appears to contain a sample.

21 MR. SCOTT: Your Honor, the State offers State's
22 102.

23 MR. SUTHERLAND: No objection, sir.

24 THE COURT: State's 102 admitted without objection.

25 (State's Exhibit 102, Swab, was entered into

1 evidence.)

2 Q (By Mr. Scott) Again, just to be clear, 102 here,
3 contains a swab that you took from the Marker B-6 that's
4 pictured in State's Number 118?

5 A Yes, sir.

6 Q That would be a wall in between, you testified, the
7 bathroom and the kitchen?

8 A Yes.

9 Q Briefly, I kind of mentioned a gun that was shown in
10 the diagram there. This is State's 17, again to orient the
11 jury. This is as we're walking into the house from outside to
12 the left would be the bathroom --

13 A Yes, the entrance, bathroom.

14 Q This wall would have the B-6 stain we just looked at.

15 A Yes.

16 Q To the right you said was kind of a bedroom converted
17 to a computer room?

18 A Yeah.

19 Q This here in State's 17, what was that? Do you have
20 that labeled?

21 A It will take me a second to locate that. Item Number
22 17, I believe that's not -- that's a different item number.

23 (State's Exhibit 95, Springfield Handgun, marked
24 for identification.)

25 Q (By Mr. Scott) State's 95, let me show that to you and

1 see if you recognize it.

2 A Yes, this is Item Number 5. And this a box in my
3 handwriting containing a Springfield Armory handgun. It's XDM
4 40 Smith & Wesson caliber.

5 Q And this is State's Number 95. Does it contain the
6 pistol that we see in State's Number 17's picture?

7 A Yes.

8 Q You collected this?

9 A Yes, sir.

10 MR. SCOTT: Your Honor, the State would offer
11 State's 95 for admission.

12 MR. SUTHERLAND: No objection.

13 THE COURT: Investigator Potash, can you make sure
14 that that weapon is clear for me?

15 THE WITNESS: Yes, your Honor.

16 THE COURT: And is there a gun lock on it or do we
17 need a gun lock?

18 MR. SCOTT: It needs one. It doesn't have one on
19 there.

20 THE COURT: It needs one? Okay. Everybody just
21 stay where you are.

22 (A brief recess was taken.)

23 THE WITNESS: The weapon is cleared, your Honor.

24 THE COURT: When you've been doing this as long as
25 I have, you keep things like this in your office.

1 Thank you, Investigator Potash.

2 Can y'all get some zip-ties if there's more?

3 MR. SCOTT: I've got some zip-ties I can get.

4 THE COURT: Thank you. So 95 is admitted without
5 objection.

6 (State's Exhibit 95, Springfield Armory handgun,
7 was entered into evidence.)

8 MR. SUTHERLAND: Yes, sir. No objection.

9 THE COURT: And it is secured; is that correct,
10 Investigator Potash?

11 THE WITNESS: Yes, it is.

12 THE COURT: Thank you.

13 Q (By Mr. Scott) Did it have any rounds in it when it was
14 seized?

15 A One magazine containing six rounds of ammunition.

16 Q What type of ammunition was in it?

17 A That I do not have listed on there. They were labeled
18 RP, Remington-Peters headstamp.

19 Q RP 40 caliber rounds were in that Springfield?

20 A Yes.

21 Q And how many?

22 A There were six.

23 Q Do you know the capacity of that gun?

24 A Not offhand.

25 Q Six rounds.

1 A I believe there's a magazine. I can show you real
2 quick. 16 rounds.

3 Q Okay. So it can hold another ten.

4 So with that six in it it can hold an additional ten
5 rounds?

6 A Yes.

7 Q RP 40s?

8 A Yes.

9 Q Moving on to State's Number 18. I'm going to walk you
10 through this as quick as I can. That's another close-up picture
11 of the Springfield that you have up there in Exhibit 95.

12 A Yes.

13 Q We're still moving down the hallway and this door right
14 here, you testified, was that the computer room?

15 A Yes.

16 Q And to my left, I guess would be where the pistol we
17 just talk about was located?

18 A Yes.

19 Q It would be down here on the floor?

20 A You can see the small table on the lower right.

21 Q Yep. So we're moving, I guess, into the living room
22 area?

23 A Yes.

24 Q Here, I guess, is the marker you talked about B-6 that
25 you swabbed earlier?

1 A Yes.

2 Q So we're trying to get oriented here. This layout is
3 sort of a unique layout, isn't it?

4 A It's an unusual -- it's from my experience an unusually
5 floor design. Lots of twists and turns.

6 Q Not a lot of right angles either?

7 A No, it's --

8 Q But anyway in State's 19, what do we see here?

9 A What appeared to be a ten-dollar bill.

10 Q Just generally speaking, did you notice other amounts
11 of currency lying around the house?

12 A Well, there was a bundle of currency outside of the
13 front door. There was currency laying in the apartment itself.
14 We actually collected a number of currency items. And I think
15 the totals from what I collected was \$4,931.

16 Q Almost \$5,000 found just lying on the floor and in the
17 yard and whatnot?

18 A Yes, sir.

19 Q And this is State's Number 20. Is this sort of
20 indicative of what you're talking about as you go through the
21 apartment?

22 A Yes.

23 Q In State's Number 21, do you remember what room this is
24 in?

25 A I can tell you in a moment. I think that was the

1 bedroom converted into an office. I just want to confirm that.

2 I apologize I have a lot of pages to go through.

3 Q Well, if you look here Investigator Potash, you see in
4 the room a chair with wheels on it.

5 A Yeah.

6 Q Do you recall that being the computer room?

7 A Yes, I do.

8 Q And then there's a \$20 that we just looked at on the
9 last picture; right?

10 A Yes. Here it is. Yes, that's it.

11 Q Moving on to State's 22. It looks like there's a --
12 here's our answer, the close-up.

13 A Yeah.

14 Q What, if anything, do you remember about this computer
15 chair in the general vicinity there?

16 A There were two shell casings located in that room on
17 the floor and they were headstamped RP.

18 Q Just like the Springfield we just talked about?

19 A Yes.

20 Q Can you see this?

21 A There's one directly under the chair.

22 Q That's State's Number 22, that was an RP casing?

23 A Yes. In fact, both of them were located under one --

24 Q This is State's 23.

25 A You can see both shell casings.

1 Q And both of them are RP?

2 A Yes.

3 Q Just like that 4 RP --

4 A 40 S&W headstamp.

5 Q Moving through the house, this is 24. Before I go all
6 the way into the living room, I want to first show you 39 here.
7 We're still I guess, sort of in the hallway. This is Exhibit
8 39. Is that the front door we see with the darker color door
9 there?

10 A Yes, it is.

11 Q We already covered the interior doorknob in some other
12 exhibits. And to the right of this would be that closet we
13 talked about with the other bloodstain?

14 A Yes, sir.

15 Q What are we looking at? What do you see of note on
16 State's 39?

17 A You have two reddish stains and to the right you have a
18 large reddish stain that's in the shape of a hand.

19 Q Okay.

20 A And the to the left of it, lower left corner you have
21 another reddish stain on the wall that's separated in space.

22 Q What, if anything, did you do with this red handprint
23 that we see in State's exhibit --

24 A I took a sample of it.

25 Q Did you label that in anyway?

1 A I did. I believe that was, I want to say B-5 I think.

2 Q Let me show you this. Tell me if this is anything you
3 recognize?

4 A This is B-4. Okay. Yes. Sample B-4. Sample restrain
5 on wall of entryway front door in my handwriting.

6 (State's Exhibit 104, Swab, marked for
7 identification.)

8 Q (By Mr. Scott) This is State's Number 104. This would
9 correspond with the handprint in State's Number 39.

10 A I believe that's the sample.

11 Q That's the sample of?

12 A I do. It does, yes.

13 MR. SCOTT: Your Honor, the State offers State's
14 104 for admissions.

15 MR. SUTHERLAND: No objections.

16 THE COURT: 104 admitted without objection.

17 (State's Exhibit 104, Swabs entryway, was entered
18 into evidence.)

19 Q (By Mr. Scott) All these stains, all these samples,
20 all these samples that you took of these stains, what did you
21 end up doing with these?

22 A Once I take the samples, I seal them at the scene to
23 minimize contamination and then they are submitted to our
24 property room.

25 Q State's Number 40, it looks like that's another picture

1 of the handprint?

2 A Yes.

3 Q And we talked about the swab you took from the interior
4 doorknob. Did you take -- you took two other samples of the
5 back of that door, did you not?

6 A Yes, I did.

7 (State's Exhibit 97, Swab, marked for
8 identification.)

9 (State's Exhibit 98, Swab, marked for
10 identification.)

11 Q (By Mr. Scott) This is State's 97 and 98. Do you
12 recognize those?

13 A Samples B-11 and B-12 with my handwriting. Samples
14 were taken from reddish stains on interior side of front door.

15 Q If you focus on them now, they'll all say from the back
16 of that door?

17 A Yes.

18 MR. SCOTT: Your Honor, the State offers 97 and 98
19 for admission.

20 MR. SUTHERLAND: No objection, sir.

21 THE COURT: Both are admitted without objection.

22 (State's Exhibit 97, Swab interior front door, was
23 entered into evidence.)

24 (State's Exhibit 98, Swab interior front door, was
25 entered into evidence.)

1 Q (By Mr. Scott) Just to the left of this handprint
2 before, I think you said that there was another smear and I
3 think we were looking at State's 41?

4 A Yes.

5 Q I'll be moving to the living room. What, if anything,
6 was located in this living room?

7 A The male victim was located lying on the floor, clearly
8 to be seen in the photo. There were also shell casing located
9 in the living room. There was also a firearm located on a sofa
10 on the back wall.

11 Q State's Number 24 looking down here at the bottom
12 right, what do we see here in the picture?

13 A It appears to be shell casings.

14 Q Then this is State's Number 25, it's Mr. Peterson's
15 feet down here. What does this entry room, what does that go to
16 that would lead you on the left in State's 25?

17 A That would have been, I believe, to the kitchen.

18 Q Okay. And if we go back here and we go to the left, is
19 that how you remember the staircase to be arranged?

20 A The staircase would have been up against the back wall
21 to the left.

22 Q In fact, if we blow up 25, what are we looking at here?

23 A You're looking at the leg of the female victim.

24 Q State's Number 26, this would be another picture of the
25 living room here?

1 A Yes.

2 Q And if we blow it up, what is this we see up here?

3 A Another shell casing.

4 Q State's Number 27, did you observe this currency on the
5 ground?

6 A Yes, sir.

7 Q Did you yourself observe any of the injuries to
8 Mr. Peterson while you were there?

9 A I took some photos of what could be seen at the scene.

10 Q I want to show you 29. Did you take a picture there of
11 that?

12 A Yes.

13 Q State's 29, that was a picture you took?

14 A Yes, it is.

15 Q And 30?

16 A Yes, it is.

17 Q Are we still -- I see the two couches here. Are we
18 still in the living room here?

19 A Yes, we are.

20 Q What, if anything, do you see here?

21 A It's a shell casing in the lower portion of the photo.

22 Q When we talk about shell casings, for those who maybe
23 on the jury who don't fully comprehend what a casing is. Would
24 you explain to them what a casing is?

25 A Basically, a casing -- in this case, it's a brass

1 component of the ammunition. It contains a primer, a powder and
2 projectile. When it is fired out of the firearm, the projectile
3 exits the door and the casing which the powder burns off, the
4 casing is ejected from the firearm and only the shell casing and
5 primer in the base of the casing will remain.

6 Q So just to be clear, we've been talking so far about
7 the fired casings; is that right?

8 A Yes. Shell casings would be fired. Cartridges would
9 be unfired.

10 Q This is another picture. This, on the right of State's
11 Number 32, is the TV stand?

12 A Yes.

13 Q Is that fair to say? And then we see a couch here at
14 the bottom portion?

15 A Yes.

16 Q Again, looking at some of those prior pictures. We're
17 now looking -- here's the TV stand, here's the couch. We're
18 looking over here against this far wall. Referencing now, back
19 to State's Number 90 I believe.

20 A What do you--

21 Q I'm jumping back and forth with the diagram. We saw
22 that TV stand.

23 A Yes.

24 Q Just to orient everybody. There's the stairwell.

25 There's Mr. Peterson. And the casings we're looking at now are

1 against that far wall; right?

2 A Yes.

3 Q So we're looking over here and we see -- what is this
4 in State's Number 32?

5 A It's a shell casing.

6 Q And do you know which type of casing that was?

7 A The majority of the shell casings that were located in
8 that area were marked Remington-Peters with RP 40 S&W
9 headstamped.

10 Q This particular casing by the TV stand would be your
11 Marker 13, is that what you -- is that right?

12 A Yeah, Marker 13.

13 Q So you had another RP 40 fired shell casing?

14 A Number 13 would be a shell cases headstamped RP 40 S&W.

15 Q And you're still on 32, this back wall here between two
16 stuffed animals. What is that?

17 A That's Marker Number 14 and Marker Number 14 was a
18 shell casing headstamped RP 40 S&W.

19 Q And in between two stuff animals, I see two more. What
20 are these markers for you?

21 A It appears to be 15 and 16. 15 was marked headstamped
22 RP 40 S&W and 16 was headstamped RP 40 S&W.

23 Q I'm sorry, I skipped. 15 and 16 are these two above
24 the stuff animals?

25 A Yes.

1 Q And moving on to State's 33. There's another one here.

2 A I don't have that marked on the --

3 Q You have 13, 14, 15 and 16?

4 A That's 15 and that's 16. That would have been 15 and
5 then 16 is up near the floor. So they're both -- both of those
6 were marked RP 40 S&W.

7 Q In these last few slides what we've been looking at is
8 this wall over here?

9 A Yes.

10 Q In State's Number 90 diagram?

11 A Yes.

12 Q State's Number 34, those last few slides to give you a
13 little to orient the jury. Down here to the lower right would
14 have been those casings we were just looking at?

15 A Yes.

16 Q You see Ms. Carmichael in the stairwell to the left.
17 This particular couch here along the back wall what, if
18 anything, did you find in that area?

19 A Well, on the ground -- on the floor near the back
20 couch, on the right-hand side near the wall there's another
21 shell casing RP 40 S&W. I don't know if you can see it in that
22 photo. But the primary issue was the pistol that was located
23 along the -- on the sofa.

24 Q Is there a casing down by the backpack that you're
25 talking about that would be your --

1 A 36.

2 Q Marker 36?

3 A Uh-huh (affirmative response.)

4 Q The primary concern was the pistol on the couch?

5 A Yes.

6 Q And that would be your Marker 17?

7 A I'm sorry. There's a lot of -- yes, Number 17. The
8 Smith & Wesson, S&W SD40 VE pistol and 40 S&W headstamp.

9 (State's Exhibit 96, Smith & Wesson handgun, marked
10 for identification.)

11 Q (By Mr. Scott) State's Number 96, do you recognize
12 that?

13 A It's a box with my handwriting on it. Identifying a
14 black frame stainless slide. It is a Smith & Wesson, SD40 VE.

15 Q Has that gun, located in State's exhibit, been locked
16 up?

17 A Yes, it's, locked.

18 Q Is it incapable of being fired right now?

19 A Yes, it is.

20 MR. SCOTT: Your Honor, State would offer State's
21 96 for admission.

22 MR. SUTHERLAND: No objections.

23 THE COURT: 96 is admitted without objection.

24 (State's Exhibit 96, Smith & Wesson handgun, was
25 entered into evidence.)

1 Q (By Mr. Scott) Before you shut that box.

2 A Yes.

3 Q Did that have live rounds in it?

4 A Yes, it did. It appeared to have 5 rounds of
5 ammunition.

6 Q Can you tell me how many that's capable of holding,
7 that Smith & Wesson?

8 A Fourteen rounds according to the magazine.

9 Q So it can hold 14 rounds but only held five?

10 A Yes.

11 Q And do you know what kind of ammunition that had. We
12 talked about RP 40 Springfield. What did that Smith & Wesson
13 have?

14 A These appear to be Blazer 40 S&W.

15 Q Blazer?

16 A Uh-huh (affirmative response.)

17 Q State's 36 what, if anything, did you notice about the
18 surface of the pistol in State's Exhibit 96?

19 A There was substantial reddish staining on the surface
20 on the pistol.

21 Q Moving on to State's 37. What, if anything, of
22 significance about this picture and where is it in the house?

23 A It is actually in the kitchen on top of the -- I want
24 to say on top of the refrigerator. Some of the boxes we did
25 identified had what appeared to be projectile strikes where the

1 bullets have passed through boxes.

2 Q Pop Tart cereal you have at Marker C-10?

3 A Yes. And you can see where the round went through the
4 box.

5 Q Again, just to kind of get everybody familiar with this
6 layout. When you go back to State's 90, that be --

7 A That would be right there in that area.

8 Q It would be on top of the frig, where the refrigerator
9 is in the kitchen?

10 A Yes.

11 Q Okay. What are we looking at in State's 38. This is
12 the cereal box that we just saw in State's 37, right?

13 A Yes, it is.

14 Q And there's the refrigerator?

15 A Yes. And the stairs that lead to the second floor
16 behind it, that's actually the landing right there. It's the
17 midpoint landing for the stairs.

18 Q Right here in the center of exhibit?

19 A Yes.

20 Q It looks like the stairs kind of go up seven or so
21 steps.

22 A They go up about halfway and turn left and then finish
23 out to an upper bedroom.

24 Q The bedroom is upstairs?

25 A Yes.

1 Q What, if anything, significant is in State's 38?

2 A Additional projectile strikes. You can see one very
3 clearly on the railing to the stairs.

4 Q Okay. You marked that with a C-9?

5 A Yes. And then there were additional, what appeared to
6 be additional projectile strikes to the rear of the walls.

7 Q You can see some of the markings -- this is State's 38,
8 in the drywall behind the cereal boxes. Is that what those are?

9 A Yes.

10 Q In the prior picture we were looking at cereal boxes
11 down here; is that right?

12 A Yes.

13 Q And the railing we just saw may be up a bit, somewhere
14 down in here?

15 A Yes.

16 Q What are we looking at in State's 42, these markers?

17 A Those are what we believe to be projectile strikes.

18 Q Is that what we are looking at here?

19 A Yes.

20 Q And you kind of mentioned how the stairs go up and then
21 twist. Is the safe to say that we're looking down the stairs
22 from kind of where the bedroom is?

23 A Yes. That's the top of the stairs to the bedroom
24 looking down the stairs.

25 Q And Ms. Carmichael would be down here at the foot, to

1 the right?

2 A Yes. You can see the door at the right-hand side and
3 she would have been lying below that right there by the door.

4 Q State's 43 is a good picture to kind of -- we just
5 looked at it. These over here on the top left of State's 43
6 would be the bullet strikes you talked about?

7 A Yes.

8 Q And we see the Pop Tart cereal and the railing over
9 here?

10 A Yes.

11 Q Did it appear to you that somebody was shooting from
12 floor level up towards the flight of stairs?

13 A Yes. And it would appear that based on the
14 directionality, it would appear to be consistent with the shell
15 casings that were located in the living room.

16 Q The ones we talked about on the fair wall up there by
17 the stuffed animal --

18 A Yes. By the TV screen.

19 Q So Ms. Carmichael was just on the other side of this
20 little partition down by the window there?

21 A Yes.

22 Q And Mr. Peterson -- kind of this couch right here,
23 would be the foot of that couch?

24 A Yes.

25 Q State's 44, is that just another kind of picture

1 that --

2 A Yes. Showing how the stairway moved up and to the
3 right.

4 Q Just an odd floor design, is that safe to say?

5 A Yes, it is.

6 Q State's 45, this would also show just a different angle
7 of the stairs. And then, up here to the upper right would be
8 the bullet strikes you were talking about?

9 A Yes.

10 Q And State's 46, what do we see here?

11 A The female victim lying on the stairwell next to the
12 stairs.

13 Q What do we see down here below Ms. Carmichael?

14 A Shell casings.

15 Q And on the second step what, if anything, did you find?

16 A Would you be referring to some of the shell casings
17 that were found under her?

18 Q You did find one under her as well?

19 A I believe so, yes.

20 Q I believe this is 19 and 37 were found here?

21 A Yeah. Number 37 was actually from beneath the female
22 victim. We located it when she was moved.

23 Q And 19 here, was what?

24 A 19 was a shell casing headstamped Blazer 40 S&W at the
25 base of the stairwell. The one that we located beneath her was

1 also Blazer 40 S&W.

2 Q So we talked about RPs. These are Blazer rounds?

3 A Yeah, a different brand.

4 Q On the stairwell here what, if anything, did you
5 located -- looking at the one, two, three, four. The fourth
6 step?

7 A It's another shell casing.

8 Q What kind is that?

9 A That would have been Marker 30 I believe. It would
10 have been a Blazer 40 S&W headstamp shell casing.

11 Q And up here on the seventh step, what is this we see?

12 A I believe that would have been another shell casing
13 either 31 or 32.

14 Q 31 is down at the bottom?

15 A Okay. So 32.

16 Q And 31 and 32 are pictured in State's 47?

17 A Uh-huh (affirmative response.)

18 Q And those are what?

19 A Number 31 is headstamped Blazer 40 S&W shell casing,
20 correction. Let me see, unfired round of ammunition. I'm
21 sorry. 31, and you said 32?

22 Q 31 and 32.

23 A 32 was a shell casing headstamped Blazer 40 S&W.

24 Q Is it safe to say we were talking a lot about RP
25 headstamps over in the living room and around the stairwell.

1 These are Blazer rounds?

2 A I'm sorry, Item Number 30 was also an unfired round of
3 ammunition. I have unfired rounds from the stairwell and this
4 represent Number 28 and Number 31 and Number 30.

5 Q And that's State's 46 to the left of where
6 Ms. Carmichael was, this room I see the kitchen sink --

7 A That's the kitchen.

8 Q What, if anything, did you find kind of right here.
9 You can see it in State's 46. I know I got a better picture.
10 What is that in the kitchen?

11 A In the kitchen area would have been a pistol.

12 Q Okay. What kind of pistol was that?

13 A Number 21 should be a Glock Model 27 pistol 40 S&W
14 two-toned. I believe it's a two-toned firearm.

15 Q But you can see it in the back corner over here?

16 A Yes.

17 Q And on State's 48, is this another picture of that --

18 A -- yes, it is --

19 Q -- of the kitchen. And the two-toned -- what kind of
20 gun was it?

21 A A Glock model 27.

22 Q A 40 cal?

23 A Yes.

24 Q And two-toned. What kind of -- olive green?

25 A Yeah. Kind of a greenish color. Kind of an odd

1 greenish color, military green, and then the black slide.

2 Q And that had some live rounds in it too. Do you need
3 the box?

4 A A magazine with six rounds of ammunition.

5 Q It had six rounds?

6 A Yes.

7 Q And that looks like some what of an extended kind of
8 clip or is it --

9 A I don't know. Can you show the slide again? It looks
10 like it's partially ejected.

11 Q Looking at State's Number 50, in any rate, did you
12 seize that gun?

13 A Yes, we did.

14 (State's Exhibit 94, Glock 27 handgun, marked for
15 identification.)

16 Q (By Mr. Scott) I will show you State's Number 94. And
17 we did admit State's Number 96, right?

18 THE COURT: Yes.

19 MR. SUTHERLAND: No objection.

20 THE COURT: No objection to 94.

21 MR. SUTHERLAND: No, sir.

22 THE COURT: 94 is admitted without objection.

23 (State's Exhibit 94, Glock 27 handgun, was entered
24 into evidence.)

25 Q (By Mr. Scott) And 94 has been locked, is that right?

1 A Yes. Item Number 21 in my handwriting. Black slide,
2 kind of like a plastic frame, Glock Model 27. And it is
3 secured, your Honor.

4 THE COURT: Thank you.

5 THE WITNESS: It looks to be about eight rounds
6 that the magazine holds. These are Hornady marked
7 ammunition.

8 Q (By Mr. Scott) Hornady?

9 A Yes.

10 Q You didn't find any Hornady casings in the apartment;
11 is that correct?

12 A No.

13 Q In fact, these shell casings were nickle plated?

14 A We had no nickle plated shell casings recovered to my
15 knowledge.

16 Q Tell me one more time. You said that holds 14?

17 A Eight. The magazine showed eight, but the -- I believe
18 the had an extra round or two?

19 Q So how many does that Glock that you see is holding?

20 A At least eight rounds and probably nine.

21 Q And it had six in it?

22 A Uh-huh. Yes.

23 Q Looking at it kind of on the right of State's 48 -- let
24 me just ask: Did the house appear like it had been kind of gone
25 through? You talked about money being strewn about.

1 A Honestly, I couldn't tell if the house had been
2 searched or if it was just normal living conditions.

3 Q Did you observe that drawer open like that?

4 A Yes, the drawer -- everything in the photo was as we
5 found it.

6 Q So there's money on the ground, there's drawers opened?

7 A Yes.

8 Q Bullet holes all over the place. Did you see that?

9 A We located -- the greenish plant material was located
10 during a search, and we actually opened that drawer.

11 Q State's 56, did you take a picture of that?

12 A Yes, I did.

13 Q Do you know off the top of your head or able to tell
14 where that money was located?

15 A Not off the top of my head. I'd have to --

16 Q State's Number 57, did you take that picture?

17 A Yes, I did.

18 Q What is that?

19 A US currency.

20 Q \$160 in bloody 20s?

21 A Yes. We had \$160 in 20s from the second stairwell.

22 Q And State's Number 58.

23 A Yes. I took that picture as well.

24 Q State's Number 59, you've marked that with a 27 Marker?

25 A \$20 bills. Here it is. Item Number 27, \$20 bills near

1 wooden fence, Stoneridge Apartments parking lot. Stoneridge
2 Apartments is located next door to this row of apartments.

3 From this apartment, you would have gone down the
4 steps, gone to the right in front of -- the rest of the row of
5 apartments and then you would have run into Stoneridge
6 Apartments. And there would have been a roadway. You would
7 have made a left and it would have been immediately on the left.

8 Q State's Number 61, is that the front steps off our
9 incident location?

10 A Yes, it is.

11 Q What are we looking at?

12 A You are looking at a quantity of US currency that was
13 held together by a rubber band.

14 Q Okay. It's laid there -- that just kind of hangs out
15 right there if somebody dropped it on the way out maybe?

16 A I can't -- I can't guess at how it arrived, but I can
17 only state that it was located in that position.

18 Q Do you normally keep bundles of 20s out by the door?

19 A No, I don't, sir.

20 Q That would be your Marker 1?

21 A Yes, sir. It's a bundle of US currency held together
22 by a rubber band on the ground near the bottom of the front
23 steps. It was five \$100 bills, eight \$50 bills and 75 \$20 bills
24 counted about and the removal of the rubber band for possible
25 further processing.

1 One thing I would like to point out is the
2 environmental factor of that night. It had been raining and it
3 also continued to drizzle through the night as we were
4 processing. There was actually a quantity of standing water on
5 the steps as well as in the parking lot.

6 Q State's 34, that's, again, referencing -- in the middle
7 of State's 62 is the stairs leading up to our incident location?

8 A Yes.

9 Q What is 34?

10 A Number 34? Number 34 was a shell casing with headstamp
11 Blazer 40 S&W as located on the ground near the stairwell.

12 Q Is that the only remanent of ammunition you found on
13 the outside?

14 A That is the only shell casing that was located on the
15 outside. And we've spent substantial time going through the
16 woods.

17 Q State's Number 64, that's your Marker 25?

18 A Just one \$20 bill in the parking lot closer to the car.

19 Q In total, how much money did you seize?

20 A As I said, my counted total -- the summation of
21 everything I collected was \$4,931.

22 Q Y'all collected marijuana as well?

23 A Yes. Green plant material.

24 Q And the blood swabs we talked about earlier, you
25 collected those yourself?

1 A Yes, sir.

2 Q You collected those pistols we found?

3 A Yes, I did.

4 Q You said you turned all that over to your evidence
5 department?

6 A Yes, it goes to the property room. In some cases it
7 has to be dried first because we can't submit wet material. But
8 basically as soon as we can, it's submitted to the property
9 room.

10 MR. SCOTT: I think that's it. Investigator
11 Potash, would you answer any questions Mr. Sutherland has
12 for you.

13 MR. SUTHERLAND: May it please the Court?

14 THE COURT: Yes, sir.

15 Do you want the board up or --

16 MR. SUTHERLAND: I want to take a quick tour
17 through, as best I can.

18 THE WITNESS: Do you need me to handle any more
19 evidence?

20 MR. SUTHERLAND: Not at all.

21 THE WITNESS: Thank you, sir.

22 MR. SUTHERLAND: Do you want me to get this thing
23 down?

24 THE WITNESS: I appreciate it, sir.

25

1 CROSS-EXAMINATION

2 BY MR. SUTHERLAND:

3 Q Sir, when you arrived at the incident location, you
4 made a notation of several cameras?

5 A Yes, sir.

6 Q Do you recall that? Extra cameras? There's a Ring
7 system?

8 A Yes, sir.

9 Q There was one on the window ledge next to the front
10 door?

11 A Yes, sir.

12 Q One on the exterior of the privacy fence covering the
13 Skyland Drive side of it?

14 A Yes, sir.

15 Q And moving right along. I believe you had testified
16 you found a quantity of green leafy material in there?

17 A Yes, sir.

18 Q This is what you got but there's no drug analysis?

19 A Yes, sir.

20 Q But we're saying it's weed?

21 A Certainly.

22 Q Y'all went through the pistol. Was there on a -- on
23 Mr. Peterson, you made mention of an ankle monitor?

24 A No, sir. I did not make mention of an ankle monitor.

25 Q Well I apologize.

1 A I was not asked about that.

2 Q This was a while go so --

3 A Okay.

4 Q You went through the cash. It was approximately two
5 stacks, around 2400 and then the loose stuff?

6 A Yes. I mean, I totaled all of the individual items
7 that were accounted for and reported as the individual location
8 of where the money was located.

9 Q And I think you talked about a number of stains that
10 were sort of along the wall that went on a closet door frame and
11 then to the back of the door handle.

12 A Yes, sir.

13 Q Would that appear to you or -- you mean you can't
14 really tell because if somebody was just going that way and then
15 opened the door handle to go out?

16 A Yes, sir. Somebody had reddish material on their hands
17 when they seized the doorknob to turn it.

18 Q Let me see. Anything else? That's it. You went
19 through all the shell casings and different types.

20 And just what was it -- what kind of ammunition was in
21 that Glock pistol? Something I hadn't heard of.

22 A From the Glock? It was Hornady.

23 Q Hornady, that's it.

24 A Yes.

25 MR. SUTHERLAND: Thank you, sir.

1 No further questions, your Honor.

2 THE COURT: Thank you.

3 Redirect?

4

5 REDIRECT EXAMINATION

6 BY MR. SCOTT:

7 Q Just to be clear: The samples that you took are
8 located in State's 97, 98, 99, 101, 102, 103, 104. Every one of
9 those blood samples was located inside the residence of [REDACTED]
10 Skyland Drive; is that right?

11 A Yes, sir. All the samples that I took, that you had
12 been referencing, were taken from inside the residence.

13 Q When you swabbed B-2, when you swabbed B-4, when you
14 swabbed B-6, when you swabbed B-14, when you swabbed B-10, when
15 you swabbed B-11 and when you swabbed B-12 and B-13, those were
16 inside the residence?

17 A Yes, they were located inside the actual residences
18 itself.

19 Q Inside the home of Jahquan Peterson and Mary
20 Carmichael?

21 A Yes.

22 Q And you submitted those for analysis later on?

23 A I did not submit them for analysis. I submitted them
24 to the property room and investigations submitted them for
25 analysis.

1 Q What is the purpose of taking a blood sample? Is it
2 ultimately to have --

3 A It was ultimately to be tested.

4 Q To see if you can tell whose blood that belongs to?

5 A Yes.

6 MR. SCOTT: Thank you. Nothing further.

7 MR. SUTHERLAND: Nothing from me, sir.

8 THE COURT: Thank you. Have a good day.

9 All right. Ladies and gentleman, let's take our
10 afternoon break. We've been going for about an hour and a
11 half. So do not discuss the case. Keep an open mind.
12 We'll start back in about ten minutes. Everyone else just
13 stay where you are while the jury is excused. Thank you.

14 (Jury exited.)

15 THE COURT: Anything from the State before we
16 break?

17 MR. SCOTT: No, your Honor.

18 MR. SUTHERLAND: We're good, sir.

19 THE COURT: Be back in about ten minutes.

20 (Whereupon, a brief recess was taken.)

21 THE BAILIFF: All rise.

22 THE COURT: Come to order. Let's bring them in.

23 (Jurors entered.)

24 THE BAILIFF: All jurors are seated, your Honor.

25 THE COURT: Welcome back. If I stand up, it's

1 because my back hurts and I'm old and fat. So don't read
2 anything into that. Sometimes I just stand up and kind of
3 wander around back here. But I'll be here paying attention.

4 All right. You ready with your next witness?

5 MR. FOWLER: Yes, sir, your Honor.

6 THE COURT: Okay. Call them.

7 MR. FOWLER: The State calls Kermit Scott.

8

9 K-E-R-M-I-T S-C-O-T-T, the Witness herein, having been sworn by
10 the Clerk of Court, was examined and testified as follows:

11

12 MADAM CLERK: Please have a seat in the witness
13 stand and state your full name for the record.

14 MR. SCOTT: My name is Kermit Scott.

15

16 DIRECT EXAMINATION

17 BY MR. FOWLER:

18 Q Thank you for being here, Mr. Scott.

19 May 11, 2019, what were you doing?

20 A I was at the crime scene unit as an inspector.

21 Q What department?

22 A With the Columbia Police Department.

23 Q You've since retired?

24 A Yes, sir.

25 Q What specifically did you do on that day?

1 A On that specific day, I was called out to assist one of
2 the officers, Potash, write a case on Skyland Drive.

3 Q Did you respond to Richland Memorial Hospital?

4 A Yes, I did.

5 Q What did you do at Richland Memorial Hospital?

6 A Once I was at the hospital, I took a photograph of the
7 suspect, black male suspect that was there.

8 (State's Exhibit 73, Photograph, marked for
9 identification.)

10 Q (By Mr. Fowler) Since we're at that point, I'll show
11 you what's been marked as State's 73.

12 Do you recognize that?

13 A Yes, I do, sir.

14 MR. FOWLER: Your Honor, I'd move State's 73 into
15 evidence.

16 MR. SUTHERLAND: No objection, sir.

17 THE COURT: 73 without objection.

18 (State's Exhibit 73, Photo injured defendant, was
19 entered into evidence.)

20 Q (By Mr. Fowler) Tell me what we're looking at here.

21 A That is a wound to the individual's upper temple, I
22 took a photograph of that night, because it was an injury to his
23 personal self.

24 Q Are there two defects on his face here?

25 A Yes, sir. There is.

1 Q What else did do at the hospital?

2 A Also took a buccal swab right from him on that
3 particular day.

4 (State's Exhibit 108, Buccal Swab, marked for
5 identification.)

6 Q (By Mr. Fowler) I'm going to show you what's been
7 premarked as State's 108.

8 Do you recognize that, Mr. Scott?

9 A Yes, I do, sir.

10 Q What is it?

11 A This is a buccal swab.

12 Q From who?

13 A From the suspect at the hospital.

14 Q What was the name of the person you took the buccal
15 swab from?

16 A Mr. McNeil.

17 MR. FOWLER: Your Honor, State would move 108 into
18 evidence.

19 MR. SUTHERLAND: No objection.

20 THE COURT: 108 admitted without objection.

21 (State's Exhibit 108, Buccal swab defendant, was
22 entered into evidence.)

23 Q (By Mr. Fowler) Did you collect anything else?

24 A Yes, sir. I collected some clothing from the
25 individual also. Also collected clothing at the hospital of the

1 suspect.

2 (State's Exhibit 115, Defendant's Clothing, marked
3 for identification.)

4 Q (By Mr. Fowler) I'm going to show you what's been
5 marked as State's 115.

6 Do you recognize that, Mr. Scott?

7 THE COURT: Do you need some gloves?

8 MR. FOWLER: I have some, your Honor.

9 THE COURT: Do you need some gloves, sir?

10 THE WITNESS: I'm good right now, sir. Unless I
11 have to take it out.

12 THE COURT: We have some if you need them.

13 THE WITNESS: Yes, sir.

14 Yes, sir. I do.

15 Q (By Mr. Fowler) What is that?

16 A These are the clothing that was collected at the
17 hospital.

18 Q Who were they collected from?

19 A It was collected from -- it was collected at the scene
20 from the clothing that he had on.

21 Q The clothing that who had on?

22 A The suspect, Mr. McNeil.

23 Q You collected this from Mr. McNeil?

24 A Yes, sir.

25 MR. FOWLER: Your Honor, at this time move State's

1 115 into evidence.

2 MR. SUTHERLAND: No objection.

3 THE COURT: 115 admitted without objection.

4 (State's Exhibit 115, Defendants clothing, was
5 entered into evidence.)

6 Q (By Mr. Fowler) And could you tell the jury what all is
7 in this bag.

8 A This was one brown paper bag. There was also a plastic
9 hospital bag, like a plastic bag that clothing and stuff would
10 go into. One pair of black socks. One pair of boxer underwear.
11 One pair of -- one T-shirt, gray in color and also had some red
12 stain material consistent with blood. Also, he had one each
13 sweatpants.

14 MR. FOWLER: Your Honor, may I have Mr. Scott step off
15 the stand?

16 THE COURT: Yes. He just needs to keep his voice
17 up please.

18 Q (By Mr. Fowler) Mr. Scott, I'm going to ask you to
19 assist me in showing the jury -- I just want to show them the
20 pants and the shirt. If you can help me with that real quickly.

21 A Here are the black sweatpants.

22 Q These are the black sweatpants you collected from this
23 defendant?

24 A Yes, sir.

25 And what we end up doing with it, we place it inside --

1 once it dries, we also place it in paper, the paper then helps
2 keep the blood from contaminating other things.

3 Q Show them that shirt, please.

4 A (Complies.)

5 Q And this is the shirt you collected from the defendant
6 at the hospital?

7 A Yes, sir.

8 Q Show them.

9 A This is the gray T-shirt. Also, as I talked about, it
10 had the red stain on the chest.

11 MR. FOWLER: I have no further questions at this
12 time, your Honor.

13 MR. SUTHERLAND: No questions of this witness, your
14 Honor.

15 THE COURT: Enjoy your retirement.

16 Who's next?

17 MR. FOWLER: Your Honor, the State would call Ryan
18 McIntyre.

19

20 R-Y-A-N M-C-I-N-T-Y-R-E, the Witness herein, having been sworn
21 by the Clerk of Court, was examined and testified as follows:

22

23 MADAM CLERK: Please have a seat in the witness
24 stand and state your full name for the record, and please
25 spell your last name.

1 MR. MCINTYRE: Sergeant Ryan McIntyre, Columbia
2 Police Department. That's M-C-I-N-T-Y-R-E.

3

4

DIRECT EXAMINATION

5

BY MR. FOWLER:

6

Q Thank you for being here, Sergeant.

7

Are you familiar with the case we're here for today?

8

A Yes.

9

Q What was your involvement in the case?

10

A I transported some evidence from our property room,

11

Columbia property room, to Richland County's property room to be
12 analyzed.

13

Q And those were various swabs?

14

A Yes.

15

Q I'm going to show you what's been admitted as

16

evidence -- as swabs from the scene, State's 101, 102, 103, 104.
17 108, 97 and, 98, 99.

18

Is that what you transported from CPD's property room

19

to the Richland County Sheriff's Office?

20

A Yes, it does appear to be the evidence I took.

21

MR. SCOTT: No further questions, your Honor.

22

MR. SUTHERLAND: No questions, your Honor.

23

THE COURT: Have a good day.

24

Who's next?

25

MR. SCOTT: George Simpson, your Honor.

1
2 G-E-O-R-G-E S-I-M-P-S-O-N, the Witness herein, having been
3 sworn by the Clerk of Court, was examined and testified as
4 follows:

5
6 MADAM CLERK: Please have a seat in the witness
7 stand and state your full name please.

8 MR. SIMPSON: Good afternoon, I'm Sergeant George
9 Simpson with Columbia Police Department.

10

11 DIRECT EXAMINATION

12 BY MR. SCOTT:

13 Q Sergeant Simpson, May 11, 2019, this incident we're
14 talking at [REDACTED] Skyland Drive, what was your involvement with the
15 case?

16 A Yes. So I was notified in reference to the incident.
17 And once I received that notification, I was called because I'm
18 in the -- well, at that time I was in the criminal
19 investigations division working with the homicide team. I was
20 informed that there were injuries with individuals that hadn't
21 displayed signs of life and they needed assistance investigating
22 the scene and I came out as the investigator.

23 Q Do you remember what time you got out there?

24 A Yeah. So I was called by my supervisor around 11:30 on
25 the 11th of March, 2019. I got there just after midnight, 12:02

1 a.m., on that following day.

2 Q Okay. So we talked about, you were in here, you're
3 lead investigator. Officer Birochak, who was the first
4 responder, we watched his body-cam footage and then we heard from
5 Potash, as the crime scene investigator.

6 Have these guys already come and gone by the time you
7 get there?

8 A So Officer Birochak was still there, I believe. I got
9 there basically right as crime scene was there. We essentially
10 got there around the same time to begin the processing of the
11 scene.

12 Q Is it fair to say, as the lead investigator of the
13 case, you kind of end up taking charge of that investigation
14 once you're assigned as the lead investigator?

15 A That's correct.

16 Q So you get there and crime scene investigators are
17 doing their thing. We just heard from Potash, who was
18 documenting everything.

19 Are you kind of gathering information from the other
20 people who are already on the scene and who have been talking to
21 witnesses and locating evidence and stuff. Is that correct?

22 A Yes.

23 Q And so when you show up on the scene and you're lead
24 investigator, what information did you gather once you got
25 there?

1 A Yeah. So on any crime scene, my first objective would
2 be to talk to officers that responded to the scene first. So I
3 will make contact with the responding officers to see who they
4 spoke to already and who they got information from and also what
5 information was given to them. I'll just ask for the names,
6 dates of birth, addresses and phone numbers for everyone that
7 they speak to. And also try to see what verbal statements they
8 were given.

9 Some of the officers will do administrative paperwork
10 to get the process started moving quickly for us, such as
11 written statements, any of that stuff, that would be done before
12 I do anything on my end.

13 Q Okay. I guess when you get there, it's pretty apparent
14 you're dealing with a double homicide.

15 A Yes.

16 Q Is that safe to say?

17 And you're aware of the three guns that were seized?

18 A Correct.

19 Q And were you aware of all of the casings all around the
20 apartment?

21 A Yes.

22 Q I guess you become aware of the money strewn about?

23 A Yes. So I did a walkthrough when I first got to the
24 scene, I witnessed all of the evidence where it was inside the
25 house.

1 Q And you heard from Ms. Dubose earlier and she spoke
2 with Birochak at the scene. We saw that camera footage.

3 Did you become aware of a, I guess suspect
4 identification or -- what am I trying to say? Did you become
5 aware of kind of what you were looking for as far as a suspect
6 or suspects?

7 A So I spoke to Ms. Dubose as well once I realized that
8 she was somebody who gave information to officers as far as
9 being a potential witness. When I spoke to Ms. Dubose, she did
10 mention that the suspect was --

11 MR. SUTHERLAND: Objection to hearsay, your Honor.

12 THE COURT: The objection is hearsay?

13 MR. SCOTT: Not for the truth of the matter
14 asserted, your Honor. It's not being offered for that.
15 It's being offered for -- he's testifying, he gets on the
16 scene and he's playing catch up. He's gathering information
17 from all the people he supervises as part of his duty as
18 lead investigator.

19 THE COURT: He's talking about being interviewed
20 by -- he interviewed Ms. Dubose; right?

21 MR. SCOTT: That is what he mentioned.

22 THE COURT: Sustained.

23 MR. SUTHERLAND: Thank you, sir.

24 Q (By Mr. Scott) Let me ask you this then: As lead
25 investigator, what were you looking for or what was the general

1 characteristics of the suspect or suspects you were looking for?

2 A I was informed that there were two black male subjects
3 that had masks on their face.

4 Q And so you're assigned lead investigator, you're not
5 only looking for one person but two at the time?

6 A Correct.

7 Q And they are two black males?

8 A Uh-huh (affirmative response.)

9 Q Any other identifiers that you recall that you would
10 describe as big tall guys or small thin guys or how were they
11 described?

12 A Yeah. I was informed that both of the suspects were
13 slim black males, one was taller than the other.

14 Q Again, this location that was testified to, do you
15 agree that it was Skyland Drive, which is off Greystone
16 Boulevard?

17 A Yes, that's correct. I actually used my GPS to get to
18 [REDACTED] Skyland Drive. Once I got there, I verified Apartment [REDACTED] was
19 a crime scene.

20 Q At some point did you receive some information from
21 Prisma Health?

22 A Yes, I did.

23 Q And when I was growing up, it was Richland Memorial
24 Baptist Hospital. Are they both Prisma now or --

25 A They're Prisma. But now Prisma Health Richland is --

1 used to be Richland Memorial Hospital but now -- it goes under
2 Prisma now. But at that point, it was Richland Memorial
3 Hospital.

4 Q Okay. But we're talking about, the information you
5 received was from Richland Memorial?

6 A Yes.

7 Q And for reference, is it Harden Street Extension?

8 A Yes. 3301 Harden Street Extension.

9 Q And generally where Bull Street runs into 277, is that
10 the hospital we're talking about? Hopefully we all understand
11 the hospital.

12 A Uh-huh (affirmative response.)

13 Q Approximately how far away is that hospital from that
14 Greystone location -- Skyland Drive location, rather?

15 A You mean driving-wise?

16 Q Yes.

17 A Roughly about a 10-minute drive. If that.

18 Q It's relatively close?

19 A Yes.

20 Q And what was the information that you received from
21 Richland Memorial, Prisma Health?

22 A Yeah, so one of the officers that I spoke to on the
23 scene during my initial investigation, I was informed that there
24 was an individual that showed up at the hospital --

25 MR. SUTHERLAND: Sorry. Objection to hearsay.

1 THE COURT: Overruled. It's not offered for the
2 truth.

3 Go ahead.

4 THE WITNESS: I was informed that there was an
5 individual that had showed up to the hospital with a gunshot
6 wound shortly after the initial call for "shots fired" came
7 from the incident location.

8 Q (By Mr. Scott) Is that commonplace for the hospital
9 to -- Richland Memorial is within Columbia Police Department's
10 jurisdiction?

11 A Correct.

12 Q And Baptist is too, I guess.

13 A Correct.

14 Q Providence?

15 A Depends on which. The one on Northeast, Farrow Road is
16 the City of Columbia's jurisdiction.

17 Q Is it common for these hospitals to notify the Columbia
18 Police Department if somebody shows up with a gunshot wound?

19 A Yes. All hospitals within our jurisdiction immediately
20 call upon notice if anybody shows up with a gunshot wound.

21 Q And is it common for the police department or police
22 officers to show up at the hospital to, I guess, get as much
23 information, the nature of the gunshot wound and how it occurred
24 and who may have fired the weapon that wounded the person?

25 A That's common.

1 Q Is that a "yes"?

2 A Yes, that's correct.

3 Q And at some point did you respond to the hospital,
4 Richland Memorial, to get more information about this gunshot
5 wound victim?

6 A Yes, I did.

7 Q Okay. So are you saying it was noteworthy to you to
8 some degree that you have this double homicide here at Skyland
9 and then relatively -- how close in time was it that the person
10 was admitted to the hospital in conjunction with the shooting
11 over on Skyland?

12 A As soon as I got there, I was immediately informed upon
13 my arrival to the scene, that there was a person at the hospital
14 that had been transported by an unknown person. That timeframe
15 was just within a couple of minutes apart from the initial call
16 for service at the incident location.

17 Q So you know generally about what time the gunshot wound
18 victim was admitted into the hospital?

19 A Yes. I believe it was --

20 MR. SUTHERLAND: Objection. Hearsay.

21 MR. SIMPSON: Are you okay with me referring to my
22 notes --

23 THE COURT: Stop. Stop. Stop talking when he says
24 objection.

25 The objection is hearsay as to the time that he

1 arrives, the time that the gunshot wound victim arrived.

2 MR. SCOTT: The question was: "To your knowledge,
3 are you aware of the general timeframe of when he arrived at
4 the hospital?"

5 THE COURT: He can answer that question, but that's
6 a yes-or-no answer. That's not a time.

7 Q (By Mr. Scott) Are you aware of the time he arrived at
8 the hospital?

9 A Yes. It was a couple of minutes after the initial call
10 for service came out reporting the shooting.

11 Q Are you aware of the exact time or the general time? A
12 couple minutes -- what was the time of the shooting, I guess?
13 What time did the call come in for the shooting?

14 A I have that in my notes to refer to.

15 Q How about this: Ballpark, about what time was the
16 shooting, was that called in?

17 A The shooting was called out just after 10:00 p.m.

18 Q About how long after that was information received that
19 somebody reported to the hospital with a gunshot wound?

20 A Roughly about ten to 20 minutes after.

21 Q Okay. All right. So just close in time to one
22 another, I guess, generally, is what I'm asking.

23 A Yes.

24 Q You said you did at some point report to Richland
25 Memorial.

1 A Yes, I did.

2 Q Did you learn the identity of the gunshot wound victim?

3 A Yes. I spoke to the victim inside the hospital.

4 Q And who did you identify as the victim the hospital
5 called you about with the gunshot wound?

6 A The person that I was called about that had been struck
7 by gunfire was Genari McNeil.

8 Q And did you decide to ask him about how he sustained
9 the wound that's seen in State's Number 73?

10 A Yes, I did.

11 Q Describe the conversation. Was he given information
12 freely or was he holding back or was he -- describe how he was
13 reacting with you when you were asking him questions.

14 A The conversation was very sporadic --

15 MR. SUTHERLAND: Just briefly, your Honor. The
16 previous objection.

17 THE COURT: I noted it for the record. Thank you
18 very much. My ruling upon it will be the same.

19 You may continue. Go ahead.

20 THE WITNESS: The conversation was very sporadic.
21 He basically just was very vague with his answer regarding
22 what happened. It appeared to be that he wasn't very
23 interested in providing information. He just basically said
24 he was walking. He didn't know what happened other than
25 hearing a car approaching him and feeling himself be struck

1 by gunfire.

2 Q (By Mr. Scott) Was he under arrest at this time?

3 A No, he was not.

4 Q And at this point, is it safe to say he was a patient
5 in the hospital. That's pretty obvious?

6 A Yes, correct.

7 Q At this juncture you're just trying to get information
8 as far as how he sustained that wound?

9 A That's correct.

10 Q You said he was rather hesitant to provide details to
11 you?

12 A That's correct.

13 Q Did he eventually indicate a location where he was when
14 he was fired upon?

15 A Yes. He told me he was walking near the Obama store.

16 Q Okay. And is there more than one Obama store in
17 Columbia?

18 A Yes. At that time there were two different Obama
19 stores in Columbia.

20 Q And did he distinguish which one he was talking about?

21 A When I asked him further questions about which
22 location, I first asked him if it was the one near North Main
23 and he said it was the one near the Colony Apartments.

24 Q Colony Apartments are on the West Beltline?

25 A Yes. The address to the Colony Apartments is 3545 West

1 Beltline Boulevard.

2 Q And did he describe what he was doing at 10:00 at night
3 at the Colony Apartments or the Obama gas station?

4 A Yes. Well, he mentioned two different things he was
5 doing. The first statement was that he was just walking. And
6 he didn't necessarily say where he was going on that occasion.

7 The second occasion, he said he was just walking to a
8 girl's house, that he was trying get to, that was on the other
9 side of town.

10 Q Okay. Did he indicate whether or not he saw who shot
11 him?

12 A He did not.

13 Q Did he indicate whether the person who shot him was
14 walking or in a car?

15 A He said he heard a car riding behind him but he didn't
16 see a car. He didn't see anybody. Didn't hear any commotion or
17 any altercations. And just heard gunfire and suddenly somebody
18 shot him.

19 Q Okay. Was he shot more than once?

20 A Yes, he was.

21 Q And besides the picture of him with the grazed wound to
22 head, where else was he shot?

23 A So I asked him where his wounds were. I could
24 obviously see the wound to his head. I could physically see the
25 wound to his wrist. He also indicated that he had been shot in

1 the hip as well. I wasn't able to visually see that but he did
2 tell me that he was shot in the hip as well.

3 Q Okay. Did he indicate how he got from the Obama gas
4 station to the hospital at Richland Memorial?

5 A Yes. He told me an unknown person in a car just drove
6 up, he got in and he was taken to the hospital.

7 Q Did he indicate who this mysterious driver was or could
8 be?

9 A No. He just said it was a random person.

10 Q At some point did you decide to obtain some of the
11 security footage from the Richland Memorial/Prisma Health?

12 A That's correct. I did.

13 Q And you were able to obtain that footage. Were you
14 able to locate on the video footage when Mr. McNeil arrived to
15 the hospital?

16 A Yes. I was able to observe it on the video footage.

17 Q At the main entrance there?

18 A Yes.

19 Q Were you able to find the part where he's escorted to
20 some elevators?

21 A Yes.

22 Q And what, if anything, do you remember about his entry
23 into the hospital?

24 A On the video footage that I observed, he was escorted
25 in by an individual that had a -- it looked like either a

1 T-shirt or a towel of some sort over his head concealing his
2 face. He was pushed in by that individual. Once he got into
3 the elevator, that person that pushed him in, ran out of
4 hospital and fled the scene pretty quickly.

5 Q Did that person appear to be in a hurry or were they
6 kind of -- were they in a hurry to get out of there?

7 A Yes. They were in a very brisk pace walking in and
8 they ran out.

9 Q This person didn't even bother to escort Mr. McNeil to
10 a doctor --

11 MR. SUTHERLAND: It's leading. Sorry.

12 THE COURT: Sustained as to leading.

13 You can rephrase the question.

14 Q (By Mr. Scott) Did the person even take the time or
15 care enough for Mr. McNeil to escort him to a doctor for care
16 for his wounds?

17 A No. On video, the person guided Mr. McNeil into the
18 elevator and ran out before the elevator door even shuts to go
19 up.

20 Q That individual seemed to be more concerned with
21 himself than Mr. McNeil --

22 MR. SUTHERLAND: Objection. Leading.

23 THE COURT: Sustained.

24 Q (By Mr. Scott) Let me ask you this. If somebody you
25 cared about was hurt and you took them to the hospital, would

1 you ditch them or would you stay with them --

2 MR. SUTHERLAND: Objection as to relevance.

3 THE COURT: Overruled.

4 THE WITNESS: If someone was hurt that I cared
5 about, I would obviously drop them off, make sure they got
6 their safely and check on their wellbeing and stay to make
7 sure they're okay.

8 Q (By Mr. Scott) But, again, this individual covered
9 their face and covered their head --

10 MR. SUTHERLAND: Objection. Leading.

11 Q (By Mr. Scott) You got the video?

12 A That's correct.

13 (State's Exhibit 91, Hospital Video, marked for
14 identification.)

15 Q (By Mr. Scott) Is that what this is in State's Number
16 97?

17 A Yes. That is the video from the hospital.

18 MR. SCOTT: Your Honor, the State would offer
19 State's Number 97 for admission.

20 THE COURT: 97 is admitted over the defense's
21 objection and based upon the statute from the
22 certification -- of authentication of records.

23 MR. SUTHERLAND: Yes, sir.

24 THE COURT: Again, 8036.

25 MR. SCOTT: Judge, for clarification, it's 91.

1 THE COURT: Okay.

2 (State's Exhibit 91, Hospital video, was entered
3 into evidence.)

4 Q (By Mr. Scott) Who is this individual?

5 A Yes. That was Mr. Genari McNeil.

6 Q Did you see any other people in the video covering
7 their face as they went in to give treatment when you watched
8 the videos?

9 A No, I did not.

10 Q Just the individual who ran in with Mr. McNeil and then
11 fled?

12 A That's correct.

13 Q In keeping up State's 91, we talked about finding
14 footage from the elevator.

15 And Mr. McNeil would not or could not tell you who that
16 individual was?

17 A He did not tell me who that individual was.

18 Q Again, back to the killing over at Skyland. You were
19 looking for how many black males?

20 A Two.

21 Q This is State's Number 3. This has already been
22 admitted into evidence.

23 Do you recognize that as the front of [REDACTED] Skyland
24 Drive, Unit [REDACTED]?

25 A Yes, I do.

1 Q That would be the incident location?

2 A That's correct.

3 Q That's where you understood Mary Carmichael and Jahquan
4 Peterson to live?

5 A Yes.

6 Q And what is this contraption near the front left of the
7 doorway?

8 A That is a doorbell camera made by the Ring
9 manufacturer.

10 Q And did you ascertain whether or not it was operating
11 that night?

12 A Yes. That was one of the first things I came upon
13 observing.

14 Q To your knowledge, how is a Ring doorbell camera
15 activated?

16 A Some of them are motion activated. Others are
17 mechanically activated where you have to hit the button to
18 activate it. Some of them, they detect motion and they
19 immediately begin recording.

20 Q Did you speak with Josh Peterson that night, the
21 brother of Mr. Jahquan Peterson?

22 A Yes. I spoke with Mr. Peterson.

23 Q Did you learn whether or not he had access to that
24 camera --

25 MR. SUTHERLAND: Objection. Hearsay.

1 THE COURT: The question is, "Did you learn?"

2 Overruled.

3 Q (By Mr. Scott) Did you learn whether or not he had
4 access to that video camera?

5 A Yes. I asked Mr. Peterson --

6 Q Without saying what he said, because that goes to his
7 hearsay objection.

8 A Yes, sir.

9 Q Were you able to download the content of that video
10 camera to your Columbia Police Department issued laptop?

11 A Yes, I did.

12 Q And did you view the footage that was captured from
13 that night?

14 A Yes, I did.

15 Q Were you able to locate Mr. Jahquan Peterson arriving
16 home that night to his house at [REDACTED] Skyland Drive, Apartment [REDACTED]?

17 A Yes, I was.

18 Q Were you able to see any evidence of a crime being
19 committed?

20 A Yes. There appeared to be evidence of a crime that was
21 committed.

22 Q What did you watch -- when you watched the footage of
23 that video, what did you see?

24 A Yes. Once I began to play the footage, I observed what
25 appeared to be Mr. Jahquan Peterson walking up the stairs to his

1 apartment trying to get into the front door. He looks over left
2 shoulder, he immediately cries out in a panic. Two individuals
3 with firearms immediately approach him with guns raised,
4 pointing at him. They begin to have a conversation, there was
5 voice activation and it recorded audio. You can hear them
6 basically asking for items. He was basically telling them,
7 something along the affect of, "Y'all can get the items."

8 Another voice of one of the masked men said, "Yes,
9 we're going to get the items."

10 They enter the apartment. Just before that, you can
11 see one of the individuals take the firearm and hit him in the
12 head with it. And they go inside the apartment with
13 Mr. Peterson, then you can hear a gunshot. Then after the
14 gunshot, you can immediately hear what appears to be a voice
15 saying, "Right there. It's right there."

16 And then the camera cut off.

17 Q And clearly this is aimed to the outside. So when you
18 describe some things that happened within the apartment, that's
19 not captured with the video; is that right?

20 A That's correct. Can just hear the audio and not the
21 video of that portion.

22 (State's Exhibit 92, Ring Footage, marked for
23 identification.)

24 Q (By Mr. Scott) This is State's 92.

25 What is this?

1 A This is the video from the Ring doorbell camera that
2 was downloaded and turned over as evidence.

3 Q And you provided that to the Solicitor's Office?

4 A Yes, I provided it.

5 Q And of course we have to provide this to the defense
6 and it's part of the case?

7 A That's correct.

8 Q And how do you recognize that particular one? Have you
9 watched that recently?

10 A Yes, I have watched this video.

11 Q And you put your initials on it?

12 A That's correct.

13 MR. SCOTT: Your Honor, the State offers State's
14 Number 92 for admission into evidence.

15 MR. SUTHERLAND: Objection as to foundation.

16 THE COURT: What's the objection?

17 MR. SUTHERLAND: Objection as to foundation.

18 THE COURT: Okay. You can ask some more foundation
19 questions.

20 Q (By Mr. Scott) You recognize Mr. Jahquan Peterson?

21 A Yes, I did.

22 Q And you recognize the surroundings of where it was
23 located?

24 A That's correct.

25 Q And you had a general timeframe of what you were

1 looking for, you said around 10:00, right?

2 A Yes.

3 Q This doorbell camera that you downloaded, that video
4 captures State's 92. Is that your testimony under oath?

5 A Yes.

6 MR. SCOTT: Your Honor, the State would offer
7 that --

8 THE COURT: How about some, "Has it been altered or
9 amended," kind of things?

10 Q (By Mr. Scott) Have you done anything to alter or amend
11 it?

12 A No. It was downloaded straight from -- the Ring from
13 Mr. Peterson's account and it was put on -- straight onto a disc
14 and then turned over to evidence.

15 Q Okay. And just from this doorbell camera, it's stores
16 small chunks of time, does it not? I mean, what are they, like,
17 15 second clips that it records?

18 A Yeah. Just a few seconds per motion activation that
19 they record.

20 Q Okay. So when we play that, the entirety of it is how
21 you downloaded it?

22 A Correct.

23 Q You didn't shorten it. You didn't lengthen it. You
24 didn't add anything to it. You didn't delete anything from it.
25 Is that correct?

1 A Yes. I didn't alter the video in any way.

2 MR. SCOTT: Your Honor, the State's offers State's
3 92 for admission into evidence.

4 THE COURT: Any objection?

5 MR. SUTHERLAND: I think they cured it. Thank you,
6 your Honor.

7 THE COURT: Okay. 92 is admitted without
8 objection. It may be published.

9 (State's Exhibit 92, Ring doorbell footage, was
10 entered into evidence.)

11 MR. SCOTT: Let me see if I can play it and stop it
12 a couple of times.

13 (Video clip played.)

14 (Video clipped ended.)

15 Q (By Mr. Scott) What, if anything, did you notice that
16 stood out there -- if anything that stood out? There's a man on
17 the --- if we look at this camera, if we look at the screen to
18 the left, then there's a man to the right. The man on the
19 right, is there anything about his clothing that you noticed?

20 A Yes. The man on the right appeared to have
21 dark-colored pants with some sort of the stripe or some sort of
22 emblem or something on the side of that.

23 Q Dark pants with a stripe on the side.

24 What, if anything, did you notice about the pistol
25 being held to Mr. Peterson's head?

1 A It appeared to be -- well, from what I observed,
2 because I own one, it appeared to be a Glock. Either a Glock 26
3 or a Glock 27. They both have the same -- from my knowledge,
4 they both have the same make up. It appeared to be, the top of
5 the frame to be black with some color -- some dark color. The
6 actual frame itself appeared to be a lighter color. So
7 basically like a two-tone color.

8 Q What, if anything, did you notice about the clip in the
9 gunman's hand?

10 A Yes. The clip appeared to me to be extended just a
11 little from the gun, which may have been like an extended
12 adapter that you put on the bottom of certain magazines.

13 Q Did you notice similarities between the gun on the
14 picture and then the gun seen in State's 51 and State's 94? Did
15 you notice any similarities?

16 A Yes. I observed that the firearm on the camera as well
17 as the firearm that was observed and in evidence appeared to be
18 the same.

19 Q I'm going to play it again and see if I can kind of
20 pause --

21 MR. SUTHERLAND: Your Honor, you can't say that it
22 appears to be the same, but similar.

23 THE COURT: Overruled.

24 Q (By Mr. Scott) This is the individual we're talking
25 about on the right?

1 A That's correct.

2 Q And you're saying you noticed a stripe on this
3 individual here?

4 A That's correct.

5 Q I'm going to play it and it happens pretty quick, but
6 could you speak out whenever it comes into sight?

7 (Video clip played.)

8 THE WITNESS: (Indicating.)

9 (Video clip ended.)

10 (State's Exhibit 71, Photograph, marked for
11 identification.)

12 Q (By Mr. Scott) Let me show you State's 71.

13 Do you recognize that?

14 A Yes, I do.

15 Q What is that?

16 A That is a still shot from the hospital security
17 footage.

18 MR. SUTHERLAND: No objection, your Honor.

19 THE COURT: 71 is admitted without objection.

20 (State's Exhibit 71, Photo defendant at hospital,
21 was entered into evidence.)

22 Q (By Mr. Scott) This is just a still shot from the
23 hospital video that we just processed in, it's State's Number
24 91.

25 Who is this again?

1 A That was Mr. Genari McNeil.

2 Q What, if anything, do you note about his pants in the
3 still shot?

4 A Yes. It appears to be black colored pants with some
5 sort of a stripe or emblem on the side of the pants.

6 (State's Exhibit 111, Defendant's Cell Phone,
7 marked for identification.)

8 Q (By Mr. Scott) What is this?

9 A This appears to be a cell phone.

10 Q That's labeled as State's 111. How do you recognize
11 that cell phone?

12 A Yes. It states "Genari phone" in my handwriting on the
13 cover. And it also says it was a black TracFone with a cracked
14 front screen which was a cell phone that I retrieved from the
15 hospital.

16 Q Were you able to transfer that to somebody for
17 analysis?

18 A Yes. The cell phone was retrieved from Mr. Genari's
19 property. I received custody of it and I then transferred it
20 over to another individual with the Columbia Police Department
21 for data to be extracted from the cell phone.

22 Q At some point did you learn of a projectile that was
23 recovered from Mr. Genari McNeil?

24 A Yes, I did.

25 Q Did you have any kind of involvement with transporting

1 that projectile?

2 A Yes, I did.

3 Q What was your involvement?

4 A I took that projectile from our evidence room to SLED
5 for analysis.

6 Q And at some point, were the projectiles retrieved from
7 the two victims, Mr. Peterson and Ms. Carmichael?

8 A Yes, they were.

9 Q Did you have any involvement in the transportation of
10 those two projectiles?

11 A Yes, I was.

12 Q Did you take those projectiles to SLED as well?

13 A That's correct.

14 (State's Exhibit 65, Photograph, marked for
15 identification.)

16 (State's Exhibit 66, Photograph, marked for
17 identification.)

18 (State's Exhibit 68, Photograph, marked for
19 identification.)

20 (State's Exhibit 69, Photograph, was marked for
21 identification.)

22 Q (By Mr. Scott) This is 65, 66, 68 and 69.

23 MR. SCOTT: Let me offer State's 111 for admission
24 into evidence.

25 MR. SUTHERLAND: No objection to the cell phone.

1 THE COURT: 111 is admitted without objection.

2 (State's Exhibit 111, Defendant's Cell Phone,
3 entered into evidence.)

4 THE COURT: 65, 66, 68, 69, are admitted without
5 objection; is that right?

6 MR. SUTHERLAND: Yes, sir.

7 (State's Exhibit 66, Photograph, entered into
8 evidence.)

9 (State's Exhibit 68, Photograph, entered into
10 evidence.)

11 (State's Exhibit 69, Photograph, entered into
12 evidence.)

13 Q (By Mr. Scott) 65, 66, 68, and 69, do you recognize
14 those?

15 A Yes. I recognize all four of these photos.

16 Q What are they?

17 A These are photos that are still shots from the Ring
18 doorbell.

19 Q That's that video we just watched. These are just
20 still shots from that video.

21 This is State's 65. What, if anything, do you recall
22 the guy on the right that you said had a stripe on his pants,
23 what, if anything, did you notice about his hands?

24 A Yes. From his hands, you could tell that he was
25 wearing a glove of some sort.

1 Q This is State's 66, just another still shot.

2 This is 68. What, if anything, in this still shot do
3 you notice about his pants?

4 A It's very faint there, but you can kind of see a
5 lighter color stripe or emblem on the left side of the pants.

6 Q Is that what you're referring too? (Indicating.)

7 A Yes.

8 Q 69 is just another one. You see the stripe you're
9 talking about there?

10 A Yes, sir.

11 Q Is that what we're pointing to, the bottom right of
12 State's Number 67?

13 A That's correct.

14 Q Also seen in 68, bottom right?

15 A That's correct.

16 Q Is that what you see in 69?

17 A That's correct.

18 Q Were you ever able to retrieve any of the ski masks any
19 of these individuals were wearing?

20 A No.

21 Q Were you ever able to talk to the driver of the car,
22 the guy who dropped him off at the hospital?

23 A No. The individual fled before officers could get
24 there.

25 Q And were you ever able to ascertain an identity of the

1 person who dropped him off at the hospital?

2 A Not at this time. No.

3 Q Did you note that there was currency on the outside of
4 the property? There has been some testimony that there was
5 various currencies, a variant of denominations of currency
6 outside?

7 A Yes. I did observe US currency on the outside of the
8 house.

9 Q Who was the individual in the hospital that you
10 interviewed with the gunshot wound?

11 A The individual that I interviewed with the gunshot
12 wounds was Mr. Genari McNeil.

13 Q And eventually were you ever able to make charges
14 against him?

15 A Yes, I was.

16 Q Did you charge him with the murder of Ms. Carmichael?

17 A Yes, I did.

18 Q Did you charge him with the murder of Mr. Peterson?

19 A Yes, I did.

20 Q Did you charge him with the burglary in the nighttime
21 with firearms of [REDACTED] Skyland Drive, Apartment [REDACTED]?

22 A Yes, I did.

23 Q Did you charge him with possession of a weapon during
24 the commission of a violent crime?

25 A Yes, I did.

1 Q Did you charge him with the armed robbery of both
2 Ms. Carmichael and Mr. Peterson?

3 A Yes, I did.

4 Q Do you see Mr. McNeil in court here today?

5 A Yes, I do. He's sitting there wearing a maroon colored
6 dress shirt (indicating.) He looks a little different than he
7 did back then. He changed his appearance to some degree.

8 Q How does he look different?

9 A It appears his hair is down now.

10 Q Did he wear glasses back then?

11 A No.

12 MR. SCOTT: That's all the questions I have for
13 Mr. Simpson.

14 I do reserve the right to recall at a later time
15 after some more testimony but that's all the questions I
16 have for him now.

17 THE COURT: All right.

18 MR. SUTHERLAND: If I may, your Honor, beg the
19 Court's indulgence?

20 THE COURT: Sure.

21 Why don't y'all stand up, stretch, twist, turn.
22 Don't think I'm crazy. It will keep you awake. Just kind
23 of stand up where you are while they talk amongst
24 themselves.

25 MR. SUTHERLAND: Okay. Good to go.

1 THE COURT: Okay.

2

3 CROSS-EXAMINATION

4 BY MR. SUTHERLAND:

5 Q All right. Sir, how are you?

6 A Good, sir. How about you?

7 Q I'm well enough. Well enough as usual.

8 I mostly want to ask you about the time that he was in
9 the hospital and the time that he was in the interview room at
10 the Columbia Police Department.

11 A Okay.

12 Q You testified earlier that -- I believe you testified
13 that there was -- or witnesses have testified that there was a
14 shot fired call around, was it 10 o'clock?

15 A Yes.

16 Q And then officers drove through, but then the full
17 response and discovery of the scene was about 11 o'clock?

18 A It was prior to that.

19 Q When did you go out to the hospital to see Genari?

20 A I don't have the exact -- I don't know the exact time,
21 but I do have it in my notes.

22 Q How long after you went to the scene?

23 A I went to the initial scene first, it was several hours
24 after. There was a lot of evidence and things to process at the
25 scene so it took a couple of hours before I could get to the

1 hospital.

2 Q The Solicitor asked you about your conversation at the
3 hospital. As you testified, he was just like, "Look, you know,
4 I wasn't over here. I wasn't anywhere near there. I was
5 walking near some store."

6 Is that pretty much accurate to reflect your testimony?

7 A Initially, yes.

8 Q Now there's some point between the hospital and from
9 what I'm able to tell, the CPD interrogation room. Did you --
10 I'm sorry. Let me just ask one question: Do you
11 remember how long he was in the CPD interrogation room?

12 A I don't remember the exact time. It was a couple of
13 hours, though.

14 Q Seven hours maybe? Six hours, 58 minutes?

15 A Somewhere about there.

16 Q You continued to interview him or attempted to, as you
17 may want to characterize it, interview him at the Columbia
18 Police Department in addition to the hospital. Is that right?

19 A That's correct.

20 Q How did his condition appear to you when you arrived at
21 the hospital?

22 We've seen some photographs of his -- how did he appear
23 to you? How did his wounds look to you?

24 A They were bandaged up at that point. I wasn't able to
25 see the wound.

1 Q Okay. So they were only open at the police department?

2 A Repeat the question.

3 Q They took the bandage off of his head -- because in the
4 interview room, you know, I mean, you can see it. I mean, if
5 you recall, if you've looked at that video, you can see the
6 wound to his head.

7 A Yes.

8 Q So just at some point between the hospital and the
9 interview room that bandage is removed?

10 A Yes.

11 Q Okay. Well, what did you observe in the CPD interview
12 room?

13 A It appeared that they were lacerations of some sort to
14 his head.

15 Q Was there any discharge? Was he bleeding?

16 A There was a little discharge.

17 Q Okay. And I believe you testified that he was shot in
18 the wrist and the leg also?

19 A That's correct.

20 Q Okay. As you're going through this, about two hours
21 and seven minutes into the interview tape, I believe at that
22 time Thomas is in there with you. About two hours and seven
23 minutes, it may be 2 hours, 6 minutes and 50 seconds, but, you
24 know, they've got it over there.

25 You say something to him that is interesting to me,

1 because it is distinct from the rest of these conversations that
2 you-all were having.

3 At that point on the tape, you say to him, "Look. You
4 told me, you've already told me that you were in that room. You
5 told me that you were there smoking weed. And you told me that
6 your friends dropped you off."

7 Do you recall that part?

8 A Yes, I do.

9 Q Okay, good. Then we're good to go.

10 Now at that point, it seems to me that he -- because
11 most of this is you attempting to talk to him and attempting to
12 get information from him which is your job. And you don't have
13 to tell the truth to defendants when you're trying to get
14 information from them; right?

15 A Yes.

16 Q And I believe you told him, "there's camera of the
17 entire thing" at one point -- or you didn't tell him about them,
18 just, "there's camera of the whole thing and you are on there
19 shooting." But I believe you said, "You know you shot in
20 self-defense."

21 Do you recall saying that?

22 A Yes, I did remember saying that.

23 Q Would that be a typical things when you're trying to
24 get somebody to admit that they discharged a firearm, you might
25 say, "Look, we know, self-defense" just to get them -- would

1 that be typical?

2 A That's correct.

3 Q Right. I've seen that a million times.

4 You also said to him -- well, wait a minute. He says
5 to you, "Look. You're going to have to show me these cameras,"
6 something to that effect.

7 Do you recall that?

8 A Yes, I do.

9 Q You told him at one point that you remember the gunshot
10 residue test, where you said, "Is there any reason gunshot" --
11 basically confronting him, implying or saying outright that
12 there's gunshot residue on his hand.

13 Do you remember that?

14 A Yeah. It wasn't a direct statement. It was more of
15 like --

16 Q Right. Well, why would there be gunshot residue on
17 your hand? That kind of thing?

18 A Uh-huh (affirmative response.)

19 Q Do you recall or did you notice that the conversation
20 were not fluid, but that each time you got to a point where you
21 said that you had some evidence that he discharged a firearm, he
22 would just kind of shutdown and say, "Man I didn't shoot
23 anybody. Man I didn't shoot anybody. I don't know what you're
24 talking about."

25 That kind of thing?

1 A That's correct, I did.

2 Q Right, because it's sort of going along that, you know,
3 it's between, well, I was at the -- at the point you talked
4 about, "Well, I was way over here, man, at those apartments near
5 where the gas thing," you know, that kind of thing.

6 But when you get and you confront him with the
7 evidence, he would still be talking to you. When you would say,
8 so -- you know, about the residue or there's video of you
9 shooting, he'd say, "Look. I know I didn't shoot the gun."

10 Do you remember that?

11 A Yes, sir.

12 Q Okay. Well, that --

13 MR. SCOTT: Objection to --

14 MR. SUTHERLAND: To the "okay"?

15 THE COURT: What were you about to say?

16 MR. SUTHERLAND: Oh, I was going to say --

17 THE COURT: Don't say it. Just ask your next
18 question. If you want to ask the next question.

19 MR. SUTHERLAND: Yeah. Beg the Court's indulgence?

20 THE COURT: Okay.

21 MR. SUTHERLAND: That's really all I have. Thank
22 you.

23 THE COURT: Okay. Any redirect?

24

25 REDIRECT EXAMINATION

1 BY MR. SCOTT:

2 Q Investigator Simpson, what is "police ruse," are you
3 familiar with that term?

4 A Yes, I am.

5 Q Is that a technique that is used by law enforcement in
6 interrogation?

7 A Yes, it is.

8 Q Is it an attempt to perhaps have a suspect speak more
9 freely?

10 A Yes.

11 Q Did you find Mr. McNeil to be particularly forthcoming
12 when you were asking him questions?

13 A No, I did not.

14 Q Did you believe him to be giving you the full truth?

15 A No. I did not believe he was giving me accurate
16 information.

17 Q Mr. Sutherland was asking you about you hypothesizing
18 that perhaps, you know, Mr. McNeil, acted in self-defense.

19 Is that something you said to him?

20 A Yes.

21 Q And have you used that ploy before to get a suspect
22 who's not being forthcoming to perhaps give you a little more
23 information?

24 A Yes. It's common in essentially every single
25 investigation where there's a shooting and then the suspected

1 shooter is not being cooperative.

2 Q At that point, did you feel you had evidence to put
3 Mr. McNeil at scene of these killings?

4 A Yes, I did.

5 Q At that same time he's saying, "No, I wasn't anywhere
6 near there. I was way over here at the Colonies, and they're on
7 the West Beltline"?

8 A That's correct.

9 Q And at some point you're trying to attempt to give him
10 a reason, an out to say, okay, maybe I was over there --

11 A That's correct.

12 Q -- at Skyland.

13 He still wasn't doing that now, was he? He was saying,
14 "I'm going to see some girl out by the Colonies"?

15 A Yes, that's correct.

16 Q Is that how you clarify when Mr. Sutherland was asking
17 you about asking him whether or not he acted in self-defense?

18 A Can you repeat that question?

19 Q That was a poorly-worded question.

20 Explain to the jury what police ruse is and why you
21 would suggest to him that, "Hey, man, perhaps you were acting in
22 self-defense."

23 Why would you employ that tactic?

24 A Yes. So through training and also past experience with
25 other cases I've investigated, when individuals aren't

1 cooperating me, there's usually something in that -- it's
2 basically a tactic that you use just to see if that person is
3 either telling the truth or telling a lie. And it's also a
4 tactic that you use to see if the stories change up at any
5 point, then you have a more clear baseline to decipher the truth
6 or a lie.

7 Q Did the story remain consistent?

8 A Yes. He never -- well, let me back up. Initially, it
9 was very consistent at first, as far as him not having knowledge
10 about what happened. Then it kind of changed up and became
11 inconsistent.

12 Q Did he ever tell you, as was suggested in opening
13 yesterday, perhaps somewhat in cross-examination, that he was
14 smoking marijuana inside Ms. Carmichael and Mr. Peterson's
15 apartment. Did he ever offer you that?

16 A No. I specifically asked him about [REDACTED] Skyland Drive.
17 Showed him a picture of the location on my phone. He looked at
18 the location and said that he had never been there before.

19 Q If that was mentioned in opening yesterday and of
20 course we know lawyers' arguments are not evidence. But if that
21 was mentioned in defense attorney opening, there's no evidence
22 whatsoever that he ever mentioned that he had been at that
23 apartment smoking weed?

24 A That's correct. I asked him multiple times if he was
25 at the incident location. Each time he -- in fact, he said he

1 wasn't there. He didn't know where that was.

2 Q In fact his story was, I was out walking by the Obama
3 gas station over by the Colonies, somebody shot at him. Then
4 some good samaritan picked me up and took me to the hospital. I
5 don't know who shot me. I don't know who the guy was that took
6 me to the hospital?

7 MR. SUTHERLAND: Objection. Leading.

8 THE COURT: Sustained.

9 Q (By Mr. Scott) Would you care to give a synopsis of
10 what his general story was.

11 A Yes. So his story to me obviously had changed up a
12 little bit. The initial statement was that he was walking near
13 Colonies, he heard a car arriving behind him, he heard gunshots.
14 He felt himself get struck in the head and he saw another car
15 coming. The individual inside took him to the hospital. He had
16 never seen that car or the person before. And also didn't know
17 anything about the shooter, where the shooter would have
18 resided, any motives. He didn't give any information.

19 Q And that he had never been to [REDACTED] Skyland Drive,
20 Apartment [REDACTED]?

21 A That's correct. I did show him the location on Google
22 Maps and upon looking at them, he said he had never seen the
23 location before or had never been there before.

24 MR. SCOTT: Thank you.

25 MR. SUTHERLAND: Briefly, your Honor.

1 THE COURT: Yes, sir.

2

3 RECROSS-EXAMINATION

4 BY MR. SUTHERLAND:

5 Q You talked about his level of cooperation.

6 Now, he was shot in the head when your were speaking
7 with -- the entire time you were speaking with him; is that
8 correct?

9 A Yes, that's correct.

10 Q I believe you and Thomas mentioned the wound in the
11 face, that it appeared he was shot in the face?

12 A Yes. It appeared he was grazed in the face.

13 Q And that he was shot in the wrist?

14 A That's correct.

15 Q And that he was shot in the leg?

16 A In the hip.

17 Q Or the hip. Okay. So he was shot in four places. I
18 believe when you were at the hospital, did a neurologist come
19 in, a neurosurgeon come in and consult with him while you were
20 in there?

21 A I believe. I don't know the titles, but there were
22 several different medical professions that were coming in and
23 out while I was interviewing him at the hospital.

24 Q Do you recall hearing that maybe there was blood on his
25 brain?

1 A So he mentioned that he was informed that there was a
2 small -- well, he mentioned that there was blood on his brain.
3 I do recall the medical professional mentioning that there was a
4 very tiny drop of blood. That he didn't need to do anything
5 else with it prior to him being discharged from the hospital.

6 Q So he was in this condition. You were with him at the
7 hospital for an hour. There's an indeterminate amount of time
8 maybe between the hospital and CPD. I don't know how long that
9 trip is.

10 A That's correct.

11 Q He's in custody at the Columbia Police Department for
12 I'd say six hours, 58 minutes. You agree. So generally around
13 seven hours. So he's in custody for eight hours, plus this
14 trip. You acknowledged in your testimony that he was bleeding
15 from the head. That he was shot in several different places.

16 Did he ever complain of pain to you?

17 A At the hospital he did. During my interview at the
18 hospital he said he wanted some water. I stepped out at that
19 point. He said he was in pain at the hospital. I stepped out.
20 Asked the discharge nurse or asked somebody that had access to
21 water to bring him some water. And once he was discharged from
22 the hospital, he was complaining of pain from the head at
23 headquarters.

24 Q Did he ask you at headquarters about some prescriptions
25 that were in a plastic bag with some gauze that he had? Do you

1 remember going through a plastic bag that he had with him?

2 A I'm sure I did. I went through all of his property.

3 Q And do you remember talking about or seeing
4 prescriptions?

5 A Not right off. I'm sure.

6 Q It's four years ago. It's interesting. One part of
7 your testimony on redirect that interests me is the State was
8 going over with you pretty much the same thing that we went
9 over. You do what you've got to do. The Supreme Court has said
10 you can lie to the defendants. It's just -- give a little bit;
11 get a little bit, that kind of thing, you know.

12 But did you mean to testify, as far as being dishonest,
13 that you were lying when you said to him, "Look. You've already
14 told me that you were there, that you were smoking weed in that
15 room. You told me that you had to get away. And you told me
16 that your friends dropped you off," were you lying to him then?
17 Because that's the way it was -- or were you just sort of
18 repeating and, you know, going through some of the things that
19 you said and trying to get him to say more?

20 A So during my investigation with him, I suggested, if he
21 had just been in the parking lot and just didn't go inside. And
22 he did acknowledge at that point that that was accurate.

23 And I asked that question just as a follow up just to
24 see if his story was going to change at any point or if he was
25 going to deny that or if he was going to agree with it.

1 Q So to see if he was going to deny it. You know, this
2 is a few things. This isn't sort of one foot at a time.

3 To see if he was going to deny that he was in there
4 smoking weed, that he had to get out when this happened and that
5 his friends had dropped him off earlier. Those details you
6 added to him saying that he was in the parking lot?

7 A Well, the first initial conversation was -- that he
8 agreed with or that he was just in the parking lot and did not
9 actually go in.

10 At headquarters I suggested that he mentioned, instead
11 of being in the parking lot going in, I suggested that he
12 mentioned that he was inside smoking weed and it was just to see
13 what his reaction would be at that point.

14 Q So to add to that -- I guess that's two things. He's
15 inside and he's smoking weed, that you added to sort of doing
16 this to getting a little bit at a time. You also added that he
17 told you that he had to get out of there and that his friends
18 dropped him off.

19 So it's four additional details that are pretty
20 important. These four details just occurred to you to add into
21 that one question after him only saying he had been in the
22 parking lot?

23 A Those details took place because he began to recant --
24 that was part of the inconsistencies. He initially agreed and
25 then he would backtrack and say that he wasn't there. So those

1 details came because I was trying to establish a baseline again
2 with him.

3 Q Your testimony is, this stuff is coming out a little
4 bit at a time. Maybe you're throwing it all in there at one
5 time to get him to sort of be more fulsome?

6 A That's correct.

7 MR. SUTHERLAND: Thank you. No further questions.

8 THE COURT: You may step down. How long is your
9 next witness?

10 MR. SCOTT: I think we can do one briefly.

11 THE COURT: A short one? Okay.

12 Who's next?

13 MR. FOWLER: Your Honor, the State calls Jon
14 VanHouten.

15
16 J-O-N-A-T-H-A-N V-A-N-H-O-U-T-E-N, the Witness herein, having
17 been sworn by the Clerk of Court, was examined and testified as
18 follows:

19
20 MADAM CLERK: Please have a seat and state your
21 full name for the reporter.

22 MR. VANHOUTEN: Jonathan VanHouten
23 V-A-N-H-O-U-T-E-N.

24

25 DIRECT EXAMINATION

1 BY MR. FOWLER:

2 Q Agent VanHouten currently, is that your title?

3 A Yes.

4 Q Tell me what you do, Agent VanHouten.

5 A I work for the United States Secret Service. I'm a
6 network intrusion and forensic examiner from the digital
7 forensic examiners of the Secret Service.

8 Q Okay. Walk me through how you came to be in your
9 current position.

10 A I retired after 21 years at the Columbia Police
11 Department. I was an investigator for CPD. The last ten years
12 of my service, I was assigned full time to the Secret Service as
13 a digital forensic examiner, cybersecurity and financial fraud
14 investigator prior to my retirement in April 2020.

15 Q So in your current position, what do you do?

16 A Basically anything that stores digital electronic data
17 such as cell phones, computers, laptops, drones, satellite
18 telephones, any type of digital data I've recovered.

19 Q What kind of training have you had to do that?

20 A So I've gone through numerous trainings. Mississippi
21 State University computer -- or Center for Computer Forensic
22 Research. Federal Law Enforcement Training Center in Georgia.
23 National White Collar Crime Center. The National Computer
24 Forensic Institute where I also am an assistant instructor and
25 proctor for the institute.

1 Q What do you mean by "recovering digital data" from
2 these devices?

3 A We use specific -- in the digital forensics field, we
4 use specific software and equipment to recover the data.
5 Usually in binary format which is basically ones and zeros that
6 you see. We convert that information to readable text format
7 using our specialized software.

8 Q Would you say that the majority of the recover you do
9 is on cell phones?

10 A I would say 90 percent of our intake has to do with
11 cell phones.

12 Q And you are trained on data recovery from cell phones?

13 A Yes. Cell phones, computers, Mac -- Apple devices,
14 Lynx applications and Windows.

15 Q How many cell phone data recoveries would you say
16 you've done, if you had to give me a ballpark?

17 A It's well over a thousand.

18 Q So walk me through the process of recovering data from
19 a cell phone specifically.

20 A Specifically relating to this incident, we would
21 receive intake through state or local law enforcement agencies
22 requesting assistance. They would provide either a search
23 warrant or a written consent. We would obtain the final -- we
24 triage it, determine if the phone is -- if we're able to get
25 data off the phone. And if we do, we will pull the -- there's

1 three types of extractions we would normally try to pull;
2 physical, logical and file system.

3 Physical is what we want majority of the time and it's
4 every single bit of data on that device. That includes deleted
5 items as well as stuff that you don't see.

6 Logical and file systems work somewhat hand-in-hand.
7 That is pretty much the data you do see. When you look at a
8 phone and you see your pictures, your text messages, your call
9 log, that is logical data. That is stuff that you can see. And
10 then it's through a regular logical extraction.

11 Q You just explained what a logical was?

12 A Correct. It's the data that you can't see that has not
13 been deleted.

14 Q And you said that's what you did in this case?

15 A In this particular case, a physical extraction on this
16 particular device was not an option. It was a lower quantity,
17 lower-end model. Most research and development is not done on
18 lower-end devices.

19 Q The logical extraction, is that a method of data
20 recovered from cell phones that is prevalent in the law
21 enforcement community?

22 A Correct. Logical extraction, again, is the items that
23 you would normally see on the device, that is the most accurate
24 data that we can recover. The date and timestamps for the
25 recovered data is as accurate as based on the timestamp and data

1 that the phone is pulled from the cell phone towers.

2 Q And is that a reliable method of data recover?

3 A Logical is more reliable than deleted items because
4 missing values. When we recover deleted items, there is some
5 missing value and we try to regenerate or rebuild that value as
6 best as we possibly can. With logical, we don't have to do
7 that. What's there is there. It's there.

8 Q Again, that reliable method is what you used in this
9 case?

10 A Yes. That was the only option available for this
11 particular phone at that particular time.

12 Q Have you ever been qualified as an expert witness?

13 A Yes.

14 Q In what fields?

15 A Digital forensics and cybersecurity.

16 Q How many times have you been qualified?

17 A No more than ten times.

18 Q When was the last time you were qualified?

19 A I would have to say in 2022, I believe in Union County.

20 Q That's where I'm from.

21 MR. FOWLER: Your Honor, at this time I would offer
22 Agent VanHouten as an expert in digital forensic
23 examination.

24 MR. SUTHERLAND: No objection.

25 THE COURT: Okay. Ladies and gentlemen, normally

1 when a person testifies, they're not allowed to give their
2 opinion or their conclusions. They have to testify as to
3 what they saw, they heard, they did, they touched, they
4 smelled, something of that nature. However, there's an
5 exception under our rules, when someone is qualified because
6 of education or experience, that person is allowed to give
7 their opinion in certain areas if I qualify them in that
8 way.

9 So Agent VanHouten will be qualified as an expert
10 in the area of digital forensic examinations. That means
11 that he will be allowed to give his opinion in those areas.
12 He may also state the reasons for those opinions. Now, that
13 doesn't mean that you have to accept his opinion, but it's
14 evidence for you to use in any way that you see fit and you
15 should be giving it the weight and the credibility that you
16 believe is appropriate, just as you should do with each and
17 every witness that comes before you.

18 MR. FOWLER: Thank you, your Honor.

19 Q (By Mr. Fowler) And, again, you performed a cell phone
20 data recovery in this case?

21 A For this particular case, yes.

22 Q I'm going to show you what's been admitted as State's
23 111. You can open it if you need to. There's a little
24 description right here on that tag.

25 Can you just tell me if that's the phone that you

1 analyzed?

2 A Yes. This is the phone that I conducted an examination
3 on.

4 Q And you do a report from that examination?

5 A I did.

6 (State's Exhibit 75 and 76, Photograph, marked for
7 identification.)

8 Q (By Mr. Fowler) I'm going to show you what has been
9 marked as State's 75 and 76. I have already shown it to defence
10 counsel.

11 Do you recognize that?

12 A Yes. This is a printout of the Cellebrite report that
13 I conducted on this device and these are two photos that were
14 recovered from the device.

15 Q So those two photographs, what's premarked as State's
16 75 and 76, were on that device?

17 A They were.

18 Q And does it -- were they altered in anyway during the
19 download?

20 A No, absolutely not.

21 MR. FOWLER: Your Honor, at at this time I would
22 offer State's 75 and 76 for admission into evidence.

23 MR. SUTHERLAND: Your Honor, I don't object to the
24 phone.

25 May we approach briefly?

1 THE COURT: Sure.

2 (Whereupon, a brief discussion was held off the
3 record.)

4 THE COURT: The question is, is there any objection
5 to State's Exhibit 75 and 76?

6 Is that a "yes" or a "no"?

7 MR. SUTHERLAND: I don't object to the phone, but I
8 would object as the giving of the code was involuntary.

9 THE COURT: Okay. Noted for the record and that
10 objection is overruled. 75 and 76 are admitted.

11 (State's Exhibit 75 and 76, Photograph, entered
12 into evidence.)

13 Q (By Mr. Fowler) This is the photograph that I just
14 showed you and you said was on the defendant's phone; correct?

15 A Without the -- I'm not sure which evidence number.

16 Q I'm sorry. This is 76.

17 A Yes.

18 Q And Agent VanHouten, what does that appear to be in
19 that photograph?

20 A It appears to be a firearm, a handgun.

21 Q This is State's 75, which you confirmed was on the
22 defendant's phone; correct?

23 A Yes.

24 Q Then just a couple quick questions to wrap up. I'm
25 going to show you another page from the report that you ran.

1 Based on the report generated from the cell phone data
2 recovery, can you, in your expert opinion, testify that there
3 was no user activity on that phone between I think 7:54 on the
4 11th and 2 o'clock, 2:30 the next day?

5 A No. I'm sorry -- user activity?

6 Q Yes.

7 A The earliest user activity I have for the 11th, May 11,
8 2019 was at 12:51 p.m. And after that, the last recorded
9 activity was an incoming call on May 11, 2019 at 7:45 p.m. So
10 roughly six hours and some change.

11 Q By "user activity," you mean that the person that has
12 the phone in their hand and is doing something; is that correct?

13 A Yes. So what I do is I generate a timeline and humans
14 are creators of habit. So what I do is, I generate a timeline
15 of activity, such as call logs, text messages and internet
16 searches, if they're watching movies. If they're utilizing an
17 App or something of that sort, I'll put that in my timeline.

18 If there's a break in the time -- prime example, if
19 somebody is using a phone constantly during a specific time,
20 then there's a large gap of no activity, well, that's a break
21 from the norm of normal human activity.

22 In this case and based on data recovered from this
23 device, there is about a six-hour gap during that time that
24 there's no outgoing activity.

25 What we're looking for is outgoing, whether they're

1 sending a text or making a phone call that's going out or doing
2 a web or internet search with the device, that is what we
3 classify as "user activity." There could be data coming in such
4 as incoming phone calls or incoming text messages, and incoming
5 chats and things of that nature that are not answered, per se,
6 by the user. In that case, we cannot articulate what the user
7 was doing at that time.

8 Q And you said there's a six-hour gap between that user
9 activity until there's some activity -- what is that activity
10 that follows that six-hour gap?

11 A The last user activity that I can touch up to is an
12 outgoing phone call in the call logs on May 11, 2019 at 12:51
13 p.m. That is the last outgoing activity that this user conducted
14 on this device. Everything after that is all incoming.
15 Incoming information, call log or text messages.

16 Q And as you just said, the last outgoing thing occurred
17 12 something?

18 A 12:51.

19 Q 12:51. When is the next bit of activity of any kind?

20 A Outgoing or incoming.

21 Q Any activity at all.

22 A There's -- after 12:59 p.m. -- correction. At 12:51
23 p.m., on May 11, 2019, that is the last outgoing user activity.
24 The next activity after that is an incoming call on May 11, 2019
25 at 5:43 p.m.

1 Q And again, that's incoming?

2 A That is incoming.

3 Q When is the next outgoing call after that?

4 A There is no outgoing call.

5 Q There's never an outgoing call after that?

6 A No.

7 MR. FOWLER: I have no further questions, your
8 Honor.

9 MR. SUTHERLAND: Please the Court, sir.

10 THE COURT: Yes, sir.

11

12 CROSS-EXAMINATION

13 BY MR. SUTHERLAND:

14 Q Sir, briefly.

15 A Yes, sir.

16 Q I remember in your report you had said you had tried to
17 access the phone, tried to download the phone but you were able
18 to do it initially.

19 Do you recall that?

20 A Yes. So in my notes on May 12, 2019, I obtained the
21 TCL phone request from Investigator Simpson from Columbia Police
22 Department. There was heavy damage to the screen of the device.
23 I was to able to pull the MSISDN, which is the phone number
24 associated to the SIM card. But again, the TCL or Alcatel
25 version of flip phones are the lower end phones. And the chip

1 sets at the time were not really supported, wasn't much research
2 and development.

3 Using the equipment that we had available at that time,
4 we could not bypass the swipe pattern that was available at the
5 time. It's like anything else. As technology improved, of
6 course, it's possible to do down the road. But I had a -- did
7 an update after that that Investigator Simpson provided me the
8 swipe pattern in which I was able to unlock the device.

9 Q And what was it? 1499?

10 A 13789.

11 Q Okay. 13789.

12 Did Investigator Simpson tell you that he got it from
13 the defendant or he just gave it to you?

14 A Just gave it to me. Once we obtained it -- if we
15 cannot unlock the phone, we will hold it until an update does
16 come out or until the information during the investigation
17 reveals an alternative measure.

18 Q Let me ask you about that phone and what you were able
19 to download on that.

20 Were there any GPS or location coordinates that were
21 available? I mean, because I think the iPhone is like
22 everywhere you go and when you're doing something.

23 A This -- without actually looking at the full report and
24 keep in mind, some of these cell phone forensic reports are
25 several thousands of pages long. They average anywhere from six

1 to ten and up. Without actually going in and looking at it, I
2 don't see -- based on this information right here, I don't see
3 what we call "metadata" which is data embedded in a file or
4 folder. Just based on this information that I have that was
5 given to me right now, I don't see where that is enabled. I
6 would actually need to look at the full report.

7 Q Sure thing.

8 And I think you said, was there activity on the 12th on
9 that phone or was that just when it was downloaded or when --

10 A On the 12th of May there was an incoming call.

11 Q Okay. An incoming call?

12 A Incoming call.

13 Q I think at that time it was in custody and in evidence
14 at that time?

15 A I assume.

16 Q That's fine. I want to ask you about Jevante Richmond.

17 A Sorry, sir. I don't know the names of defendants.

18 Q Okay. Wrong VanHouten, sorry.

19 MR. SUTHERLAND: No further questions, your Honor.

20 THE COURT: Redirect?

21 MR. FOWLER: Briefly, your Honor.

22

23 REDIRECT EXAMINATION

24 BY MR. FOWLER:

25 Q What time was that incoming call on May 12th?

1 A That call was at 2:42 p.m.

2 Q Could that have been because the phone had died between
3 May 11th at 12:52 and May 12th at 2:42?

4 A So if the phone is on, it would still receive
5 information, it would still receive data. If the phone had died
6 and it was powered back on, if there's something waiting in the
7 tower, per se, it could come down to the phone.

8 The issue is -- what we do, our standard procedure is
9 that we have to isolate the phone from the network. So if the
10 phone is brought to us and it is on, we put it in a Faraday box
11 which is a box that blocks all signals, so the phone cannot be
12 remotely whipped.

13 Another alternative that we use is put the phone into
14 airplane mode. If the phone is off and we get it, we do not
15 power it on until we remove the SIM card and put it in the
16 Faraday box to make sure -- or put it in airplane mode to make
17 sure that the phone is isolated from the network and no incoming
18 or outgoing data can be further enhanced on the phone.

19 In this particular instance here, I don't show where
20 the phone is either on or off when it was submitted. Nine times
21 out ten, generally, unless it's an Apple product, most phones
22 are submitted either powered down or off.

23 MR. FOWLER: No further questions.

24 MR. SUTHERLAND: No questions, sir.

25 THE COURT: Have a good day.

1 We're going to stop there for the day, ladies and
2 gentleman. It's about 5:15. I want to thank you very much
3 for your hard work today. Thank you for being on time.
4 Thank you for being ready to go.

5 As we break for the evening, I want to remind you
6 that you should not be discussing the case with anyone in
7 any way, shape or form and that includes each other. You
8 should also not be allowing anyone to speak to you about the
9 case. You should be keeping an open mind about the case.
10 And again, you should not be an investigator. It's not your
11 job to go figure out this case.

12 As I release you for the evening, I hope you have a
13 nice evening. We're going to start tomorrow morning at
14 9:30. At 9:30, if you'll be in your jury room and ready to
15 go at 9:30, we'll be here and ready to proceed.

16 Everyone else stay seated while the jury is excused
17 for the evening, thank you.

18 (Jurors exited).

19 THE COURT: Let's talk about this witness. What's
20 his name, Jevante Richmond?

21 MR. SUTHERLAND: Jevante Richmond. Yes, sir.

22 THE COURT: Let's see, does he have a rap sheet?

23 MR. SUTHERLAND: He does have a rap sheet. He's
24 currently in the federal penitentiary doing 20 years.

25 THE COURT: Okay. Let's go through the things that

1 are normally available for cross-examination. So what fits
2 under the 609 rules?

3 MR. SCOTT: A year or more within the last ten
4 years or any crime of dishonesty.

5 MR. SUTHERLAND: His sentenced ended -- a
6 seven-year sentence was -- he was sentenced or he went to
7 court before but his sentence was like a seven-year
8 sentence.

9 THE COURT: Okay. Tivis?

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: I need clear answers.

12 MR. SUTHERLAND: Yes, sir. Yes, sir.

13 THE COURT: What has he been convicted of? I think
14 the rule is in the past ten years of a crime that carries
15 more than one year in prison.

16 I just need a straight answer.

17 MR. SUTHERLAND: Well, I know he's a -- let's see.
18 He was brandishing a firearm federally in December -- no.
19 November 2019. Brandishing a firearm. A felon possessing a
20 firearm and brandishing it during a violent crime. And also
21 possession of a weapon by a -- 922(g) possession of a weapon
22 by a person convicted of a felony. He's got ten each on
23 those consecutive.

24 THE COURT: Okay. What else?

25 MR. SUTHERLAND: That's actually the only thing

1 that I'm aware of with a conviction within last ten years.

2 THE COURT: Does the State agree with that?

3 MR. SCOTT: I do, your Honor. I don't have the rap
4 sheet. I did look at -- I recall that from Tivis' email,
5 the federal plea.

6 THE COURT: He's currently in federal custody?

7 MR. SUTHERLAND: Yes, sir.

8 THE COURT: Is that correct?

9 MR. SUTHERLAND: Yes, sir.

10 THE COURT: And I assume he's going to be here
11 tomorrow?

12 MR. SCOTT: Yes, sir.

13 THE COURT: Is that correct?

14 MR. SCOTT: It is, your Honor.

15 THE COURT: So what are you asking to be able to
16 cross-examine him on?

17 MR. SUTHERLAND: Yes, sir. It was my hope to be
18 able to cross-examine him on the State charges that were
19 pending at the time -- prior to his federal plea agreement
20 was in March of 2019.

21 At the time that he did cooperate in this case, he
22 had a number of serious charges pending in both Richland and
23 Lexington County. Those cases were ultimately nolle prossed,
24 armed robbery, carjacking, attempted murder, all of it was
25 dismissed.

1 I would argue that it was pending at the time that
2 he made the statement and whether or not it was intentional,
3 he received a great benefit, by a couple hundred years or so
4 of charges being dismissed after he snitched. So it's my
5 view that he received a benefit.

6 THE COURT: When did he talk in this case?

7 MR. SUTHERLAND: Now, this is something we've been
8 trying to nail down. I know on December the 20th of 2019.
9 I've been asking them for what they have, when did it happen
10 earlier. That's the earliest date that I've got. And
11 that's why when VanHouten -- I thought it was another
12 VanHouten. I was going to ask him about that.

13 THE COURT: When did he plead guilty in federal
14 court?

15 MR. SUTHERLAND: He plead guilty in federal court,
16 I believe it was November 13, 2019. And he cooperated --
17 his plea agreement was back in March. I actually got his
18 stuff, I want to say, November 13th or 18th. And I got the
19 judgment somewhere -- it was November 13, 2019 and that was
20 judge --

21 THE COURT: He plead guilty?

22 MR. SUTHERLAND: He was sentenced. He actually
23 plead --

24 THE COURT: That's fine. I'm asking, when did he
25 sign his plea agreement?

1 MR. SUTHERLAND: The plea agreement was signed in
2 March 2019, on the 12th of March.

3 THE COURT: When did he plea?

4 MR. SUTHERLAND: He plead November 13th.

5 THE COURT: Thought you told me that's when he was
6 sentenced?

7 MR. SUTHERLAND: That's when he was sentenced.
8 Damn. I might not have that information in front of me. I
9 can actually pull up the database, Judge.

10 THE COURT: When did he talk in this case?

11 MR. SCOTT: December 20, 2019.

12 THE COURT: Okay.

13 MR. SUTHERLAND: I'm stilling trying to determine
14 if that's the earliest date. I want to know how they found
15 out, how they reached out to him, how this information came
16 to them.

17 THE COURT: I thought the way I read the federal
18 plea agreement, the federal plea agreement took into -- the
19 charges were the same charges as they were in State court;
20 is that untrue?

21 MR. SCOTT: That's my understanding.

22 MR. SUTHERLAND: Yes, sir. That's the way I view
23 the Lexington charges.

24 THE COURT: Right. So the Lexington charges --

25 MR. SUTHERLAND: It's a carjacking.

1 THE COURT: The Lexington and Richland criminal
2 charges were taken over by the Feds.

3 MR. SUTHERLAND: I believe it was the case that the
4 Feds prosecuted him for the same thing for the Lexington
5 County charges. I'm not aware that the Richland County
6 charges were involved. Actually, the Richland County
7 charges -- the Lexington charges were the 18 and the
8 Richland County charges, I believe, were 19.

9 THE COURT: What were his Richland pending charges?

10 MR. SUTHERLAND: In Richland County, armed robbery,
11 assault and battery, first degree and kidnaping.

12 THE COURT: And that was from an incident when?

13 MR. SUTHERLAND: It looks like 9/19 of '18.

14 THE COURT: Then what were his Lexington charges?

15 MR. SUTHERLAND: His Lexington charges were
16 attempted murder, possession of a weapon during a violent
17 crime, possession of a firearm by a person convicted of a
18 violent felony, discharging a firearm into a vehicle,
19 aircraft. It's a vehicle. Carjacking, armed robbery,
20 kidnapping, and unlawful carry of a pistol, possession of a
21 weapon during a violent crime. Those were the Lexington
22 County charges.

23 THE COURT: That's an incident date from when?

24 MR. SUTHERLAND: Hold on. One second, sir.

25 Sorry, Judge. It's sort of scattered everywhere.

1 I have a bunch of stuff on him. I'm sorry, Judge.

2 THE COURT: I need to know when the Lexington
3 charges --

4 MR. SUTHERLAND: What I was going to do was look
5 for the date because the Lexington charges had actually had
6 a hold on him in Richland County for a year. And Lexington
7 didn't bring him over until '21. Then they served warrants
8 on him and then they dismissed them.

9 Actually the date of arrest in Lexington is in '21.
10 The date of the offense though was 2018. They did not serve
11 the warrants on him while he was in Richland jail. They
12 brought him over later.

13 THE COURT: Can somebody tell me when the Lexington
14 charges are from?

15 MR. SUTHERLAND: 5/5/21 arrest date.

16 THE COURT: I don't want to know when he was
17 arrested.

18 MR. SUTHERLAND: Yes, sir. August 3, 2018.

19 THE COURT: August of '18?

20 MR. SUTHERLAND: Yes, sir. August 3, 2018.

21 THE COURT: Okay. Good. Okay.

22 Now, does the federal charges. Do they cover the
23 Richland charges, the Lexington charges or both?

24 MR. SUTHERLAND: I see the Lexington charges in the
25 federal indictment.

1 THE COURT: So the Lexington charges are in the
2 federal indictment.

3 MR. SUTHERLAND: Yes, sir.

4 THE COURT: And that federal indictment is what he
5 ends up getting 20 years on?

6 MR. SUTHERLAND: Yes, sir. One count of just 922
7 (g) and another count of brandishing a weapon during a
8 violent crime.

9 Yes, sir.

10 THE COURT: Okay. You can clearly ask him about
11 his conviction in federal court.

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: That's fair game.

14 What else do you want to ask him about?

15 MR. SUTHERLAND: I hope to ask him about the
16 charges that were pending against him at the time that he
17 cooperated.

18 THE COURT: The only charges that would still be
19 pending against him in December of 2019 were what?

20 MR. SUTHERLAND: He actually had a hold at the jail
21 from Lexington County but he's got an armed robbery in
22 Richland County, assault and battery, first, kidnapping in
23 Richland County.

24 THE COURT: When were those dismissed?

25 MR. SUTHERLAND: Those were dismissed, I believe

1 three or four months after -- I can look that up, sir --
2 maybe March of '20, but I can't be certain about it.
3 3//16/20.

4 THE COURT: Okay. Did the disposition sheets from
5 Richland say anything on them about why the charges were
6 dismissed?

7 MR. SUTHERLAND: One says nolle pros indicted,
8 dismissed if not indicted, and dismissed if not indicted,
9 nolle pros dismissed as well.

10 THE COURT: But no explanation?

11 MR. SUTHERLAND: No, sir.

12 THE COURT: So you want to ask him -- and I'm
13 paraphrasing obviously, you get the gist of what I'm saying.
14 Isn't it true that when you cooperated in this case, in
15 December of 2019, you had an armed robbery, an assault and
16 battery first and a kidnapping pending in Richland County?

17 MR. SUTHERLAND: Yes, sir.

18 THE COURT: Isn't it true that those charges were
19 dismissed in March of 2020?

20 MR. SUTHERLAND: Yes, sir.

21 THE COURT: And isn't it true the total you were
22 facing were 30, 40, 60?

23 MR. SUTHERLAND: Yeah. So 60 plus years --

24 THE COURT: 60 years in prison on those charges?

25 MR. SUTHERLAND: Right. It's always the A and B

1 first and two 30-year charge.

2 So I'd be like, so you were looking at 70 years
3 when you snitched, right?

4 THE COURT: Okay. What else do you want to ask him
5 about unconvicted conduct?

6 MR. SUTHERLAND: Well, I hoped to ask him about all
7 of the State charges that were pending against him at same
8 time.

9 THE COURT: And the Lexington charges were clearly
10 part of the federal plea?

11 MR. SUTHERLAND: Yes, sir. That is the case.

12 THE COURT: So I don't know that that's a fair.

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: I don't know that that's accurate, that
15 his Lexington case got dismissed because he cooperated if he
16 plead to the conduct that covered that timeframe in federal
17 court. And we all know, under federal court rules, relevant
18 conduct would all come in. So that's why he got 20 years on
19 a simple gun charge.

20 MR. SUTHERLAND: Yes, sir. I actually remember
21 talking to you about it. It makes sense. You know, I
22 always want to be aggressive and go after guys as much as I
23 can.

24 THE COURT: I understand and I'm not saying no.
25 I'm just trying -- that's why I needed to know the small

1 details on the dates to understand. If he went and plead to
2 some unrelated case in federal court and that had nothing to
3 do with the Lexington charges, that would be different than
4 if the charges he plead to in federal court were the
5 Lexington factual scenarios.

6 MR. SUTHERLAND: Yes, sir.

7 THE COURT: They kicked it after he got 20 years.
8 Right?

9 MR. SUTHERLAND: Actually, I talked to Luke over
10 there. And he's like, I just remember he got a bunch of
11 federal time and we dismissed it.

12 THE COURT: Luke and Shelly?

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: What are your thoughts on what we're
15 talking about?

16 MR. SCOTT: I feel like he needs to draw some kind
17 of -- with the Richland charges. He needs to draw like some
18 kind of correlation between the dismissal and the charges
19 here and government cooperation from linkage. And
20 perhaps -- I just looked. Carter Potts was assigned that
21 case. The fact that it was a dismissed could have been for
22 any number of reasons.

23 We could proffer some testimony from Mr. Potts in
24 the morning outside the presence of the jury perhaps to see
25 if federal cooperation in any way played into the dismissing

1 of charges or a deficiency of evidence perhaps or any number
2 of reasons. So I think there would need to be -- and in
3 order to go down that line of cross-examination, some
4 correlation between the government cooperation and the
5 benefit of having those charges dismissed.

6 MR. SUTHERLAND: And I may have one that he was
7 being prosecuted by this office on those charges at the same
8 time that he was cooperating in these cases here, then it
9 was dismissed. They were prosecuting him and cooperating
10 with him at the same time. And ultimately it looks like the
11 cooperation won. But whatever we have, we have charges that
12 are dismissed.

13 THE COURT: You just jumped through about three
14 speculations.

15 MR. SUTHERLAND: Yes, I always do that. Sorry
16 about that, your Honor.

17 THE COURT: We're going to need to take up --
18 Carter is going to have to be here in the morning. He will
19 need to testify outside of the presence of the jury as to
20 why he dismissed these Richland charges. That's one thing.

21 The second thing is, we're going to have to ask
22 Mr. Richmond the same questions not in the room at the same
23 time. Outside the presences of the jury. Because if
24 Mr. Richmond believed that his Richland charges got
25 dismissed because of his cooperation, then it -- there could

1 be a correlation even if there's no correlation; right?

2 If in his mind he got those charges kicked because
3 he was -- the Richland charges dismissed. I'm sorry. I'm
4 talking in slang because I've known y'all for so long, I
5 just feel like -- like we're having a conversation in the
6 hallway.

7 So if Mr. Richmond believes that the Richland
8 charges were dismissed because of his cooperation, then that
9 can make him fair game regardless of what Mr. Potts says.

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: So we'll need to take both of those up
12 for that limited purpose outside of the presences of the
13 jury. But as to the federal charges, you can -- and he
14 signed a plea agreement, he can go into whatever a 5K is or
15 a Rule 35 or --

16 MR. SUTHERLAND: Yes, sir.

17 THE COURT: -- you know, all that kinds of stuff.
18 You're allowed to question him about, don't you want to get
19 your sentence reduced and don't you want to get home sooner,
20 and all that kind of stuff.

21 MR. SUTHERLAND: Didn't you cooperate as it
22 appears? I'm still trying to nail it down. They're helping
23 me to the degree they can.

24 THE COURT: How do we not know how y'all got to
25 him? That's my question?

1 MR. SCOTT: Officer Simpson might have some insight
2 on that.

3 THE COURT: How did you know, did you interview
4 Mr. Richmond?

5 MR. SIMPSON: Yes, your Honor, I did.

6 THE COURT: How did you know to go interview him?

7 MR. SIMPSON: I got reached out to because he
8 mentioned that he had some information about the homicide.
9 It initially went to Richland County. I'm not sure who at
10 their agency, they passed it to us once they realized it was
11 a CPD case. And I got involved because I was the lead
12 investigator.

13 THE COURT: So --

14 MR. SIMPSON: He just basically told them that he
15 had investigation information and he wanted to speak to the
16 lead investigator about a homicide.

17 THE COURT: And do you know, ballpark, when that
18 was?

19 MR. SIMPSON: So I spoke to him December 20, 2019,
20 that's when I spoke to him. It was about a week and a half
21 to two weeks prior to that because I had to adjust my
22 schedule and arrange for travel to go to him. So it was
23 about a two-week time period.

24 THE COURT: And where was he?

25 MR. SIMPSON: He was in Georgia, at a penitentiary

1 in Georgia. Exact address --

2 THE COURT: No, I don't need the exact address. I
3 was just looking for a ballpark.

4 Does that help answer some of your questions?

5 MR. SUTHERLAND: It does because I didn't want to
6 go in front of the jury in openings and just say, he just
7 talked to these people after he got all this time federally,
8 when he may have talked to them before. And he also talking
9 about supposedly conversations that occurred in June. So
10 before I hung it out there in front of the jury --

11 THE COURT: No. No. That's why I did it.

12 MR. SUTHERLAND: Yes, sir.

13 THE COURT: I don't want you just to be flying
14 blind either. So yeah. But okay.

15 But your understanding is that Mr. Richmond or
16 somebody on his behalf reached out to Richland County saying
17 they had information on a homicide. Richland County
18 realizes it's not ours. Somehow that gets transmitted to
19 y'all. They look it up. They see you're the investigator.
20 They give you the information. And you, over a reasonable
21 period of time -- obviously you can't drop everything you're
22 doing sometimes and go places -- eventually make it so
23 Mr. Richmond and interview him. And I assume that there's
24 notes or something of that interview that's been turned
25 over?

1 MR. SCOTT: Yes, sir.

2 THE COURT: Does that help?

3 MR. SUTHERLAND: Sir? Yes, sir. That helps.

4 That's actually good.

5 THE COURT: Okay. Why don't we start -- what time
6 will Mr. Richmond -- tell me what your plan is for tomorrow
7 on witnesses.

8 MR. SCOTT: We've got a number of witnesses before
9 we get to him.

10 THE COURT: Okay.

11 MR. SCOTT: I've got -- call it, the defendant and
12 the projectile from the wounds. They made him turn it over
13 at the jail. I've got that CO who retrieved that from him.
14 I've got Rachel Grant, the DNA analyst. We've got the
15 pathologist, Darren Monroe and Chad Smith is a firearms
16 analyst at SLED. So we've got a number of other witnesses I
17 can call before we get to Mr. Richmond.

18 THE COURT: So why don't we tell Mr. Potts to be
19 here at 9:15. We can get him out of the way. And then we
20 just need to make sure we take a break or take a lunch break
21 or something. Then we can deal with Richmond outside the
22 presence of the jury prior to doing that.

23 MR. SCOTT: It would be after lunch.

24 THE COURT: Is that fair enough? Is that good?

25 MR. SCOTT: That's good.

1 THE COURT: Is that all of your witnesses?

2 MR. SCOTT: There might be a couple internal chain
3 people that -- hopefully I can kind of work around those but
4 those are all our substantive ones.

5 THE COURT: Gotcha. You good?

6 MR. SUTHERLAND: Yes, sir.

7 THE COURT: Y'all good?

8 MR. SCOTT: Yes, sir. I'm good.

9 THE COURT: 9:15, see you then.

10 (Whereupon, Day 2 in the State of South Caroline v.
11 Genari McNeil was concluded, March 21, 2023.)
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1 (Whereupon, State of South Carolina v. Genari
2 McNeil commenced Day 3, March 22, 2023.)

3 THE BAILIFF: Court come to order.

4 THE COURT: Have a seat. Thank you.

5 All right. We're back on the record in State vs.
6 McNeil. We're here a little early this morning to take
7 testimony from Mr. Potts.

8 Mr. Potts, come on up and be sworn.

9 MR. SCOTT: Judge, this may be a moot point.

10 THE COURT: Okay.

11 MR. SCOTT: I didn't think we were going to call on
12 the guy.

13 THE COURT: Okay.

14 MR. SCOTT: Apparently they are calling --

15 THE COURT: Okay. Curtis is here early. He gets
16 three extra stars for being -- I mean, Carter's here early.
17 He gets three extra stars for being here early.

18 All right. You're not calling Richmond?

19 MR. SCOTT: No, sir.

20 THE COURT: Is that right? So we've mooted that
21 issue.

22 All right. Carter, enjoy your day. Thank you very
23 much.

24 MR. CARTER: Thanks, your Honor.

25 MR. SCOTT: Can this witness be excused?

1 THE COURT: No, take him into custody. Just
2 kidding.

3 All right. All the jurors are here. Do y'all want
4 to go ahead and get rolling? Do you have your first witness
5 here?

6 MR. SCOTT: We do.

7 MR. SUTHERLAND: Judge -- just briefly, your Honor.
8 I expressed some concern last night, whenever it was, you
9 know, speaking about the snitch testifying.

10 When their DNA expert testifies, they also mention
11 another person as one of the swabs and one of the test
12 subjects that wasn't charged and is not on trial.

13 I would ask that they not talk about people who
14 aren't on trial or people who haven't been arrested in this
15 case with the DNA expert.

16 THE COURT: Okay.

17 MR. SUTHERLAND: Just him and the other people
18 involved.

19 THE COURT: Well, what are your thoughts on that?

20 MR. SCOTT: I'm trying Genari McNeil. The only DNA
21 result I produced will be his DNA --

22 THE COURT: Okay.

23 MR. SCOTT: -- found at the scene of the crime.

24 THE COURT: Okay. So you told the agent or whoever
25 it is, don't be talking about the other people?

1 MR. SCOTT: I'm only going to fashion my questions
2 when we talk about Genari McNeil, whose DNA was at the crime
3 scene.

4 THE COURT: Okay. Great.

5 THE COURT: Let's bring the jury in.

6 (Jurors entered.)

7 THE BAILIFF: Jurors have been seated, your Honor.

8 THE COURT: Welcome back, ladies and gentlemen.
9 Thank you very much for being on time. We're still in the
10 State's case. And the State may call their next witness.

11 MR. SCOTT: The State calls Dr. Darren Monroe.

12 THE COURT: All right. Come on up, Dr. Monroe.

13
14 D-A-R-R-E-N M-O-N-R-O-E, PH.D., the Witness herein, having been
15 sworn by the Clerk of Court, was examined and testified as
16 follows:

17
18 MADAM CLERK: Please have a seat in the witness
19 stand and state your name for the record.

20 THE WITNESS: Darren Monroe.

21
22 DIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q Dr. Monroe, what do you do for a living?

25 A I am a forensic pathologist here in Columbia.

1 Q Would you explain to the jury what a forensic
2 pathologist does.

3 A Yes. So a forensic pathologist is a medical doctor who
4 specializes in pathology which is just using our medical
5 knowledge to diagnose disease and injury. And forensic
6 pathology is a subspeciality of that where we perform autopsies
7 to determine the cause and manner of death.

8 Q Autopsies. Would you describe what an autopsy is?

9 A An autopsy is where we examine the deceased body both
10 inside and out and look for anything that's abnormal, any sort
11 of natural disease and any sort of injuries they might have.

12 Q Approximately how many autopsies have you performed?

13 A Several thousands.

14 Q And you've been qualified as an expert in forensic
15 pathology?

16 A Yes, I have.

17 Q Approximately how many times?

18 A Around 20.

19 Q 20 times?

20 A Uh-huh (affirmative response.)

21 Q And I've qualified you as an expert in pathology a
22 number of times, haven't I?

23 A Yes.

24 MR. SCOTT: Your Honor, the State does offer Darren
25 Monroe as an expert in forensic pathology.

1 MR. SUTHERLAND: No objections.

2 THE COURT: Okay. Normally, witnesses can't give
3 their opinions or their conclusions. There's an exception
4 for witnesses who by some training or education become an
5 expert in some field or some science. So they're allowed to
6 give their opinion and they're allowed to give their basis
7 for that opinion.

8 So Dr. Monroe will be qualified as an expert in the
9 area forensic pathology. That means that he will be allowed
10 to give his opinion in that area. That doesn't mean that
11 you have to accept his opinion. But it's evidence for you
12 to use in any way that you see fit. And you give it the
13 weight and credibility that you believe is appropriate, just
14 as you should do with each and every witness that comes
15 before you.

16 Q (By Mr. Scott) Dr. Monroe, on May 12, 2019, did you
17 have occasion to perform an autopsy on Jahquan Peterson?

18 A Yes, I did.

19 Q What was the listed age of Mr. Peterson?

20 A 26.

21 Q And what were your initial observations of
22 Mr. Peterson?

23 A Mr. Peterson had multiple gunshot wounds is the main
24 thing.

25 (State's Exhibit 88, Autopsy Diagram, marked for

1 identification.)

2 Q (By Mr. Scott) This is State's Number 88.

3 Do you recognize this?

4 A Yes, I do.

5 Q And what is this?

6 A That is a copy of the autopsy diagram that we used
7 during this case.

8 Q Is that typical, that you draft one of these whenever
9 you perform an autopsy or before you perform an autopsy?

10 A During, yes.

11 Q And does it sort of list out the locations of the
12 gunshot wounds that you observed?

13 A Yes. Several of the diagrams show the locations of the
14 gunshot wounds.

15 MR. SCOTT: That State offers State's 88 admission
16 into evidence.

17 MR. SUTHERLAND: Just the diagram?

18 MR. SCOTT: Uh-huh (affirmative response.)

19 MR. SUTHERLAND: No objection.

20 THE COURT: 88 is admitted without objection.

21 (State's Exhibit 88, Autopsy Diagram, entered into
22 evidence.)

23 Q (By Mr. Scott) I want to start with what you have
24 listed as a gunshot wound of the left anterior chest area.

25 Doctor, can you see that from there?

1 A Yes.

2 Q What were your observations of Gunshot Wound A?

3 A So Gunshot Wound A entered, as you can see on the
4 diagram there, kind of in the left lower anterior of the chest
5 area. No projectile after it went through the skin. Went
6 through bowel and mesenteries so some of your intestines. And
7 mesenteries is just some of the tissue that holds the intestines
8 in place and gives it blood supply.

9 Q What was the general trajectory?

10 A The general trajectory was front to back, down and left
11 to right.

12 Q You said it didn't have an exit?

13 A Yes. It exited through the lower back.

14 Q That's marked as "F"?

15 A Correct.

16 Q So it enters his chest just under his left nipple and
17 then it exits the lower right back?

18 A That's correct.

19 (State's Exhibit 81, Autopsy Photograph, marked for
20 identification.)

21 Q (By Mr. Scott) I'll show you State's 81.

22 Do you recognize that picture?

23 A Yes.

24 Q What is that?

25 A This is a picture of the entrance Gunshot Wound A.

1 Q And that's how you observed it?

2 A Yes.

3 MR. SCOTT: Your Honor, the State offers State's 81
4 for admission into evidence.

5 MR. SUTHERLAND: No objection.

6 THE COURT: 81 without objection.

7 (State's Exhibit 81, Autopsy Photograph, entered
8 into evidence.)

9 Q (By Mr. Scott) In your expert opinion, would this have
10 been an immediately fatal gunshot wound?

11 A This would not have been immediately fatal.

12 Q You said it would have traveled through his intestines
13 and then exited out his back?

14 A Yes.

15 Q What was the next gunshot wound in your list and final
16 anatomical diagnoses?

17 A Gunshot Wound B.

18 Q Is this Gunshot Wound B that I'm pointing to?

19 A Yes, it is.

20 Q Would you describe the nature of that wound?

21 A Gunshot Wound B entered, as you can see on the diagram,
22 the left lower abdomen area. That also went through bowel,
23 intestine and mesentery as well and then some of the soft
24 tissues of the back. And that projectile was actually
25 recovered.

1 Q You did recover that projectile that caused that wound?

2 A Yes.

3 (State's Exhibit 78, Autopsy Photograph, marked for
4 identification.)

5 (State's Exhibit 80, Autopsy Photograph, marked for
6 identification.)

7 Q (By Mr. Scott) Let me show you State's 80 and State's
8 78.

9 Do you recognize those two?

10 A Yes, I do.

11 Q It looks like 80 has both A and B wounds in it?

12 A Yes, it does.

13 Q And then 78 is more focused on Wound B?

14 A Correct.

15 Q Those are, as you observed them, on May 12, 2019?

16 A Yes.

17 MR. SCOTT: The State offers State's 78 and 80 for
18 admission into evidence.

19 MR. SUTHERLAND: No objection, sir.

20 THE COURT: State 78 and State's 80, without
21 objection, both. Thank you.

22 (State's Exhibit 78, Autopsy Photograph, entered
23 into evidence.)

24 (State's Exhibit 80, Autopsy Photograph, entered
25 into evidence.)

1 Q (By Mr. Scott) What was the general trajectory of B?

2 Did I already ask that?

3 A No. You asked for the trajectory of A.

4 Q All right. B, what would be the trajectory of B?

5 A The trajectory of B was front to back, up and slightly
6 left to right.

7 Q Gunshot Wound B, would it have killed Mr. Peterson
8 immediately in your opinion?

9 A This would not have killed him immediately.

10 Q What was the next thing that you have on your list of
11 gunshot wounds of Mr. Peterson?

12 A Gunshot Wound C.

13 Q Would you describe that one?

14 A Gunshot Wound C was entered through the lateral aspect
15 of the left thigh. Just the left side of the left thigh. It
16 went through just the skin and soft tissues of the leg and
17 potentially it went through the bowel. And it was recovered
18 from within the pelvis area.

19 Q B and C were both recovered?

20 A Yes.

21 (State's Exhibit 77, Autopsy Photograph, marked for
22 identification.)

23 Q (By Mr. Scott) This is State's 77.

24 Do you recognize that?

25 A Yes.

1 Q Is that Gunshot Wound C?

2 A Yes, it is.

3 MR. SCOTT: Did I offer State's 77 for admission.

4 MR. SUTHERLAND: I don't believe so.

5 THE COURT: You did not.

6 MR. SCOTT: 77 is offered for admission into
7 evidence.

8 MR. SUTHERLAND: No objection.

9 THE COURT: 77 is admitted without objection.

10 (State's Exhibit 77, Autopsy Photograph, entered
11 into evidence.)

12 Q (By Mr. Scott) This is a gunshot wound to his thigh.
13 Would that have killed Mr. Peterson immediately?

14 A No, it would not have.

15 Q And the trajectory of Gunshot Wound C is what?

16 A The trajectory of Gunshot Wound C is up and left to
17 right.

18 Q And that would have hit him here in the hip and then
19 traveled up through his body?

20 A That's correct.

21 Q Moving on to Gunshot Wound 4, that is labeled "D"?

22 A Yes.

23 Q Can you describe that one.

24 A Gunshot Wound D entered in the inner part of the right
25 lower leg. And I believe that's on the other diagram.

1 Q So it entered the inside, around his calf of the right
2 leg?

3 A That's right.

4 (State's Exhibit 83, Autopsy Photograph, marked for
5 identification.)

6 (State's Exhibit 85, Autopsy Photograph, marked for
7 identification.)

8 Q (By Mr. Scott) This is State's 83 and 85.

9 Do you recognize these?

10 A Yes, I do.

11 Q What are those?

12 A 85 is a picture of Gunshot Wound D and 83 is the exit.

13 Q Gunshot Wound D went into the inner part of his leg and
14 out the back, would that be right?

15 A Out the backside of the leg, yes.

16 MR. SUTHERLAND: No objection, sir.

17 MR. SCOTT: State would offer 83 and 85, your
18 Honor.

19 THE COURT: State's 83 and 85 are admitted without
20 objection.

21 (State's Exhibit 83, Autopsy Photograph, entered
22 into evidence.)

23 (State's Exhibit 85, Autopsy Photograph, entered
24 into evidence.)

25 Q (By Mr. Scott) What was the trajectory of D?

1 A The trajectory of D was left to right, slightly up and
2 slightly front to back.

3 Q And this is Gunshot Wound D, the entry wound; is that
4 right?

5 A Yes.

6 Q And that's shown in State's 85.

7 And 83, you said, was the exit wound; is that correct?

8 A Yes.

9 Q Let me ask you this, since I asked you for the other
10 ones. Was that immediately fatal to Mr. Peterson?

11 A No, it was not.

12 Q In your professional opinion, did you come to the
13 conclusion of the manor of death of Mr. Peterson?

14 A The manor of death for this case would be homicide.

15 Q And the cause of death?

16 A The cause of death is multiple gunshot wounds of the
17 torso.

18 Q So if he didn't die immediately, how did Mr. Peterson
19 die?

20 A Like I said earlier, two of the gunshot wounds and
21 possibly three of them, hit parts of the bowel, the intestines,
22 and also part of the mesentery which provides the blood flow to
23 the bowel. And so basically he bled extensively internally. So
24 it was a loss of blood.

25 Q He bled to death?

1 A Effectively, yes.

2 Q Due to gunshot wounds?

3 A Correct.

4 Q And if somebody hadn't shot him, he'd very well be
5 alive today. Is that your opinion?

6 A Yes.

7 Q He was killed by gunshot wounds that led to him
8 bleeding to death?

9 A Yes.

10 Q You recovered two projectiles from Mr. Peterson?

11 A Correct.

12 Q That same day, did you have occasion to perform an
13 autopsy on Mary Carmichael?

14 A Yes, I did.

15 Q Her listed age was what?

16 A 23.

17 Q What were your initial observations of Ms. Carmichael?

18 A Ms. Carmichael had a gunshot wound in the face.

19 Q Would you point generally to where that gunshot wound
20 was?

21 A It was right below the left eye, about right here.

22 (State's Exhibit 89, Autopsy Diagram, marked for
23 identification.)

24 Q (By Mr. Scott) This is State's 89.

25 Do you recognize that?

1 A Yes, I do.

2 Q What is that?

3 A This is a diagram from the autopsy showing the gunshot
4 wound to her face.

5 Q So we were just looking at the diagram for
6 Mr. Peterson. This is one you've done for Ms. Carmichael?

7 MR. SUTHERLAND: No objection, sir.

8 DR. MONROE: Yes.

9 MR. SCOTT: State offers State's 89 for admission
10 into evidence, your Honor.

11 THE COURT: 89 is admitted without objection.

12 (State's Exhibit 89, Autopsy Diagram, entered into
13 evidence.)

14 Q (By Mr. Scott) Was this the sole gunshot wound you
15 observed for Ms. Carmichael?

16 A Yes, it was.

17 Q And you've got it on here, in the general location on
18 your State's 89 diagram?

19 A Yes.

20 Q What was the trajectory of this gunshot wound?

21 A This gunshot wound went down and front to back.

22 MR. SUTHERLAND: No objections.

23 Q (By Mr. Scott) Were you able to recover a projectile
24 for Ms. Carmichael?

25 A Yes, I did.

1 Q Was her wound, in your professional opinion, would it
2 have been consistent -- trajectory, that is -- Let me ask you
3 this: Where was it recovered? Where was the location of that
4 bullet found in Ms. Carmichael?

5 A The projectile in this case was recovered from the left
6 upper back adjacent to the vertebral column.

7 (State's Exhibit 87, X-ray, marked for
8 identification.)

9 Q (By Mr. Scott) This is State's 87.
10 Do you recognize this?

11 A Yes, I do.

12 Q What is that?

13 A This is an x-ray that we take at the beginning of the
14 autopsies in cases where there's gunshot wounds or potential
15 gunshot wounds and it shows the location of the projectile.

16 MR. SCOTT: State offers State's 87 without
17 objection from the defense, your Honor, for admission into
18 evidence.

19 THE COURT: 87 is admitted without objection.

20 (State's Exhibit 87, X-ray, entered into evidence.)

21 Q (By Mr. Scott) This is an x-ray of Ms. Carmichael.

22 A Yes.

23 Q What is this object we see here in the lower left
24 portion of State's 87?

25 A That's the projectile.

1 Q The left eye. Is that right?

2 A Just below her left eye.

3 Q The left eye?

4 A That's where it entered (indicating).

5 Q Recovered out of her upper left back?

6 A Yes.

7 Q And the trajectory again, you said was, I guess as a
8 person stands, it would be a downward trajectory?

9 A As the person stands, it would be down and front to
10 back. The trajectories that we use in our autopsy reports to
11 report our basic anatomic position which is just a person
12 standing up.

13 Q And in your professional opinion, would this trajectory
14 possibly be achieved if somebody was on a second level of a
15 building, looking down at somebody and being fired at from a
16 lower level?

17 A It's a potential.

18 Q If Ms. Carmichael had been on a second floor of a room
19 looking down at somebody, the bullet could have come from down
20 below, entered under her left eye, traveled through her neck and
21 come to rest in her upper left back?

22 A It could have.

23 Q Did you establish a cause of death for Ms. Carmichael?

24 A Yes. Cause of death for Ms. Carmichael was a single
25 penetrating gunshot wound of the head.

1 Q And a homicide in your opinion?

2 A Yes.

3 Q And was her death immediate in your professional
4 opinion?

5 A This was like an almost immediate death.

6 (State's Exhibit 107, Projectiles, marked for
7 identification.)

8 Q (By Mr. Scott) This is State's 107.

9 Do you recognize these? What that is? You can look on
10 the back too.

11 A Yes.

12 Q What are those?

13 A These are the recovered projectiles from both
14 autopsies.

15 Q That would be two projectiles that you pulled out of
16 Mr. Peterson and one that you pulled out of Ms. Carmichael?

17 A Yes.

18 MR. SCOTT: Your Honor, the State offers State's
19 107 for admission into evidence.

20 MR. SUTHERLAND: No objections.

21 THE COURT: 107 without objection.

22 (State's Exhibit 107, Projectiles, entered into
23 evidence.)

24 MR. SCOTT: Thank you, Dr. Monroe. Please answer
25 any questions Mr. Sutherland has.

1

2

CROSS-EXAMINATION

3

BY MR. SUTHERLAND:

4

Q With respect to this particular gunshot wound here to

5

Ms. Carmichael, the trajectory is from the eye and down and out

6

the back?

7

A The trajectory, if you're standing up like you are,

8

yes.

9

Q Yes, sir.

10

Thank you.

11

A It's down and slightly -- like I said, front to back as

12

well.

13

Q Just there to there (indicating)?

14

A Pretty much.

15

MR. SUTHERLAND: Thank you.

16

No further questions, your Honor.

17

THE COURT: Redirect?

18

MR. SCOTT: None, your Honor.

19

THE COURT: Thank you, Doctor. Have a nice day.

20

Good to see you again.

21

Who's next?

22

MR. FOWLER: Your Honor, the State calls Johnette

23

Pinckney.

24

THE COURT: Are you Ms. Pinckney?

25

MS. PINCKNEY: Yes, sir.

1 THE COURT: Come on up, right here.

2

3 J-O-H-N-E-T-T-E P-I-N-C-K-N-E-Y, the Witness herein, having been
4 sworn by the Clerk of Court, was examined and testified as
5 follows:

6

7 MADAM CLERK: Please have a seat in the witness
8 stand and please, spell your first name.

9 MS. PINCKNEY: J-O-H-N-E-T-T-E.

10 THE COURT: Ms. Pinckney, you'll have to remove
11 your mask please. Thank you.

12

13 DIRECT EXAMINATION

14 BY MR. FOWLER:

15 Q Thank you for being here Sergeant Pinckney.

16 A Yes, sir.

17 Q Where do you work?

18 A Alvin S. Glenn Detention Center.

19 Q Were you working at the Alvin S. Glenn Detention Center
20 back in 2019?

21 A Yes, sir.

22 Q What were your duties at Alvin S. Glenn in 2019?

23 A I was a sergeant also.

24 Q Now I want to direct you specifically to, I think June
25 9, 2019. Where were you?

1 A I was working security, but that day it was -- I was
2 also doing medical.

3 THE COURT: I need you to get a little closer to
4 the microphone, please.

5 Q (By Mr. Fowler) What were you doing in medical?

6 A I was in medical. The sergeant there called because
7 somebody was -- it was a disturbance in medical.

8 Q Did you have occasion to observe the defendant, Genari
9 McNeil, in medical that day?

10 A Yes, sir.

11 Q What was he doing?

12 A He was sitting in medical and I was talking to him.
13 And while I was talking to him, something fell on the floor and
14 I asked him what it was?

15 Q What was his response?

16 MR. SUTHERLAND: Your Honor, there's been no *Denno*
17 hearing on the custodial statements here. So I would object
18 to it.

19 THE COURT: Do you want a *Denno* hearing on it?

20 MR. SUTHERLAND: If they intend to introduce it, I
21 believe so. Yes, sir.

22 THE COURT: Okay. Are you going to ask her what he
23 said?

24 MR. FOWLER: I plan to, your Honor.

25 THE COURT: All right. Ladies and gentlemen, let's

1 step back to your room. Do not discuss the case and keep an
2 open mind. Thank you very much.

3 (Jurors exit.)

4 THE COURT: Keep going. The jury is out of the
5 room.

6 Q (By Mr. Fowler) As you said, Mr. McNeil was in medical?

7 A Yes, sir.

8 Q And he made several statements to you?

9 A Yes, sir.

10 Q Can you tell us what those statements were, very
11 briefly.

12 A When I asked him what was in his hand, at first, he
13 told me it was nothing. Then I was asking him what was he doing
14 with it and why did he have it? And he was like, it fell out of
15 his leg. And I was asking him, why did he have it?

16 And he said, "It fell."

17 And I asked him, "What was it?"

18 And I talked to him for a little while. Gave him some
19 directive to give it to me, and then he -- actually, he finally
20 gave it to me.

21 When he gave it to me, I asked him what it was for and
22 I asked him why did he have it?

23 And he was like, "Shit, God damn, it's mine."

24 THE COURT: He was like what?

25 MR. FOWLER: "Shit, God damn, it's mine."

1 THE COURT: Okay.

2 Q (By Mr. Fowler) What was the reason that you asked him
3 what it was?

4 A I thought it was contraband or something that he had in
5 the unit or whatever. I didn't know exactly what it was.

6 Q Why is it important for inmates to not have --

7 THE COURT: We'll we're outside the presence of the
8 jury, I can surmise by myself. Keep going.

9 MR. FOWLER: Okay.

10 Q (By Mr. Fowler) Did you coerce him in anyway to make
11 those statements?

12 A No, sir.

13 Q Were you trying to incriminate him of any crime when
14 you asked him of those statements?

15 A No, sir. I wasn't.

16 Q Just a couple kind of obvious questions --

17 THE COURT: What is it?

18 MR. FOWLER: I'm sorry, your Honor.

19 THE COURT: What did you collect from him?

20 THE WITNESS: It was like a little piece of metal.

21 THE COURT: Okay.

22 MR. FOWLER: It's a bullet, your Honor.

23 THE COURT: Did you charge him with contraband?

24 THE WITNESS: Yes, sir. I did.

25 THE COURT: You did?

1 THE WITNESS: I did.

2 THE COURT: What's the status of that charge?

3 THE WITNESS: Oh, that's an inhouse charge with the
4 jail.

5 MR. FOWLER: Internal.

6 THE COURT: Was he prosecuted for that charge.

7 THE WITNESS: No, sir. He just did some prehearing
8 dates and that was it.

9 MR. SUTHERLAND: Briefly, your Honor.

10 THE COURT: I'm failing to see how it's
11 inculpatory.

12 MR. SUTHERLAND: Okay. Well, I believe the
13 testimony was, she was responding to an emergency, that she
14 was responding to a disturbance in security and so it would
15 be my view that he was definitely in custody in the jail.
16 It would be my view --

17 THE COURT: I think there's no dispute that he's in
18 custody. The issue is, how does him saying it fell out of
19 his leg and that it's nothing, is it inculpatory? It's not
20 a confession.

21 MR. SUTHERLAND: He was not charged with it, sir.
22 It's still -- it's 404(b) of bad character evidence.

23 THE COURT: Is it a bullet that came out of his
24 body?

25 MR. SUTHERLAND: It's a bullet that came out of his

1 body. Yes, sir.

2 THE COURT: I don't understand how that's bad
3 character evidence. He got -- I mean, your defense is that
4 he didn't get shot.

5 MR. SUTHERLAND: No. No, it's not.

6 THE COURT: Right. Everybody in the room knows he
7 got shot multiple times.

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: Is there some forensics that matches
10 this bullet to a gun that was there?

11 MR. FOWLER: Not to a gun that was there but
12 there's some forensic value to the bullet.

13 THE COURT: Explain that to me.

14 MR. FOWLER: The projectiles that Mr. Scott just
15 got introduced from the victims --

16 THE COURT: Yeah.

17 MR. FOWLER: -- match as coming from the same gun.
18 And the projectiles that came from Mr. McNeil's leg comes
19 from a different gun.

20 MR. SUTHERLAND: If they've matched the projectiles
21 to the firearms, I do not have that.

22 MR. FOWLER: We have not matched the projectiles to
23 firearms. We just have the ballistics expert who can say
24 that the two projectiles from the victims came from a gun
25 and that gun fired both those bullets.

1 Just as he can say a gun fired this bullet, but it
2 is not the same gun that fired the two bullets in the
3 victims.

4 THE COURT: But it's not a match?

5 MR. FOWLER: No, sir.

6 MR. SUTHERLAND: Yes, sir. It is not a match.

7 Then as far as evidentiary value in this case is
8 him giving that over. They intend to use that to say well,
9 it's a different firearm, so -- these are from different
10 firearms so he must be guilty of a crime or something like
11 that. I would say it is potentially inculpatory in this
12 case if they intend to use it as forensic evidence.

13 THE COURT: How does he admit to anything other
14 than the fact that he's got a projectile that came out of
15 his body?

16 MR. FOWLER: Judge, I would say the giving of the
17 bullet is not an incriminatory statement. It's not a
18 statement at all. And as you said, the statements he made
19 aren't all that inculpatory --

20 THE COURT: He says nothing and then "it fell out
21 of my leg."

22 MR. SUTHERLAND: There's one sentence in her report
23 that initially is inculpatory, if she testifies to it, where
24 he supposedly said, "I don't want this to get to the
25 police."

1 THE COURT: Okay.

2 MR. SUTHERLAND: And he wasn't warned about that.
3 And it is potentially inculpatory, I think it is inculpatory
4 and I'd ask that at least that part be excluded from the
5 testimony because he wasn't Mirandized and he was in
6 custody.

7 MR. FOWLER: Judge, he was always in custody. And
8 most of the time he's --

9 THE COURT: That doesn't make the law unavoidable.

10 MR. FOWLER: Right. And I'm saying --

11 THE COURT: Unless you have some kind of case law
12 that people that are in jail or in prison don't have to be
13 read their rights before they give an inculpatory
14 statement....

15 MR. FOWLER: Yes, sir.

16 THE COURT: You do?

17 MR. FOWLER: Yes, sir.

18 THE COURT: Okay. Can I see it?

19 MR. FOWLER: Yes, sir. I have -- there's three
20 cases -- I have a copy for everyone.

21 THE COURT: For the record, all of this should have
22 been done pretrial.

23 MR. SUTHERLAND: Yes, sir, during the *Denno*.

24 MR. FOWLER: Judge, this is --

25 THE COURT: I know but Mr. Sutherland should have

1 told me about this.

2 MR. SUTHERLAND: Yes, sir.

3 THE COURT: It's not their job to tell me what you
4 need a *Denno* hearing on.

5 MR. SUTHERLAND: Yes, sir. Yes, sir.

6 MR. FOWLER: Judge, the two South Carolina cases
7 deal with inmates telling other inmates inculpatory
8 statements and those are found to not be involuntary
9 statements.

10 I've handed you a North Carolina case. I know it's
11 persuasive but it's pretty much directly on point. That is
12 an inmate that was taken from his cell. He indicated he
13 wanted to give information to officers. They take him to an
14 office, he ultimately makes a statement. The Court of
15 Appeals in North Carolina found that that's a completely
16 voluntary statement and that didn't require Miranda.

17 MR. SUTHERLAND: Sir, in my view from the argument,
18 I haven't gone through these cases. We have two cases of
19 inmate to inmate, which doesn't implicate -- law
20 enforcement. Certainly law enforcement is implicated here
21 with a correctional officer at the jail. So I don't know
22 that an inmate-to-inmate cases would be relevant.

23 And it sounds like in the North Carolina cases
24 someone coming forward and volunteering information to law
25 enforcement. Certainly, I can see if they're voluntarily

1 coming and volunteering information to law enforcement when
2 somebody's an inmate. I would have to read it but I think
3 the argument is going that way, that this person who came
4 forward and said, "I have information," is somehow
5 similar -- in North Carolina is somehow similar to
6 Mr. McNeil.

7 So my view is the inmate-to-inmate cases are not on
8 point and not relevant to the State's argument. And that
9 the North Carolina case is not a South Carolina case and it
10 is not on point and also not relevant to the State's
11 argument.

12 THE COURT: There's multiple legal issues. Number
13 1, he's in custody. Number 2, she's law enforcement.
14 Number 3, by the time this happens, he's already got a
15 lawyer so he's already invoked his right to remain silent.

16 Yet, I understand that she has a job to do at the
17 jail in the investigation and the collection of contraband,
18 which is why he probably wasn't prosecuted for it outside of
19 that. But if y'all want to start using that statement in
20 court, it involves different rules.

21 He's in custody. He's got a lawyer. He's got a
22 right to remain silent. He's invoked his right to remain
23 silent. He's invoked his right to a lawyer.

24 She can testify to what she testified before except
25 she can't testify to the statement about, "I don't want that

1 to get to the cops."

2 MR. SUTHERLAND: Right. Yes, sir.

3 THE COURT: Do you understand that?

4 MR. FOWLER: Definitely. So everything except the
5 police statement?

6 THE COURT: Yes.

7 Do you understand what I'm saying?

8 THE WITNESS: Yes, sir.

9 THE COURT: And I know you're just doing your job.
10 Let's make sure the record is clear. These correctional
11 officers are living in the moment and dealing with very
12 complicated situations. They don't know what it is or what
13 it's not. They're trying to ascertain what it is to make
14 sure he's safe, to make sure their safe, to make sure the
15 other inmates are safe. They're not sitting around
16 pondering Fifth Amendment or Sixth Amendment constitutional
17 rights in the progression.

18 If they had to advise every single person at the
19 jail before they asked them a question, nothing would ever
20 happen. So I understand. I'm not fusing at Sergeant
21 Pinckney. She's just doing her job. I do think the other
22 statements are not inculpatory.

23 He says it's nothing. "It fell out of my leg."

24 It's not in dispute that he was shot. He was shot
25 multiple times and he was at the hospital. He was under

1 care and treatment, that's not some big surprise. Okay.

2 Bring them back in.

3 (Jurors entered.)

4 THE BAILIFF: The jurors are seated, your Honor.

5 THE COURT: Welcome back, ladies and gentleman.

6 Mr. Fowler, you may continue.

7 (State's Exhibit 106, Bullets, marked for
8 identification.)

9 BY MR. FOWLER:

10 Q Sorry about that. Where were we?

11 So you are in medical and Mr. Genari McNeil was there;
12 is that correct?

13 A Yes, sir.

14 Q What was the defendant doing while he was in medical?

15 A He was in there for wound care.

16 Q He was in there for wound care. What was he doing?

17 A He was just sitting in the sitting area at that time
18 when I was talking to him.

19 Q Did you observe anything out of the ordinary while
20 sitting there?

21 A Yes. When he -- while he was talking to me, he leaned
22 forward and something fell.

23 Q What did you do next?

24 A I asked him what was it that fell, and he told me it
25 was nothing. And I asked him, "What do you have in your hands?"

1 And I gave him some directives to give it to me and he finally
2 gave it to me.

3 Q But you had to give him multiple directives?

4 A Yes, sir.

5 Q So he was not very cooperative in handing over whatever
6 fell?

7 A In the beginning, no.

8 Q But he did eventually hand that over?

9 A Yes, sir.

10 Q I'm going to show you what's been premarked as State's
11 106.

12 Do you recognize that?

13 A Yes, sir.

14 Q What is it?

15 A A little metal piece that I got from Mr. McNeil.

16 Q So this is what fell out of his leg?

17 A Yes, sir. At the time, out of his hand.

18 Q But you saw it come out of his leg and he picked it up?

19 A Yes, sir. He picked it up.

20 Q Did you alter or amend this in anyway?

21 A No, sir.

22 Q What did you do with it afterwards?

23 A I took it to the nurse and asked her what it was.

24 Q And what did she tell you it was?

25 A She told me it was a piece of a bullet.

1 MR. SUTHERLAND: That is hearsay, your Honor. I'm
2 sorry.

3 THE COURT: Objection sustained. Sorry. I'm
4 objecting myself. Sustained.

5 Disregard the last statement, ladies and gentlemen.

6 MR. FOWLER: Your Honor, at this time I'd move
7 State's 106 into evidence.

8 MR. SUTHERLAND: No objections.

9 THE COURT: 106 without objection.

10 (State's Exhibit 106, Bullets, entered into
11 evidence.)

12 Q (By Mr. Fowler) What did you do after you visited the
13 nurse, what did you do with the piece of evidence?

14 A I had to do a report and send it up the chain of
15 command because it was contraband.

16 Q That item that you seized from Mr. McNeil, who did you
17 turn it over to?

18 A Lieutenant Waters.

19 MR. FOWLER: No further questions your Honor.

20 THE COURT: Cross?

21 MR. SUTHERLAND: No questions of this witness your
22 Honor.

23 THE COURT: Would you give me the name that you
24 turned it over to one more time?

25 THE WITNESS: Lieutenant Robert Waters.

1 THE COURT: W-A-T-E-R-S?

2 THE WITNESS: Yes, sir.

3 THE COURT: Thank you. Have a great day.

4 Who's next?

5 MR. SCOTT: Chad Smith.

6 THE COURT: We will take a normal morning break
7 here in just a little bit. Sorry about the little break
8 earlier, but we will take a full normal break here at about
9 the normal stopping time. So don't think that was the only
10 break you're going to get. None of us had a break, so we'll
11 have to take one.

12

13 C-H-A-D S-M-I-T-H, the Witness herein, having been sworn by the
14 Clerk of Court, was examined and testified as follows:

15

16 MADAM CLERK: Please have a seat in the witness
17 stand and state your full name for the record.

18 THE WITNESS: My name is Chad Smith.

19

20 DIRECT EXAMINATION

21 BY MR. SCOTT:

22 Q Mr. Smith, where are you employed?

23 A I'm employed with the South Carolina Law Enforcement
24 Division, commonly known as SLED. Specifically, I work in the
25 firearms department at SLED in their laboratory here in

1 Columbia.

2 Q In the firearms section, what are your day-to-day
3 duties over at SLED in the firearms department?

4 A My responsibilities include examination of firearms,
5 ammunition and ammunition components such as bullets and
6 cartridge cases. I also perform serial number restorations on
7 firearms when the serial numbers are obliterated. I also assist
8 with destruction of firearms that agencies throughout the state
9 bring to us to be destroyed.

10 Q How long have you worked in the SLED firearms
11 department?

12 A This year will be 15 years.

13 Q Have you ever been qualified as an expert in court?

14 A Yes, sir.

15 Q What do you typically qualify as an expert in?

16 A Firearms identification is my field of study.

17 Q Approximately how many times have you been qualified as
18 an expert?

19 A It's over 90 at this point.

20 Q That's how many times as an expert in firearms
21 identification?

22 A Yes, sir.

23 MR. SCOTT: Your Honor, the State does offer Chad
24 Smith as an expert in firearms identification.

25 MR. SUTHERLAND: No objection, sir.

1 THE COURT: Does anyone need me to explain experts
2 again or is everybody good? Sometimes I feel like I say the
3 same things over and over again. I can explain it again.
4 If not, we'll keep driving forward.

5 Okay. You're good.

6 Q (By Mr. Scott) Investigator Smith, were you asked to
7 perform a firearms identification on October 22, 2020 SLED Lab
8 Number L20-00776?

9 A Yes, sir. I received some items for examination.

10 Q What were the four items you received?

11 A I received four fired bullets. So these are the actual
12 projectiles that are fired from a firearm.

13 Q Did you receive one fired bullet listed as from Genari
14 McNeil?

15 A Yes, sir.

16 Q I want to show you State's 106 and ask if you recognize
17 that.

18 A Yes, sir. This is the fired bullet. It's Item 4,
19 State's Exhibit 106. It's the fired bullet I receive being
20 listed as from Genari McNeil.

21 Q We had our lead investigator George Simpson testify
22 that he took that item to SLED. From there it would have been
23 checked in by Doris Yarbrough. Is that correct?

24 A Yes, sir. She's our evidence technician or she was --
25 she's retired now -- that worked at our SLED laboratory. She

1 would have been the one to receive that evidence in our evidence
2 control department and then stored there until my offer was
3 ready to come pick up the evidence.

4 Q And it looks like maybe January 28, 2020 you went and
5 retrieved it --

6 A Yes, sir.

7 Q -- for testing.

8 Let me ask you about Items 5, 6 and 7.

9 Item 5 is one fire bullet listed as from Mary
10 Carmichael.

11 A Yes, sir.

12 Q And your Items 6 and 7 are fired bullets from Jahquan
13 Peterson. Is that right?

14 A Correct.

15 Q Let me show you State's 107.

16 MR. SCOTT: Did I offer -- State's 106 has already
17 been introduced.

18 THE COURT: Correct.

19 Q (By Mr. Scott) This is State's 107.

20 Do you recognize?

21 A Yes, sir. This is the container I received that has
22 those other items of the three fired bullets inside here.

23 Q Those projectiles, we just heard from Dr. Monroe who
24 extracted those projectiles and then our Investigator Simpson
25 took those to SLED, and again, that would have been checked in

1 by Ms. Yarbrough?

2 A Yes, sir. It looks like everything was submitted at
3 the same time. Again, Ms. Yarbrough would have taken those
4 items and then stored them in the evidence control department
5 and then transferred to me when I was ready to work on it.

6 Q Tell us what you do once you get those projectiles, how
7 do you go about testing them?

8 A There's a couple of things that I would do. First of
9 all, I photograph everything, photograph the packaging. Start
10 opening up the packaging, photograph the items inside. Making
11 notes if they had any sort of material or anything on them.

12 At that point, I would've decontaminated the bullets in
13 different solutions and things that can decontaminate the
14 bullets. Especially if they are coming from somebody, we want
15 to get it clean before we start handling them too much.

16 And at this point, I go into my examination of
17 determining possibly what caliber these bullets were. How I do
18 that is based on its characteristics. We weigh the projectiles
19 and measure the faces or diameters of these bullets. If they
20 are in good enough shape, just their overall characteristics. A
21 lot of times you can figure out what sort of cartridge they were
22 loaded into to get a caliber.

23 Then we go further and try to determine potentially
24 what sort of guns would fire these bullets through microscopic
25 comparisons on these bullets. What we use in our department is

1 called a comparison microscope. It's basically a microscope
2 system -- if you could imagine, it's two microscopes that are
3 connected by an optical bridge which we look into to compare two
4 samples simultaneously.

5 Then we can look at cartridge cases and cartridge cases
6 with bullets and with no bullets to try to determine potentially
7 if they're fired by the same gun or not or how many guns could
8 have been involved.

9 So all of those is what's in the examination and
10 comparisons that were performed on all these bullets.

11 Q All four bullets, were you able to determine the
12 caliber cartridge they were consistent with?

13 A Yes, sir. So based on their characteristics, I was
14 able to determine they're most consistent with being close to a
15 40 Smith & Wesson or 10 millimeter auto caliber cartridges.

16 Q The bullet pulled from Mr. Genari McNeil in your
17 opinion was a 40 caliber?

18 A 40 or 10 millimeter. I can't really say that they were
19 40 or narrow it down any further because both of those calibers
20 use the same diameter with the weight in bullets, so that's why
21 we included both those together. So most consistent with either
22 40 Smith & Wesson or 10 millimeter auto.

23 Q And likewise, from the bullet pulled from Ms. Mary
24 Carmichael, your opinion was that it came from a 40 caliber or
25 10 millimeter caliber cartridge?

1 A That's correct.

2 Q And the two bullets that you have listed as from
3 Jahquan Peterson, likewise, in your opinion was a 40 caliber or
4 10 millimeter caliber cartridge?

5 A Yes, sir.

6 Q Did you observe any damage to the four bullets that you
7 were able to observe?

8 A They did have some damage on them. Some of them were
9 just sort of dented. When a bullet strikes an object, it has
10 the potential to damage that bullet. A lot of times we see
11 dents. Sometimes, depending on what a bullet strikes, we get
12 fragments of bullets, just pieces of bullets to work with.

13 But these bullets, for the most part, were in pretty
14 good condition. They got some dents. I think the first item,
15 my Item 4, State's Exhibit 106, was missing some material, which
16 is not unusual. For the most part, they were in decent
17 condition.

18 Q I was looking at your report, it says, "Items 4 through
19 7," that includes all four bullets, "May not be suitable for
20 identification for other firearms related evidence."

21 What does that mean?

22 A We put a suitability statement in our reports. That's
23 one thing we do. As we're looking at these bullets, we try to
24 determine if we have other evidence that we can potentially
25 compare them to. We sort of let the investigators know, if you

1 got other things to compare it to, maybe we can match it to
2 other items, a firearm or other bullets or cartridge cases or
3 other cartridge cases to look at.

4 So that's just a suitability statement. Again, they
5 were damaged and the markings that were on the bullet created by
6 the barrel itself on the firearm, that's what we're looking at
7 to try to determine if it was fired by one gun or multiple
8 firearms.

9 There just wasn't a whole lot of markings and quality
10 of markings wasn't really there for me to do a whole lot with.
11 So again, that's just a suitability statement. They may not be
12 suitable for identification.

13 Q I'm looking at your bullet point 4, "Results of
14 comparison on Item 5 through 7." That would be the three
15 bullets associated with our victims, the one from Mary
16 Carmichael and two from Jahquan Peterson.

17 Your Items 5 through 7, "Comparisons with each other
18 were inconclusive due to insufficient corresponding individual
19 identifying characteristics."

20 A Yes, sir.

21 Q What does that mean?

22 A That's just fancy language for basically those marking
23 that we're looking at that were created by the barrel itself,
24 where the bullet travels through down the barrel, there just
25 wasn't enough markings there for me to say that those particular

1 projectiles, those bullets were fired by the same firearm or
2 potentially multiple firearms. So I really just couldn't
3 determine that.

4 Q So let me try this: Three bullets were pulled from the
5 victims. Due to damage, you were unable to tell whether one gun
6 fired those three bullets or if there were multiple guns firing
7 those three bullets?

8 A Correct. Potentially, you could have up to three
9 firearms. You could have one fired by a totally different --
10 each fired by a totally different firearm or it potentially
11 could have been fired by the same firearm, I just couldn't tell.

12 Q The victims could have been shot with one gun or up to
13 three guns, you're saying, you just can't tell?

14 A Just can't tell. They all shared the same class
15 characteristics but just because they have the class
16 characteristics, I just couldn't tell from how many guns fired
17 those bullets.

18 Q Let me ask you this: Were you able to distinguish Item
19 4, that's the bullet that was pulled out of the defendant,
20 Genari McNeil, were you able to distinguish that from Items 5
21 through 7, the bullets pulled out of the two victims?

22 A Yes, sir. It had different class characteristics.
23 When I say, "class characteristics," that could be anything from
24 caliber or what they haven't discussed is riffling. One thing
25 that firearm manufacturers that put into barrels is called

1 riffling. Riffling is made up of a series of grooves that are
2 cut or pressed inside any barrel. It has like a twisting
3 pattern.

4 If you look down the barrel you can sort of see it in
5 rotation and basically that's what it does when a bullet travels
6 down that barrel and engages those grooves and it makes it
7 rotate. What that does is it gives the bullet gyroscopic
8 stability. When it leaves the barrel, it's stable in flight, it
9 can travel further and it's more accurate.

10 So if you think about -- we got a professional
11 quarterback throwing a nice tight spiral on a football, that's
12 exactly what the riffling does to a bullet. It makes it rotate.
13 So those riffling impression engage the bullet. We can count how
14 many of those impressions are on a bullet and those are class
15 characteristics.

16 Those are things that a manufacturer decides when they
17 make a gun, how many of those riffling impressions or grooves
18 are going to be on a barrel, the direction of twist. We can
19 measure those impressions and other things.

20 In this particular instance, the first bullet, Item 4,
21 State's Exhibit 106, had a different number of lands and grooves
22 or a different number of riffling impressions than the other
23 three bullets.

24 But first, State's Exhibit 106 was consistent with
25 having five impressions, whereas, the other three had six. So I

1 can tell that the first bullet, State's Exhibit 106, was fired
2 by a totally different gun then what could have been involved in
3 the other three bullets.

4 Q And to clarify, I think what you said is three bullets
5 were pulled out of the victims, two from Jahquan and one from
6 Mary, and you couldn't really match those to one single gun?

7 A Correct.

8 Q It could have been fired by one gun but you just
9 couldn't say conclusively due to damage; is that right?

10 A Due do damage and just the quality of the markings on
11 the projectiles themselves, I couldn't determine that.

12 Q But what you can say is -- and correct me if I'm
13 wrong -- the gun or guns that fired the bullets into two the
14 victims was a different gun then the gun that fired the
15 projectile that was ultimately pulled out of Genari McNeil; is
16 that correct?

17 A Correct. Due to different class characteristics.

18 Q And Item 4, the bullet pulled out of Genari McNeil, are
19 you aware of a manufacturer that produces a firearm that would
20 be capable of engraving those lands and grooves; is that right?

21 A Yes, sir.

22 Q Is that the correct terminology?

23 A Correct.

24 Q Onto the projectiles?

25 A Yes, sir. Just a little background on how we can come

1 up with those manufacturers. There's a database that was
2 started by the FBI. It's now since being maintained by another
3 entity. It's the Association of Firearm Toolmark Examiners,
4 which I'm a member of.

5 But they maintain this database where you can plug in
6 information, again, the number of those riffling impressions,
7 the direction of the twist of the riffling impression and be
8 able to measure the riffling impression. Put all that data into
9 the database and it generates a list of potential manufacturers
10 that we know about that have those same characteristics.

11 Now, we provide those lists to investigators to say, if
12 you come across one of these firearms, you may want to send it
13 in and maybe we can do more with trying to identify the bullets
14 back to that gun.

15 In this particular case, State's Exhibit 106, the only
16 manufacturer that we know of that has those riffling
17 characteristics is Smith & Wesson.

18 Q Okay. And this is State's 96.

19 What did you observe there?

20 A Ladies and gentlemen, if it hasn't been discussed
21 before, this firearm is safe to handle. It is unloaded and has
22 a cable lock through the action and cannot be loaded or fired,
23 so it is safe for me to handle. This firearm is a Smith &
24 Wesson manufacturer.

25 Q And that would be the manufacturer you indicated was

1 the only known manufacturer who fires a projectile with the
2 lands and grooves you observed on your Item 4 which was the
3 bullet retrieved out of Mr. McNeil?

4 A Correct. This -- again, this is not all-inclusive. It
5 is just a list of manufacturers that we know about that have
6 those impressions or those characteristics. Again, Smith &
7 Wesson is the only one on that list that we know about.

8 Q And there was some testimony that that was found on the
9 couch in the incident location. But that is the manufacturer
10 who, the only one you know of, that produces the patterns you
11 saw on the bullet that came out of Mr. McNeil?

12 A Correct.

13 Q As far as characteristics found on Item 5 through 7, we
14 determined that it came from a 40 caliber or 10 millimeter
15 caliber firearm. And you've got a list of firearm
16 manufacturers, that's not an exhaustive list, but you indicate,
17 "they include but may not be limited to the following"?

18 A Yes.

19 Q So you tried to narrow down the potential firearm
20 manufacturers that could have fired the projectiles that were
21 found in the victims?

22 A Correct.

23 Q But that's not even an exhaustive list, it's just
24 possible ones?

25 A Yes, sir.

1 Q Astra, Fibrique Nationale, Heritage, Ruger, Springfield
2 Incorporated, TNW Incorporated, Beretta, Browning, KSN
3 Industries, SIGARMS, STEYR, Walter, Česká Zbrojovka -- how do
4 you say that?

5 A Well, I'm not entirely sure how to pronounce it. It's
6 a foreign manufacturer of Czechoslovakian. CZ is the common
7 name you call it.

8 Q Heckler & Koch, Republic Arms, Smith & Wesson, Taurus,
9 as far as 40 caliber?

10 A Yes, sir.

11 Q Then 10 millimeter would be Heckler & Koch and Kriss
12 USA?

13 A Yes, sir.

14 Q I guess the long and short of it is, one thing that did
15 come back conclusively is, again, a projectile pulled out of
16 Mr. McNeil fired from a gun separate and apart from whatever gun
17 or guns fired the rounds that were pulled out of the two
18 victims; is that correct?

19 A That's correct.

20 MR. SCOTT: That's all the questions I have of you.
21 Thank you, Mr. Smith.

22 Please answer any questions Mr. Sutherland will
23 have for you.

24 MR. SUTHERLAND: Please the Court?

25 THE COURT: Yes, sir.

1

2

CROSS-EXAMINATION

3

BY MR. SUTHERLAND:

4

Q How are you?

5

A Good, how are you?

6

Q I'm good. Good to meet you.

7

I want to ask you about how you come to examine things.

8

Do you receive just requests from law enforcement and

9

then you go -- because I heard you testify that you went and

10

picked up some projectiles.

11

A Yes, sir.

12

Q So you just get the request from whatever law

13

enforcement agency and have to go out and get it?

14

A That's right. So when agencies submit evidence to

15

SLED, they generate a request form, a Forensic Service Request

16

Form. On that form, it has what sort of analysis they would

17

like on pieces of evidence. Sometimes we have multiple

18

examinations or types of requests on the same piece of evidence.

19

For instance, like a firearm can have DNA or latent

20

prints, fingerprints is what they are looking for. Before I get

21

that firearm, they would do that sort of thing that is

22

requested. Then I would do my examination after that part is

23

already done.

24

So they bring it to SLED. It will stay in our evidence

25

control department until I'm ready to work the case and then I

1 go and retrieve that evidence and start my analysis.

2 Q One of the things that you had to determine is that
3 these projectiles may not be suitable for comparison to other
4 evidence?

5 A Yes, sir.

6 Q But they "may not" also means may?

7 A Yes, sir. "May not" does imply may. It's a statement
8 we put in there to sort of give investigators an idea of how
9 much more we can do with that evidence that we have to compare
10 it to.

11 Q Was the only request that you -- well, did you receive
12 a request? Was that the first time that you saw that firearm?

13 A Yes, sir.

14 Q You didn't receive a request from them to pick up these
15 firearms?

16 A No, sir. The firearms or firearm was not submitted to
17 the laboratory for testing by me. The only thing I received
18 were the fired bullets.

19 Q Then it necessarily follows that, they didn't send a
20 request to pick up shell casings?

21 A No, sir. I never received any shell casings.
22 Cartridge cases were not submitted.

23 Q When we're talking about "may" or "may not," would it
24 have been possible for you to test the shell casings, compare
25 the shell casings to the projectiles, compare the shell casings

1 to the firearms?

2 A Well, yes and no. We don't do an analysis where I can
3 determine if a specific projectile or bullet came from a
4 specific cartridge case, that's something we can't do. But if
5 we had a firearm to compare a cartridge casing or bullets too,
6 then certainly we can potentially try to do that. We just have
7 to have a firearm to test fire and then compare my test fires
8 with each other and then compare my test fires with the other
9 evidence bullets or cartridge cases.

10 Q Yes, sir.

11 What is it with respect to shell casings and firearms,
12 what are you examining on shell casings in order to potentially
13 match them to firearms?

14 A Shell casings or cartridge casing is a different thing
15 from bullets. A cartridge case is, if you start with an unfired
16 round of ammunition, it's called a cartridge. A lot of people
17 just cut to the monetary thing, and just follow the bullet. And
18 you see that a lot on television and everything, but a cartridge
19 is an unfired round of ammunition, which is made up of several
20 components. The largest being the cartridge case.

21 The cartridge case is the container that holds
22 everything else. The cartridge case is inside the cartridge
23 case. We've got the gunpowder. We've got the top of the
24 cartridge case where the projectile or bullet is. At the bottom
25 of the cartridge case is the primer that's struck by the firing

1 pin of the firearm, which basically ignites that gunpowder and
2 that sets off everything.

3 If you're referring to the cartridge cases themselves,
4 we would look at different areas on that cartridge case. Again,
5 the firing pin impression on a firearm, those are called breach
6 face which is part of a firearm that supports the cartridge
7 during the firing. All that can leave marks on the cartridge
8 case when it's fired.

9 Again, I didn't see the cartridge cases to look at in
10 this case, I just received the bullets. It's a different area
11 then what we look for in cartridge cases.

12 Q Is there a process of test firing to compare the
13 casings where you would test fire and examine? Or do you just
14 examine the firearm itself and those mechanisms in the firearm?
15 Or do you test fire and then examine those, as I'm calling them,
16 ejected casings and compare those with other casings?

17 A I can only compare with what I'm given.

18 Q Yes, sir.

19 A If I'm given a firearm that is right caliber and
20 everything has those same class characteristics as to what's
21 submitted evidence I'm given, then I would test fire the firearm
22 and do my comparisons. If I got cartridge cases to compare with
23 each other, I'm going to do that. If I have a gun and cartridge
24 cases, I will test fire the gun and compare it. So it just
25 depends on what I'm given.

1 Q Yes, sir, on what you're given by law enforcement.

2 I believe that you testified that there's the potential
3 of up to four firearms. There were up to three with the one set
4 and then, you know, one for the one other. So potentially up to
5 four, but potentially as low as two firearms?

6 A Correct. That's right. The one bullet, State's
7 Exhibit 106, I can tell was fired by a totally different gun
8 than the other three bullets. Then the other three bullets
9 together, I can't determine how many guns could have fired.
10 Could have been one. It could have been a mixture of two or up
11 to three. If they were each fired by a totally separate gun, I
12 just can't determine.

13 Q And I believe that you testified all of these
14 projectiles are consistent with 40 Smith & Wesson?

15 A That's right. All the characteristics of the bullets
16 were consistent with a 40 Smith & Wesson caliber or 10
17 millimeter auto.

18 MR. SUTHERLAND: Thank you, sir. No further
19 questions, your Honor.

20

21 REDIRECT EXAMINATION

22 BY MR. SCOTT:

23 Q When you say, "Smith & Wesson 40," you mean just a 40
24 caliber fired Smith & Wesson pistol?

25 A There's some confusion with that. People who don't

1 know much about firearms can get confused. 40 Smith & Wesson is
2 a caliber. It is a cartridge designed to fire out of a firearm
3 that's chambered for that specific cartridge.

4 Smith & Wesson helped develop that cartridge, that's
5 why they got their name on that cartridge. Just because the
6 caliber itself is 40 Smith & Wesson doesn't necessarily mean
7 that's it's been fired out of a Smith & Wesson. Any gun that
8 that chambered 40 Smith & Wesson cartridges can fire that
9 particular cartridge.

10 Q Just to be clear: You can say, in your professional
11 opinion, a Smith & Wesson pistol fired the projectile that was
12 taken out of the defendant, Mr. McNeil?

13 A Correct.

14 Q But you're not here to say a Smith & Wesson fired the
15 other three rounds that were pulled out of the victims?

16 A No, sir. It was just consistent with the caliber, but
17 it could have been -- again, we have a list of manufacturers
18 beyond Smith & Wesson that could have fired them that are
19 chambered for that particular cartridge.

20 MR. SCOTT: Okay. I just wanted to clear that up.
21 That's all the questions I have. Thank you.

22 MR. SUTHERLAND: No questions, your Honor.

23 THE COURT: Have a good day.

24 Is the next one long or short?

25 MR. SCOTT: It's probably a good time to take a

1 break.

2 THE COURT: Let's go ahead and take our break,
3 ladies and gentlemen. Do not discuss the case. Keep an
4 open mind. We'll see you back in about ten minutes.
5 Everyone else, if you'll stay seated, thank you very much.

6 (Jurors exited.)

7 THE COURT: Anything from the State before we
8 break?

9 MR. SCOTT: No, your Honor.

10 MR. SUTHERLAND: No, sir.

11 THE COURT: All right. Let's take a little break.

12 (Whereupon, a short recess was taken.)

13 THE BAILIFF: Come to order.

14 THE COURT: Let's bring them in.

15 (Jurors entered.)

16 THE BAILIFF: The jurors are seated, your Honor.

17 THE COURT: Welcome back. You may continue.

18 MR. SCOTT: The State calls Rachel Grant.

19

20 R-A-C-H-E-L G-R-A-N-T, the Witness herein, having been sworn by
21 the Clerk of Court, was examined and testified as follows:

22 MADAM CLERK: Please have a seat in the witness
23 stand and state your full name for the record.

24 MS. GRANT: Rachel Grant.

25

1 DIRECT EXAMINATION

2 BY MR. SCOTT:

3 Q Rachel, you are employed with the Richland County
4 Sheriff's Department, aren't you?

5 A Yes, I am.

6 Q How long have you been there?

7 A A little over 15 years.

8 Q What are your primary duties with the sheriff's
9 department?

10 A I am the DNA technical reader, so I oversee the DNA
11 laboratory.

12 Q Have you been in that department the entire time you've
13 been with the sheriff's department?

14 A I have, yes.

15 Q Is it typical that you may receive samples from other
16 law enforcement agencies to analyze?

17 A Yes, that's correct.

18 Q Did you have occasion to receive samples from the
19 Columbia Police Department in regards to Case Number 1905011521?
20 Did you receive some samples from Columbia Police Department in
21 regard to that case number?

22 A Yes, I did.

23 Q Did you perform an analysis on those samples?

24 A Yes.

25 Q My notes show February 7, 2020 is when the analysis was

1 initiated.

2 A That's correct for the supplemental report. Correct.

3 Q And then November 9, 2020 is when it was completed?

4 A Yes.

5 Q Could you give us a refresher course on DNA and really,
6 I guess what I'm looking for is how it's unique to each one of
7 us.

8 A So our job basically is to identify individuals by
9 biological materials left behind at crime scenes. So a
10 biological match, you got a cell wall and a nuclear wall found
11 inside a cell and our job is to extract that DNA and to
12 determine who is the contributor of that DNA.

13 Everyone has a unique profile. You have from mom and
14 you have from dad. There's only one exception, which are
15 identical twins, there's actually scientific breakthroughs with
16 the connections to tell them apart later on.

17 THE COURT: You're going to have to get closer.
18 You just keep drifting away from it.

19 THE WITNESS: Then everybody is unique with the
20 exception of DNA from -- half DNA from your mom and dad.

21 Q (By Mr. Scott) Just like nowadays we can even
22 distinguish twins apart?

23 A There's a technology that's coming along that is
24 actually looking at individual nucleotide basis. It's a little
25 far out but it is something that is amazing.

1 Q Let me ask you this: If I cut my hand and I'm bleeding
2 on the carpet here and somebody took a sample of blood and took
3 it to you and said, "Whose is this," would that be enough for
4 you to perform your analysis as far as linking that sample to
5 me?

6 A So bodily fluids are an excellent source of DNA. So
7 blood, saliva, semen, anything that has live cells in it.
8 However, DNA is a comparison science. So if I was to run that
9 sample, I would just need a DNA profile that doesn't have your
10 name on it. So I would have to have a buccal swab or a known
11 standard to compare those two profiles.

12 Q So my example, nobody saw me bleeding on the carpet.
13 That's a unknown sample, right? There's blood on the carpet,
14 nobody saw it, somebody swabbed it and we're trying to figure
15 out who it is, that's an unknown sample for you?

16 A Correct. Yes. We don't know who it originated from.

17 Q Okay. Then you mentioned a buccal swab. That's just
18 simply taking a Q-tip, something to swab, like the inside of
19 somebody's cheek?

20 A Yes. So like I mentioned, bodily fluids are an
21 excellent source of DNA, so saliva. So any known reference or a
22 buccal swab is basically taking a sterile Q-tip and running it
23 inside your mouth along the cheek cells and also saliva.

24 Q Now, my example with this blood here, and Judge Hood
25 there has ordered law enforcement to take a buccal sample from

1 my cheek, that's submitted to you as well.

2 How would you use that known standard, that buccal
3 swab, if we know it came from me, in comparison of that unknown
4 sample from the blood on the floor?

5 A So all evidence profiles are interpreted first. So,
6 say, I would look at the data from that unknown and come up with
7 a conclusion based on the characteristics I'm seeing. Then
8 subsequently, if a known standard was submitted, then I would do
9 a direct comparison based on the characteristics of the
10 individual or the known reference and offer a conclusion whether
11 they were the same or not.

12 Q Do you know approximately how many of these types of
13 analyses that you have performed in the DNA department?

14 A A lot. I don't have a number. Hundreds, maybe
15 thousands.

16 Q Have you testified in court like this before?

17 A I have, yes.

18 Q Have you ever been qualified as an expert in DNA
19 analysis?

20 A I have.

21 Q Would you say about 20 times?

22 A Approximately.

23 MR. SCOTT: Your Honor, the State does offer Rachel
24 Grant as an expert in DNA analysis.

25 MR. SUTHERLAND: No objections, sir.

1 THE COURT: Okay. Ladies and gentlemen, she'll be
2 an expert in the area of DNA analysis. She will be allowed
3 to give her opinion. That doesn't mean that you have to
4 accept her opinion but is evidence for you to use in any way
5 that you see fit and give it the weight and credibility you
6 believe is proper.

7 You may continue.

8 Q (By Mr. Scott) Let me show you what's been admitted as
9 97, 98, 99, 101, 102, 103 and 104. Let me ask you if you
10 recognize those.

11 A I do recognize those.

12 Q What are those?

13 A These are items that were submitted to our laboratory
14 and I can recognize them because our serologist, her initials
15 are on the back and it has our prep work, it has her initials
16 and date on them as well.

17 Q It's been testified to that those were collected by a
18 George Potash who was a crime scene investigator in the city,
19 taken to Richland County Sheriff's Department by Ryan McIntyre.

20 Ashleigh Dixon, you say, does your intake?

21 A No, she's in the DNA laboratory. She's intake for the
22 DNA laboratory. She picked them up from our evidence room and
23 then does the presumptive processing for us.

24 Q And then transfers them to you to for the ultimate
25 analysis?

1 A Yes, the cuttings and the samples. Yes.

2 Q How are those labeled? Beginning with State's 97, how
3 are those labeled?

4 A There must have been an exterior package for this. But
5 this item description says, "Sample from interior side of front
6 door."

7 Q That's 97?

8 A Yes.

9 Q What's 98?

10 A 98.

11 Q Well, let me ask you this: 97, how does that
12 correspond with your items received on this?

13 A This is -- actually would be my Item Number 36.

14 Q All right. 98?

15 A 98, the description is, "Swab from stain on interior
16 side of front door," B-11 which is my Item 36.

17 Q That's 98?

18 A Yes, sir.

19 Q What was 97? What was that?

20 A That was 36, B-12.

21 Q 97 is your Item 36; is that right?

22 A Correct, yes.

23 Q I know there's a bunch of numbers there. It's hard,
24 the red is always going to be the State number.

25 A Right.

1 Q And now let's go to 98. What was your corresponding
2 number?

3 A I'm sorry, that's 35. 35, I'm sorry.

4 Q We have numbers all over those packages. 98 is your
5 35.

6 All right. 99?

7 A This says, "Sample from stain on interior doorknob
8 front door."

9 State's 99 is actually 37 on my report.

10 Q Then what do we go to 101 or 100 looking at the red
11 stickers?

12 A 101 is "Sample from frame of closet door near front
13 door." And that is my Item 24.

14 Q 102.

15 A This is "Sample from wall in hallway near front door."
16 And this is my Item 23.

17 Q 103.

18 A "Sample from floor of entryway front door."

19 Q That's your Item 25?

20 A It should be my 25. That's correct. It's my Item 25.

21 Q And finally 104.

22 A Yes. This is "Samples from stain on wall of entryway,
23 near front door." And that's my Item 23.

24 Q 104 I have as your Item 26. You compared that with --
25 look at your 102 and 104. I have that 102 as your 23.

1 A Yes, 102 is 23. And 104 is --

2 Q 26?

3 A 104 is 26; correct.

4 Q Let me show you what's been marked as State's 108 and
5 ask if you recognize that.

6 A I do.

7 Q What is that?

8 A This is a buccal swab or known standard from Genari
9 McNeil.

10 Q And that was the sample we gave where -- that's the
11 known standard. You're going to test against those unknown
12 standards; is that correct?

13 A That's correct. Yes.

14 Q When you received those, those blood samples would be
15 the unknowns, they were taken from the crime scene, George
16 Potash testified?

17 A Yes, that is correct.

18 Q You're going to determine whether they match a known
19 standard of Genari McNeil; is that correct?

20 A That's correct. It's any known standard that's
21 submitted to the laboratory in a case when we do a direct
22 comparison.

23 Q And testimony was that Kermit Scott obtained that from
24 the hospital with Mr. McNeil and Ryan McIntyre took it to the
25 sheriff's department and Ashleigh Dixon would have had it and

1 then transferred it to you just like the blood swabs?

2 A Yes. The cutting from that sample.

3 Q Now that you have those samples, you undertook to
4 utilize them February 7, 2020?

5 A Yes, that date was the date they were opened.

6 Q This was admitted already as State's 5. There was
7 testimony regarding State's 5 earlier that that was swabbed from
8 a closet door frame near the front door.

9 And you indicated that State's 101 corresponds with
10 your swab from 24, your Item Number 24. What were your findings
11 regarding Item Number 24. It looks like it's Number 8 on your
12 report.

13 A So reading directly from my report: "The DNA results
14 developed from Item 24 matches Genari McNeil. Based on the most
15 recent population data available and the genetic results
16 obtained, Genari McNeal is greater than 1.3 decillion times more
17 times likely to be the source of this DNA result than a random
18 unrelated individual."

19 Q What is that number?

20 A 1.3 decillion.

21 Q How many zeros are in decillion?

22 A There are 33 zeros.

23 Q Is that 1.3 followed by 33 zeros or 1.3 followed by 32
24 zeros?

25 A It would be followed by 32. So you would 1.3 and 32

1 zeros.

2 Q I just want to be sure. Most people haven't seen a
3 decillion. You know, that's 1.3 and then you're going to have
4 32 zeros. So the chances of this blood belonging to somebody
5 other than Genari McNeil is one out of 1.3 decillion?

6 A It's more likely that 1.3 decillion times more likely
7 that the DNA came from him than a random individual.

8 Q It's 1.3 decillion times more likely that it comes from
9 Genari McNeil as opposed to Tivis Sutherland?

10 A Correct.

11 Q As opposed to Dale Scott?

12 A Correct.

13 Q As opposed to Rachel Grant?

14 A Yes.

15 Q We can conclusively say that blood came from Genari
16 McNeil in other words?

17 A Yes. In my opinion, it does match him.

18 Q I want to direct you to your Item 24 which is State's
19 101.

20 A I'm sorry, did you say Item 24? That was the one we
21 just spoke about.

22 Q I'm sorry. Let me go then to 23.

23 We have 23 as, "Wall in hallway near front door."

24 A Correct.

25 Q This picture here is State's 118.

1 What were your findings as far as your Item 23?

2 A My results were the same as Item 24, that it matches
3 Genari McNeil and it's greater 1.3 decillion times more likely
4 that he be the source of the DNA than an unrelated individual.

5 Q We're still talking about that same number with that
6 stain on the wall just outside the bathroom in the house?

7 A Correct.

8 Q How about 25?

9 A That is the same DNA result that matches Genari McNeil
10 and it has the same statistics.

11 Q And the description of that location of the sample?

12 A "Swabbed from the stain wall/hallway near front door."

13 Q All right. Let's see. Your 25?

14 A I'm sorry, 25. I'm sorry. "Swab from stain floor of
15 entryway."

16 Q So again, it's 1.3 decillion times more likely that
17 this blood belongs to Genari McNeil as opposed to some one
18 random person?

19 A That's right.

20 Q So in your professional opinion, that blood came from
21 Genari McNeil?

22 A Correct.

23 Q Looking at your 26. You there?

24 A Uh-huh (affirmative response.)

25 Q What was the description of 26?

1 A "Swab from stain wall hallway near the front door."

2 Q Bear with me. Your 26, which you testified as B4
3 Marker with the crime scene investigator. Your findings on
4 samples taken from Item 26 inside the home of Mary Carmichael
5 and Jahquan Peterson?

6 A That my DNA results for Item 2 are the same as the
7 other items. It matched Genari McNeil and is greater than 1.3
8 decillion times more likely that it came from Genari McNeil than
9 an unrelated random individual.

10 Q The blood that was recovered from the wall of this home
11 belongs to Genari McNeil in your opinion and as evidence in your
12 Item 26?

13 A As that sample is submitted to me, that's the DNA
14 result from that item.

15 Q Let me move down to your Item 35.
16 35 is listed as "stain interior door."

17 A Interior side front door.

18 Q Your results for your Item 35 are what?

19 A Reading from my report: "DNA results from Item 35 is a
20 mixture. The major contributor of this mixture matches Genari
21 McNeil based on the most recent population data available and
22 genetic results obtained. Genari McNeil greater than 38
23 octillion times more likely to be the source of this DNA result
24 than a random unrelated individual."

25 Q I researched that octillion has 27 zeros; is that

1 right?

2 A That is correct. Yes.

3 Q 38 octillion is your professional opinion that the
4 blood mark on the interior door belonged to Genari McNeil?

5 A Yes, it is.

6 Q Let me go to your Item 36. "Interior side front door."
7 Again, that is pictured in State's Number 8.

8 What were your findings as far as your Item Number 36?

9 A My DNA results for Item 36 are the same as the other
10 previous items, 23, 24, 25 and 26. They matched Genari McNeil
11 and it's greater than 1.3 decillion times more likely to be the
12 result from him than an unrelated random individual.

13 Q The second blood sample taken off the interior of this
14 door, it's your opinion that is most certainly is Genari
15 McNeil's blood?

16 A Yes, that's my opinion.

17 Q And then they swabbed the doorknob and you tested it.
18 That would be your Item 37; is that right?

19 A Yes. Item 37 is, "Swab from stain interior front
20 doorknob."

21 Q Is that to a mixture?

22 A That is two mixtures.

23 Q Would you expect to find a mixture on a commonly
24 touched area like a doorknob?

25 A Yes. So a mixture is basically having more than one

1 persons DNA present on an item. So something that is commonly
2 touched, say, a doorhandle, a steering wheel, things that common
3 people or commonplaces where normal people touch, you would
4 expect to see a mixture of more than one contributor.

5 Q So they swabbed the doorknob, then submitted it to you
6 and you assigned Number 37.

7 What findings did you have as far as the blood that you
8 analyzed that came from that doorknob?

9 A So reading right from my report again, "The DNA result
10 developed from Item 37 is a mixture. The major contributor of
11 this mixture matches Genari McNeil. Based on the most recent
12 population data available and the genetic results obtained,
13 Genari McNeil is greater than 640 sextillion times more likely
14 to be the source of the DNA results than a random unrelated
15 individual."

16 Q Sextillion, that's 21 zeros; right?

17 A That is correct, yes.

18 Q 640 sextillion?

19 A Uh-huh (affirmative response.)

20 Q So you're basically saying it's your professional
21 opinion that the blood on the interior side of the doorknob that
22 Mary Carmichael and Jahquan Peterson had to go out of their home
23 everyday, had to lock behind them when they were in their house,
24 that doorknob had Genari McNeil's blood on it?

25 A The DNA found from that does match Genari McNeil.

1 Q And you're not here to say why his blood was inside of
2 that house. But you are here to say that his blood was found
3 throughout the house?

4 A I can't answer to how or where it was collected from.
5 I can only answer to the samples that were submitted to the
6 laboratory.

7 Q So that's your professional opinion, the samples we
8 just went over, State's 97, 98, 99, 101, 102, 103, 104 match
9 Genari McNeil's DNA profile?

10 A Yes. The DNA result from those samples do match.

11 MR. SCOTT: Thank you.

12 Please answer any questions Mr. Sutherland has.

13 One more question, though.

14 Q (By Mr. Scott) How many people are on earth right now?

15 A There's approximately 7.8 billion people on the planet.

16 Q That's only nine zeros; right?

17 A That's correct, yes.

18 MR. SCOTT: Thank you.

19 MR. SUTHERLAND: Please the Court, sir?

20

21 CROSS-EXAMINATION

22 BY MR. SUTHERLAND:

23 Q I want to ask you, you mentioned when you were
24 testifying that you were testifying here about a supplemental
25 report, the report that the Solicitor was mentioning.

1 A Yes, that's correct.

2 Q There was an initial report --

3 A Yes.

4 Q -- also.

5 A Yes, that's correct.

6 Q Ma'am, what do you recall was examined in the initial
7 report?

8 A I can reference it right here. There were multiple
9 samples in the initial report.

10 Q Were firearms the object or the subject of the report
11 of three different firearms?

12 A The only thing that I can provide are the descriptions
13 of the swabs that were taken from the firearms.

14 Q Right. Right. So, for example, Item 6 would be a swab
15 from a Springfield 40 caliber?

16 A That's correct, yes.

17 Q And the date the analysis was completed on this report,
18 the initial report was December 9, 2019?

19 A That's correct, yes.

20 Q And then the supplemental report is November 9, 2020?

21 A That's correct, yes.

22 Q Do they ask you, "We want to know these things first,"
23 and do they prioritize or is that all that they had sent you
24 initially?

25 A It really depends on the case. Sometimes when things

1 are submitted to the laboratory, depending on the collection or
2 how long it had been taken for a collection, they may ask and
3 say, "Hey, the DNA, can you do a rush on this?" Or we may not
4 know until a later date that we made a request for a
5 supplemental items to be run. That's why we have in place a
6 practice to go ahead and offer an initial report. And if
7 anything ever comes in, we issue a supplemental or subsequent
8 report to include that additional evidence.

9 Q Initially you were examining these swabs basically from
10 firearms, from cartridges and from magazines; is that fair?

11 A Yes. I believe so. Based on my descriptions, I do
12 have swabs from firearms. I do have a swab from a magazine and
13 cartridge case.

14 Q Yes, ma'am. Thank you.

15 And Items 6 and 7. Item 6 is a swab from a Springfield
16 40 caliber firearm; is that correct?

17 A That is correct, yes.

18 Q And Item 7 is a swab from the magazine and six unfired
19 40 caliber cartridges?

20 A That's correct, yes.

21 Q And what did your analysis, it's conclusions one and
22 two, what were your findings and conclusions for one and two?

23 A The DNA results from Item 6 matches Jahquan Peterson.

24 Q I'll go ahead and get into Item 2 rather than asking
25 you to read the report.

1 For Item 2, Genari McNeil is excluded from that
2 mixture?

3 A That's correct. Item 7 was a mixture and Genari McNeil
4 was excluded.

5 Q And for Mr. Peterson, you said that he cannot be
6 excluded?

7 A That's correct.

8 Q And I would like to go back up to Item 17 in your
9 report. And that is a swab from the grip and trigger of a Smith
10 & Wesson?

11 A That's correct.

12 Q And then Number 18 is a swab from a Smith & Wesson 40
13 caliber firearm?

14 A Yes.

15 Q And I'll try to hurry. The DNA from 17, 18 and 19
16 matched Ms. Carmichael. Is that under conclusion 3?

17 A That is correct.

18 Q And 19 was a swab from a magazine. I don't think you
19 mentioned that.

20 A Yes.

21 Q And then Item 21 is a swab from a Glock 27; is that
22 correct?

23 A Yes, that's correct.

24 Q And 22 is a swab from the magazine and six unfired
25 cartridges?

1 A Yes.

2 Q As far as Number 21, Genari McNeil, which is the Glock
3 27, Genari McNeil is excluded from as a contributor?

4 A Yes. Item 21 is a mixture and Genari McNeil is
5 excluded.

6 Q And then you have a mixture in Item 22 saying that Mary
7 Carmichael cannot be excluded?

8 A That's correct, yes.

9 Q And real quick. With these items relative to the
10 firearms you swabbed and tested, Mr. McNeil was excluded from
11 there items?

12 A From the swabs that were submitted to the laboratory --

13 Q Right.

14 A -- on the firearms. Yes.

15 Q Just swabs on the firearms?

16 A Uh-huh (affirmative response.)

17 MR. SUTHERLAND: That may be it. That's it. No
18 further questions. Thank you.

19

20 REDIRECT EXAMINATION

21 BY MR. SCOTT:

22 Q Ms. Grant, the swabs from the Glock, your Item 21, what
23 if I told you there was evidence that the person handling that
24 gun was wearing latex gloves on the night that that gun was left
25 behind.

1 Would that be a reason that DNA might not be found on
2 the weapon?

3 A There are some reasons that DNA may or may not be found
4 present but it needs to have a barrier. DNA can be transferred
5 through skin cells. So it can put barrier between objects which
6 would prevent DNA from being on an object.

7 Q Are you familiar with the practice of people
8 undertaking criminal activity to wear gloves?

9 MR. SUTHERLAND: Your Honor, if I may? I believe
10 that's outside the scope of the expertise of the witness.

11 THE COURT: Overruled.

12 Q (By Mr. Scott) You're in law enforcement; right?

13 A I am, yes.

14 Q And are you familiar with that practice of people who
15 typically engage in criminal activity wearing gloves?

16 A They may or may not. I've seen both in cases.

17 Q Are you familiar with them doing that though?

18 A Yes. Yes.

19 Q And if somebody planned on undertaking a criminal act
20 and wore gloves, would that help them, I guess, or prevent them
21 from leaving behind touch DNA?

22 A Potentially. So like I mentioned, any type of barrier
23 between someone's skin, somebody's body fluid to another object,
24 any type of barrier would prevent that transfer of DNA.

25 Q So I wipe down a gun and put those latex gloves on and

1 I carry it around. That would drastically decrease your chances
2 of finding my DNA, my touch DNA on it, wouldn't it?

3 A Potentially. There are several factors that are
4 involved with that. In the DNA world, there are people that we
5 call "shedders" that their cells fall off more readily. They
6 have a tendency to leave their DNA around more. But it really
7 depends. It depends on how -- say, in your example, if a
8 firearm was cleaned, how well it was cleaned and what it was
9 cleaned with. And there's other things such as moisture and
10 heat and bacteria that can also affect if DNA is found.

11 Q What if I told you it was raining on the night in
12 question, the firearm was out in the rain and I'm wearing
13 gloves, how would the rain effect the potential of me leaving
14 touch DNA on the firearm?

15 A It would effect it. Just as I mentioned before, it's
16 another factor. If you have some type of fluid, that could
17 potentially rinse things off. However, if an object is
18 saturated in blood and it's rained on, the blood is going to be
19 around and recoverable. So it really depends on case scenario.

20 There are studies out there but depends on how long it
21 was left out in the rain, how aggressive the rain was and also
22 how aggressive the item was touched. If the item has some body
23 fluid on it, all of those can be played as a factor. There's no
24 harden fast rule.

25 Q I don't know if you can answer this, but would you say

1 touch DNA is more easily shed than any DNA left behind by blood
2 or some other fluid?

3 A No, body fluids are a good conduit or medium for cells,
4 so that actually is more robust than touch cells. Touch DNA is
5 basically just your skin cells. So if were to touch this
6 particular piece right here aggressively and you come behind me,
7 you may be able to get my DNA. But you may not. Just because I
8 touched something does not necessarily mean I have enough to
9 generate a full profile.

10 Q So in my example, if I grab the gun barehanded, I might
11 leave some skin cells behind, touch DNA --

12 MR. SUTHERLAND: Objection, leading.

13 THE COURT: Sustained.

14 Q (By Mr. Scott) What kind of DNA am I leaving behind if
15 I touch it barehanded?

16 A If you are not bleeding or have any type of body fluid
17 on you, it would just be touch or basically epithelia or skin
18 cells.

19 Q If I leave blood on it, you're saying that would be a
20 more robust sample and you would not shed as easily?

21 A To remove that body fluid from an object, it would be
22 more. Blood is a liquid, a body fluid, it would take some time
23 to clean up. And there are lots more nucleated cells in blood
24 than just a simple epithelial cell from a touch sample.

25 Q This scene -- and I know you don't really know a lot

1 about it, you were just asked to testify or test some samples.
2 There's a pathologist who said that both of the victims in this
3 case bled to death. This jury has seen a lot of pictures of a
4 very bloody scene.

5 Would the victims blood being prevalent throughout the
6 apartment account for their DNA being on several items that you
7 tested as far as firearms that were found?

8 A Can you repeat the question?

9 Q I'm going to show you a picture. What I'm asking you,
10 you testified in a preliminary report that some of the victims'
11 DNA were found on some guns. This is State's 36. This is a
12 picture of the Smith & Wesson found on the couch with blood on
13 it. Very clearly this Smith & Wesson has blood on it.

14 Pathologist testified that the victims' bled to death.
15 Their blood was found throughout the apartment. Would that be a
16 possibility of why the victim's DNA maybe on this gun?

17 A It may be if the incident location is where the victims
18 reside, you would expect to see their DNA in their home
19 everywhere. They may have blood in their house as well as a
20 resident of their house. But it is possible that their DNA is
21 showing up because of living there and bleeding.

22 Q It also very well could have been legally owned by one
23 of the victim's in their own home?

24 A It could have been. My analysis does not date -- we
25 can't date or timestamp or anything of that nature. It's where

1 the origin of the biomaterial came from.

2 Q Right. And I'm not asking for that. I'm just saying,
3 would it be possible that just the blood soaked apartment,
4 victims' bleeding to death, firearms were found on the floor,
5 couch and all around, that could be one of the reasons their DNA
6 is on these firearms?

7 A Yes. If their body fluid and their DNA came in touch
8 with the item then, yes, it could transfer.

9 Q Possibly a way to avoid leaving touch DNA on the items
10 is to wear gloves?

11 A Yes. Any type of barrier such as gloves, protective
12 clothing, hats, goggles, anything.

13 Q But you testified that seven of those samples of blood
14 found in that apartment came back in your professional opinion
15 to Genari McNeil?

16 A That's correct. Those are the items we've already
17 discussed.

18 MR. SCOTT: Thank you.

19 THE COURT: You're free to go.

20 MR. SUTHERLAND: Sir?

21 THE COURT: Sorry. Any further recross?

22 MR. SUTHERLAND: Just a few briefly.

23

24 RECROSS-EXAMINATION

25 BY MR. SUTHERLAND:

1 Q Ma'am, there was blood on 17, 18 and 19. Was that
2 Smith & Wesson? There was blood on that firearm?

3 A That is correct. Blood was indicated on those items.

4 Q Right, but not on the other firearms, on the Glock or
5 the Springfield?

6 A I'm sorry, which items are you referencing?

7 Q The Springfield is Item 6 and the Glock is Item 21.

8 A No. Those items, when we do our initial analysis -- or
9 basically it's included in our examination. If something
10 doesn't appear to have a reddish brown stain on it, we don't
11 screen it for blood. And those particular items had a black
12 powder-like stain, like it had maybe been dusted for prints.

13 Q Okay. Fantastic.

14 And each of these three firearms that you've tested,
15 with respect to the swabs that were taken from the firearms and
16 ammunition, Mr. McNeil was excluded from those comparisons?

17 A Yes. The swabs that you and I spoke about earlier, he
18 is excluded.

19 MR. SUTHERLAND: Thank you.

20 No further questions for her.

21 THE COURT: Okay. Ms. Grant, have a nice day.

22 Thank you very much.

23 Who's next?

24 MR. SCOTT: Your Honor, the State rests their case.

25 THE COURT: Okay. All right. Ladies and

1 gentleman, the State has rested their case. You-all can
2 stand up and stretch for one second while I talk to the
3 attorneys.

4 (Whereupon, a brief discussion was held off the
5 record.)

6 THE COURT: Here's what we're going to do: The
7 State rested their case. There's legal issues I have to
8 take up every time this happens outside your presence. What
9 we're going to do is I'm going to send you to a long lunch.
10 So you should still not discuss the case. Still not become
11 an investigator. You shouldn't have any contact with
12 anybody involved in the case.

13 We'll start back up at 1:30 p.m. So enjoy your
14 lunch. Drink some caffeine. Make sure you stay awake. I
15 see a couple of you yawning. Once one yawns, then the
16 other's start yawning.

17 When you come back, be ready to go at 1:30 p.m.
18 It's a beautiful day outside so stretch your legs if you
19 want to. It's 11:45. We'll start back at 1:30 p.m. and be
20 ready for you.

21 Thank you very much.

22 Everyone else stay where you are.

23 Everyone else stay seated.

24 (Jurors exited.)

25 THE COURT: Let's do motions.

1 MR. SUTHERLAND: Thank you, your Honor. May it
2 please the Court?

3 It's that time as I must worry about. I'll make a
4 directed verdict motion. I would have a specific one
5 towards the armed robbery. But generally the defense moves
6 for a directed verdict in the case that the evidence does
7 not support the verdict.

8 With specificity to the armed robbery, there was no
9 testimony of -- there was no accounting or testimony of
10 anything that was actually taken. I believe that that
11 should go to the jury as an attempted armed robbery. I know
12 there's testimony that they found cash. The found a dollar
13 in the parking lot over here. \$20 bucks over by the fence
14 over here and there was a stack of cash outside. But as far
15 as physically, this person took this item or whatever during
16 this robbery, there was just no testimony about that.

17 So I would ask that you direct a verdict on that
18 and that we present it as an attempted armed robbery.

19 THE COURT: Okay.

20 MR. SCOTT: Clearly, it's a question for the jury,
21 your Honor. There's an abundance of testimony that cash was
22 strewn about the inside of the apartment leading outside.
23 There was at least three separate spots outside in a trail
24 leading the way of where cash was dropped.

25 Also, if you watch the Ring doorbell footage, which

1 I image the jury will many times, you can hear Mr. McNeil
2 and his codefendant approach Jahquan Peterson and ask him to
3 "Give it up." Then when Jahquan Peterson's inside, he said,
4 "You can get it. You can get it. It's over there. It's
5 over there" indicating that they were there to obtain
6 something by force and clearly with using deadly weapons. I
7 think it would be a question for the jury.

8 The State, in weighing that particular evidence, I
9 think it would be a charge that should be sent back to the
10 jury.

11 THE COURT: Anything else?

12 MR. SUTHERLAND: Just my view, "you can get it," is
13 not, "you got that." There's just no evidence or inventory
14 of anything that was actually taken from the residence.

15 THE COURT: Okay. Standard before the Court is
16 found in Rule 19 of the South Carolina Rules of Criminal
17 Procedure. The standard before the Court is the existence
18 of the evidence, not the weight of the evidence considered
19 in the light most favorable to the nonmoving party which is
20 the State.

21 I believe that the State has called sufficient
22 witnesses and put in sufficient evidence based upon the Ring
23 video camera and the money found outside and the statements
24 that were made in the Ring video camera, that the State can
25 go forward on both murder charges, the burglary charge, the

1 weapons charge and the armed robbery charge.

2 And I would respectfully deny your motions for
3 directed verdict.

4 MR. SUTHERLAND: Thank you, sir.

5 THE COURT: Let's go through this jury charge real
6 quick. We'll go through the standard stuff and then we will
7 circle back to the more complicated stuff. Then my goal is,
8 when I get this in a spot, I'll formate here in just a
9 little while. As you know, I will send you a copy of it so
10 you have it and so it's not a surprise as to what I'm
11 saying.

12 We have to advise him of his rights.

13 Sorry, my bad. We'll stop for just a second on the
14 jury and here we go.

15 Mr. McNeil, raise your right hand.

16 Do you swear or affirm everything you are going to
17 tell me to be the truth?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Good. How old are you?

20 THE DEFENDANT: 22.

21 THE COURT: Okay. Good. How far did you go in
22 school?

23 THE DEFENDANT: Like ninth, tenth grade, something
24 like that.

25 THE COURT: You can put your hand down. Thank you.

1 Do you understand me okay?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And have you understood me throughout
4 the trial?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And at this point in time you
7 and I need to have a conversation. Okay?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: If I say something you don't understand
10 or it doesn't make sense, just let me know. You're not
11 going to bother me or upset me. Okay? If you need to talk
12 to Mr. Sutherland about something, just say, Judge, can I
13 talk to my lawyer? I'll give you a chance to do that. No
14 big deal.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But we got to have a conversation and I
17 got to make sure you understand some of your rights. Okay?

18 So here we go.

19 At this time I'm going to explain some of your
20 rights to you. If you do not understand anything that I
21 say, please just let me know. If you want me to explain
22 anything in more detail, please just let me know.

23 Do you understand what I've said so far?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: We have now reached the stage of the

1 trial where you may present a defense. You have the right
2 to claim the protections that are given to you by the Fifth
3 Amendment to the Constitution of the United States. This
4 amendment states in part, "That no person shall be compelled
5 in any criminal case to be a witness against himself."

6 What that means is this: You cannot be required to
7 testify in this case. You have the right to testify on your
8 own behalf. However, no one can make you do this. I can't
9 make you do it. Mr. Sutherland can't make you do it. The
10 prosecution can't make you do it. This is a personal right
11 and it belongs to you and you nobody can waive or give up
12 this right except for you.

13 If you decide to testify, you will be subject to
14 the rules, the same rules that govern all the other
15 witnesses and you may be examined and cross-examined on any
16 relevant issue in the case.

17 In addition, if you have prior convictions that
18 involve dishonesty or false statement or for crimes
19 punishable by imprisonment for more than one year and I
20 determine that the probative value of admitting these
21 outweighs the prejudicial effect to you, the Solicitor will
22 be able to introduce your record to attack your credibility.

23 If you decide to testify, the decision on your part
24 must be made freely, voluntarily and knowingly and
25 intelligently with the knowledge of protections given to you

1 by the Fifth Amendment and the consequences of your decision
2 to testify.

3 If you decide not to testify, I will instruct the
4 jurors that they cannot give the fact that you did not
5 testify any consideration whatsoever and that there is to be
6 absolutely no prejudice to you because you did not testify.
7 It is left up entirely to you whether or not you testify.

8 You may talk with your attorney or anyone else but
9 the final decision will be entirely yours.

10 Do you understand what I have explained to you so
11 far?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Great.

14 Do you have any questions for me about what I have
15 explained to you?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you discussed this with your
18 lawyer prior to today?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And does he have any record that you
21 would use on cross-examination in the State's opinion?

22 MR. SCOTT: I see a weapons charge, it's either a
23 stolen pistol or a person prohibited that he was convicted
24 of in 2018. And assault and battery first degree the same
25 year.

1 THE COURT: Okay. If you did testify, I would
2 potentially let them ask you, "Isn't it true that you were
3 convicted of those crimes in the past?"

4 Does that make sense?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So do you need to talk to
7 Mr. Sutherland or anyone else anymore about whether or not
8 you want to testify?

9 THE DEFENDANT: No, sir.

10 THE COURT: And do you wish to testify?

11 THE DEFENDANT: No, sir.

12 THE COURT: Okay. Wonderful. Thank you very much.
13 You may grab a seat.

14 Sorry, I got out of order there. Let's go back to
15 the charge.

16 Let's go through the normal stuff that I always
17 say. Okay. So I go through the charges.

18 One count of burglary in the first; one count of
19 possession of a weapon during a violent crime; one count of
20 armed robbery; two counts of murder. The fact that he was
21 indicted isn't proof of anything. They're the judge of the
22 facts. I'm the judge of the law. They have to follow the
23 law that I give them whether they agree with it or not. He
24 is presumed to be innocent. It's like a rob of
25 righteousness. Just the standard stuff I say in every

1 trial.

2 I charge *Victor vs. Nebraska*, firmly convinced for
3 reasonable doubt. I go over what is not evidence. I go
4 over direct and circumstantial evidence with the new or the
5 latest version of the circumstantial evidence charge. I go
6 over the credibility of witnesses. I explain expert
7 witnesses, just like I do every time. I go over the
8 defendant's right to remain silent. I will go over
9 statement of the defendant. And then I do my normal
10 criminal intent. A mental state, conscious wrongdoing.

11 Let's go over the burglary in the first degree
12 charge. Burglary in the first degree in that, "The
13 defendant entered a dwelling without consent." A dwelling
14 is defined as a building or portion -- I define dwelling.
15 Then I define his entire body has to enter the dwelling.
16 The smallest -- does not have to prove that the entire body
17 entered the dwelling. The smallest entry is efficient. It
18 may be a part of the body.

19 There's a paragraph that says, "If a person enters
20 a building by using deception, artifice, trick or
21 misrepresentation to get consent to enter, this is an entry
22 without consent." Can I take that out?

23 MR. SUTHERLAND: Yes, sir.

24 MR. SCOTT: Doesn't apply.

25 THE COURT: That's why I'm going through this a

1 little bit slower. There's a bunch of extra stuff in here.

2 Next, the State must prove that the defendant
3 intended to commit a crime either a felony or a misdemeanor.
4 Intent may be shown by acts of the defendant. And then the
5 State must also prove that, "While entering or while in the
6 dwelling or when fleeing, the defendant or accomplice was
7 armed with a deadly weapon or explosives."

8 Can I take out "or explosives"?

9 MR. SUTHERLAND: Yes, sir.

10 MR. SCOTT: Yes, sir.

11 THE COURT: Then it defines deadly weapon, which
12 says, "A deadly weapon is an article instrument or substance
13 which is likely to cause death or great bodily harm."

14 Just depends on the facts and circumstances of each
15 case. Then it gives this crazy example list of deadly
16 weapons, which says, "A pistol, a shotgun, a rifle, a dirk,
17 a dagger, a knife, a slingshot, metal knuckles, a razor,
18 gasoline, a fire bomb or Molotov cocktail and lighter
19 fluid."

20 Okay. Can we shorten that down some?

21 MR. SCOTT: I think the sole allegation, it was a
22 firearm. I'm happy with just --

23 MR. SUTHERLAND: Sir, I mean, I like the dirk
24 thing, but it's probably not appropriate.

25 THE COURT: So I'm going to take all of those out

1 and just say, "a firearm."

2 Then it also says, "A gun may be a deadly weapon
3 even if it's not operating."

4 The second of those, after deadly weapon is -- hold
5 on. "When entering while in the dwelling or when fleeing,
6 the defendant or accomplice caused physical injury to anyone
7 not participating in the crime." That was alleged in the
8 indictment. And then, "When entering while in the dwelling
9 or when fleeing, the defendant or accomplice used or
10 threatened to use a dangerous object."

11 That's in the indictment.

12 The next one is, "When entering while in the
13 dwelling or when fleeing, the defendant or accomplice,
14 displayed what was appeared to be a knife, a pistol,
15 revolver, shotgun, machine gun or other firearm."

16 That is in the indictment.

17 I'm going to take out knife, rifle, shotgun,
18 machine gun or the last one is, "Defendant entered or
19 remaining during the hours of nighttime." Interestingly
20 enough, that is not in the indictment.

21 MR. SCOTT: Is it not?

22 THE COURT: No. What's your thoughts on that?

23 MR. SUTHERLAND: Well, if it's not on the
24 indictment, we weren't put on notice for it. So I would
25 object to it.

1 THE COURT: I'm going to take that out. It's not
2 alleged in the indictment and I will put the "or" before
3 Number 4.

4 Possession of a weapon during the commission of a
5 violent crime. Possession of firearm or visibly display
6 what appeared to be a firearm during the commission of a
7 crime. "A firearm means any gun, revolver, pistol." I'm
8 going to take out automatic rifle. There's no evidence of
9 that. "Gun: Revolver, pistol or any weapon which is
10 designed or may be readily converted to expel a projectile."
11 I'll charge them that burglary in the first degree, armed
12 robbery and murder are all violent crimes. We're going to
13 put possession of a weapon and violent crime at the end of
14 the charge.

15 Armed robbery, just the standard of armed robbery.
16 "Permanently deprive the owner of the property and keep
17 their property. Taking and carrying away of the property in
18 fear of violence, armed with a deadly weapon."

19 And then we get the big list again so I'm going to
20 take out shotgun, rifle, dirk, dagger, knife, all the way
21 down to lighter fluid.

22 Then the murder charge is last. I'll explain the
23 normal malice aforethought, and the only thing I say about
24 inferred malice is, "Malice may be inferred from conduct
25 that shows a total disregard for human life."

1 Then the next one that's in there is, "hand of
2 one."

3 What is your thought process on that,
4 Mr. Sutherland.

5 MR. SUTHERLAND: Yes, sir. And if I may, I've got
6 a 2020 Supreme Court Case, *State vs. Washington*. And in
7 *Washington*, the defense actually tried to implicate the
8 person for the State. The defense cross-examined him a few
9 times about the crime but the State listed it as an
10 accomplice. Ultimately, the decision in *Washington*, you
11 know, they say that there is no accomplice liability when
12 you can't say what the accomplice did or didn't do where
13 there's a debate about whatever the alleged accomplice had
14 to do some acts that the person on trial was responsible
15 for. There has to be evidence of those acts.

16 Right now we don't know who shot who at all in
17 here. We don't know which firearm discharged, which shell
18 casing is matched up to which firearm. We do not know from
19 the evidence in this case who committed these crimes.
20 Obviously they are crimes of murder. You know, Mr. McNeil's
21 DNA is in the house with a trail all the way out the door
22 and on the back of the door handle, the door was just not
23 dead bolted after that.

24 I was able to get out of Investigator Simpson the
25 first and second time around that -- he said that he was

1 there, that he was doing something, smoking weed but that
2 was something unrelated to these crimes. I don't think or
3 they don't have a codefendant, no one was ever been arrested
4 and there were no details in the State's case about what the
5 codefendant, who they are supposed to have shot or what the
6 codefendant did. I don't think it's appropriate for the
7 hand of one charge, for them to be able to direct at him the
8 responsibility for a codefendant when there is no
9 codefendant and we really don't know what happened inside,
10 sir.

11 THE COURT: Okay. Mr. Scott?

12 MR. SCOTT: Briefly looking over this case he's
13 given, petitioner was charged. Petitioner's uncle was the
14 only possible accomplice of petitioner whose actions could
15 result in criminal liability for petitioner. However,
16 there's no evidence the uncle was armed with a firearm.
17 Several witnesses testified the petitioner was not armed.
18 Our case, we have pretty clear evidence that there were two
19 individuals acting in concert.

20 THE COURT: We have video evidence; right?

21 MR. SCOTT: Pretty clear video evidence.

22 THE COURT: I'm clarifying what you're saying.
23 There's no direct testimony of anybody -- we have a witness
24 that's saw two people wearing masks just prior to the
25 incident; right?

1 MR. SCOTT: Yes.

2 THE COURT: And video evidence that we have is two
3 people rushed Mr. Peterson and gained unlawful entry to his
4 house by force, threatened fear or intimidation. You can
5 see at least one gun in the video.

6 MR. SCOTT: You can see two.

7 THE COURT: You can see two.

8 MR. SCOTT: Mr. McNeil points the Glock at
9 Mr. Peterson's head. The other individual is the one who
10 pistol whips him.

11 THE COURT: Okay. Because the victim gets hit in
12 the head while still outside the townhouse on the Ring
13 camera.

14 MR. SCOTT: Correct.

15 THE COURT: So we have evidence that there's two
16 people who rush Mr. Peterson. One hits him in the head with
17 a firearm. One points a firearm at him and they enter the
18 dwelling by force, threats, fear, intimidation, coercion,
19 whatever word you want to put on it. It was clearly not a
20 consensual situation that was going on. It was clearly some
21 form of a robbery at best-case scenario.

22 And seconds later we have gunshots on the limited
23 portion of the Ring camera video that exists because it cuts
24 itself off after a while.

25 MR. SCOTT: And your Honor, I'm just kind of

1 looking right now, there's a *Butler v. State 2021* case.
2 That's 435_SC_96. Really, the two points I take from that
3 is: The hand of one hand of all charge is appropriate. If
4 the evidence shows that or the evidence -- the State
5 presents evidence that could allow the jury to find or infer
6 an accomplice actually commit a crime. If they can infer
7 that, then they can believe that Mr. McNeil fired the
8 rounds. His accomplice fired the rounds or both of them
9 acted in concert firing rounds at the victims.

10 THE COURT: There's three guns found in the house;
11 right?

12 MR. SCOTT: There are.

13 THE COURT: Okay.

14 MR. SCOTT: And shows a common planned intention
15 between parties instead of mere presence or knowledge that a
16 crime could be committed.

17 Clearly, again, the actions, as you've said, and
18 Ms. Dubose stated, these two had approached her. She
19 indicated she had a car very similar to Mr. Peterson's.
20 They approached her. When they realized she wasn't their
21 intended target, they kind of whispered amongst each other
22 and went back in the shadows clearly lying in wait. And
23 then of course they approach in tandem once again when
24 Mr. Peterson does arrive and their actions are pretty,
25 pretty clear on video.

1 THE COURT: The standard before the Court is, is
2 there any evidence in the record to support a charge? And I
3 think there's clearly evidence in the record based upon the
4 Ring camera alone video that there were two people actively
5 participating and acting in concert to commit this offense.

6 I will charge hand of one hand of all. I think
7 it's an appropriate statement of the law.

8 MR. SCOTT: Judge, while I'm thinking, this is a
9 little bit off topic. Mr. Sutherland mentioned something
10 that is concerning to me. I intend to ask for some sort of
11 motion in limine to prevent Mr. Sutherland from saying that
12 the defendant himself said he was in the house smoking weed.
13 That was absolutely not the testimony.

14 MR. SUTHERLAND: That was the testimony when I
15 crossed him and when I recrossed him. I went up there and
16 said, so you're telling me that you come up with these four
17 lies at the same time that he was in there, right, that he
18 was smoking weed, that his friends dropped him off and that
19 he had to get out of that room? And he said no.

20 I just slowly got that out of him. I know he said
21 that -- when Dale was up there, he's like, no, I didn't say
22 that. But when I came back and recross -- I initially
23 crossed him, then when I recrossed him he actually did
24 say --

25 THE COURT: We're still on the jury charge. Do you

1 have any other jury charges you want?

2 MR. SUTHERLAND: Well, Dale mentioned mere
3 presence. So I would ask for that charge. And of course,
4 any evidence that interacts with the investigator that we
5 were arguing about just now, Judge.

6 THE COURT: Okay. State's thoughts on that?

7 MR. SCOTT: There's been no evidence of mere
8 presence, your Honor. He was there armed with a gun.
9 That's the sole evidence of this case. There has never been
10 a shred of testimony that he was an invitee or merely
11 present. Those are words that are coming out right now that
12 were not in the record. Absolutely not in the record.

13 THE COURT: All right. All right. Then I'll go
14 through the sympathy charge. Then I'll give my normal thing
15 about how to deliberate.

16 Let's go back to Investigator Simpson's testimony.
17 To say it was confusing would be an understatement. I'm
18 going to be very honest with you. It was extremely
19 confusing. I was having a very difficult time following
20 what he said on cross-examination. If I'm having a hard
21 time, that's a whole another issue.

22 He unequivocally says on direct -- hold on. Let me
23 get to -- he unequivocally says that Mr. McNeil never said
24 he was there smoking marijuana, he said he had never been to
25 Skyland Drive.

1 Okay.

2 Then on cross-examination, he gets up there and
3 starts saying something about, "I made all that up. I was
4 just trying to say things. I was trying to trick him. I
5 was trying to whatever."

6 Then he eventually admits on cross that at one
7 point Mr. McNeil did admit to being in the parking lot.

8 Then he says, "the four additional details, the cop
9 just made it up."

10 At one point Simpson says, "McNeil never said he
11 was in there smoking marijuana."

12 "Mr. McNeil did say he had never been to Skyland
13 Drive."

14 And this whole idea that he's in there smoking
15 marijuana is just made up by the investigator to try to get
16 McNeil to admit to being there.

17 Then on cross, he ends up saying, "Well, at one
18 point McNeil did say that he admitted to being in the
19 parking lot but the other four additional details he just
20 made up."

21 Then I wrote to myself, I'm so confused, so....

22 MR. SCOTT: The point is, there was never any
23 testimony the defendant himself said that he was in there
24 smoking marijuana. That was never testified to.

25 MR. SUTHERLAND: Then if there's a credibility

1 issue about his testimony, I think that should go to the
2 jury.

3 THE COURT: There's no doubt that there's a
4 credibility issue.

5 MR. SUTHERLAND: Yes, sir.

6 THE COURT: But that doesn't mean -- tell me where
7 the evidence is that says that Genari McNeil told the cops
8 he was in there smoking marijuana and when the fire fighting
9 starts?

10 MR. SUTHERLAND: What I recall is, the first time
11 that I crossed him, I recall getting those details out and
12 thinking good. Then Dale goes up there and directly asked
13 him. And I did talk to him in cross when he made things up
14 and lied about things and all of that.

15 Then Dale was like, wait a minute, he never said
16 this, he never said that. So when I get up to cross him,
17 and your Honor was confused and the jury was confused as
18 well, I walked up there and I said, "You mean to tell me
19 that these lies that you're telling him, that, on the spot,
20 you come up with these for distinct detailed lies on the
21 spot to lie to him?"

22 And he says, "No. No. Over time we came up with
23 it."

24 That's what I recall. I remember being satisfied
25 with what he said and sitting down. Whether there could be

1 confusion -- but he said, "No. No. No. I didn't make
2 it" -- "over time we came up," or something to that effect.

3 That's what I got out of what he said. Honestly, I
4 was satisfied with whatever he said so I was done with him.

5 MR. SCOTT: I wouldn't have spent so much time
6 talking about police ruse if he had gotten out that the
7 defendant himself said it. The testimony was that Simpson
8 was trying to give him kind of an out. "Maybe you were
9 there, that it was a self-defense situation. Maybe you were
10 there for some other reason."

11 He said he'd never bite on it. That's the reason
12 we got into the whole police ruse questions.

13 MR. SUTHERLAND: What I'm hearing is he
14 contradicted himself on the stand and we should be able to
15 talk about it.

16 THE COURT: Meaning Simpson says the smoking
17 marijuana statement, unequivocally, the defendant never said
18 that.

19 MR. SCOTT: I think -- -

20 THE COURT: The defendant told him he had never
21 been there before.

22 MR. SCOTT: I think he can testify that Simpson had
23 put that all out there but he can't say that came out of the
24 defendant's mouth because that was never testified to. That
25 is not in evidence.

1 MR. SUTHERLAND: I told the jury that he said it.
2 I didn't say it; he said it.

3 THE COURT: You can say that Simpson said it all
4 day long.

5 MR. SUTHERLAND: Yes, sir. Yes, sir.

6 THE COURT: I'm not going to stop you from saying
7 that.

8 MR. SUTHERLAND: Yes, sir.

9 THE COURT: But I agree, we can't just say that
10 that's McNeil story; right?

11 MR. SUTHERLAND: Right. That's just like, look,
12 I'm not saying this, Investigator Simpson said it. It's the
13 same thing I said in the opening. This is not me saying it,
14 it's him.

15 THE COURT: Technically they should have filed a
16 motion to exclude it all together because it's self-serving
17 hearsay but we're not in that boat.

18 MR. SUTHERLAND: No, sir.

19 THE COURT: You can say that that's what -- I mean,
20 Simpson admits he said that to him. He just says the
21 defendant -- that that wasn't a story that he got from the
22 defendant.

23 MR. SUTHERLAND: I'll sort of blow past that part
24 of it.

25 THE COURT: You can blow past that part of it, but

1 you can't convert it into that was McNeil's story to him
2 during a seven-hour interview.

3 MR. SUTHERLAND: I'm actually very cautious about
4 what I say to the jury.

5 THE COURT: I know.

6 MR. SUTHERLAND: I was talking to Dale. I was
7 worried about telling them the Glock came to America in '92
8 when it actually came in --

9 THE COURT: Don't ramble. Don't ramble.

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: You understand what he is saying?

12 MR. SUTHERLAND: Yes, sir. I didn't say nothing.
13 He said it. That's it.

14 THE COURT: Right. Okay. My question is: Is
15 Simpson saying that to -- the legal question becomes: Does
16 Simpson, saying that to McNeil, is that enough to get him a
17 mere presence charge? That's the legal question.

18 MR. SCOTT: No. Because there's no evidence and he
19 testified extensively about what a police ruse is.

20 THE COURT: I'm creating a record.

21 MR. SCOTT: Just for arguments sake.

22 Mr. Sutherland, with a degree of discourse on how the
23 Supreme Court has endorsed police ruse, we talked about
24 there being a tactic that he employs with hesitant suspects
25 who won't give him anything. It's an attempt to draw some

1 bit of information that may be helpful in a story that's not
2 making a lot of sense.

3 THE COURT: So tell me where the evidence of mere
4 presence is?

5 MR. SUTHERLAND: Again, as we were going through
6 this, your Honor, your Honor noted that he did say at one
7 point he admitted that he was in the parking lot.

8 THE COURT: But being in the parking lot ain't a
9 crime.

10 MR. SUTHERLAND: Yes, sir, that's it. So just mere
11 presence. I think it's some evidence that could be
12 arguable.

13 THE COURT: I'm not charging mere presence.

14 MR. SUTHERLAND: Yes, sir.

15 THE COURT: I just don't think there's any evidence
16 in the record that he was merely -- that he was just there
17 and not participating in the crime. It's either him on the
18 video in the ski mask or it's not; right, period.

19 It's not one of these, you know -- I mean, it
20 really is in a category of cases of who done it. It's not
21 a, this was justified or this was anything like that. It's
22 either him and another guy participating in the crime or
23 it's not him at all.

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: Then we'll do a separate verdict form

1 for each charge and as to each. On the murder, if you'll do
2 a verdict form for each victim.

3 What else from the State?

4 MR. SCOTT: I don't think I have anything else. I
5 don't have anything you need.

6 THE COURT: What else?

7 MR. SUTHERLAND: Nothing from defense.

8 THE COURT: So the State will give the first
9 argument. Defense will give the second argue. When we
10 bring the jury back in, just rest?

11 MR. SUTHERLAND: Yes, sir.

12 THE COURT: Then I will drive straight on into
13 closing arguments. We'll start back at 1:30 p.m.

14 (Whereupon, Court was adjourned for lunch recess.)

15 THE BAILIFF: Court, come to order.

16 THE COURT: Okay. Thanks. Take your seats.

17 THE BAILIFF: Please make sure all cell phones are
18 turned off.

19 THE COURT: Do we have a clean computer to watch
20 the video on?

21 MR. SCOTT: We are getting one.

22 THE COURT: And you renewed all previous motions
23 when you made your directed verdict?

24 MR. SUTHERLAND: Yes, sir.

25 THE COURT: Did everybody have an opportunity to

1 view the jury charge that we sent out?

2 From the State?

3 MR. SCOTT: I did.

4 THE COURT: And from the defense?

5 MR. SUTHERLAND: Yes, sir. Other than the hand of
6 one previous objection.

7 THE COURT: And you're noted on the record from
8 that. And I find that you made that at the appropriate
9 time.

10 MR. SUTHERLAND: Yes, sir.

11 THE COURT: When the jury comes back in, the
12 defense will rest?

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: And renew previous motions?

15 MR. SUTHERLAND: Yes, sir.

16 THE COURT: If you are in the audience, listen to
17 me. This case is very important. And this is case is also
18 very emotional. I believe you. You don't have to convince
19 me that there are a lot of emotions in this courtroom.
20 What's about to happen when we come back in are closing
21 arguments. This is the attorneys final opportunity to talk
22 to the jury and talk about the way they see the case.

23 So if you're in here now, you need to plan on
24 staying in here until Mr. Sutherland finishes.

25 Mr. Sutherland goes second. When he is finished, if you

1 need to go to the restroom or you want to excuse yourself,
2 that's the time to do it. But the back door is going to be
3 locked. No one is going to be coming in. But that means
4 none of you are getting out either. So make sure your
5 phones are on off or on silent.

6 Your phones shouldn't even be out in the courtroom
7 at all. But if you're in here now, once I bring in that
8 jury in, I'm going to lock that back door and you can't
9 leave until Mr. Sutherland finishes.

10 Now, once Mr. Sutherland finishes, I'm going to
11 have to talk to the jury for about 30, maybe 40 minutes. It
12 is not exciting or riveting in any stretch of the
13 imagination. If you want to leave the courtroom while I
14 explain the law to them, you are more than welcome to do
15 that but we just need to wait until Mr. Sutherland finishes.

16 When he finishes, I'll have the jury kind of stand
17 up and stretch and, you know, just to kind of make sure
18 they're with me and their blood is flowing. If you want to
19 slide out of the courtroom then, you're more than welcome
20 to. You won't bother me or offend me at all. I'm just
21 going to read the law for about a half hour and that's it.

22 Everybody with me on what we're doing and how we're
23 doing it?

24 Okay. If you want to leave now, you won't hurt my
25 feelings. I just want to make sure we all understand what

1 the rules are.

2 Mr. Scott, are you ready to go?

3 MR. SCOTT: I am, your Honor.

4 THE COURT: Mr. Sutherland, are you ready to go?

5 MR. SUTHERLAND: Yes, sir.

6 THE COURT: Mr. Scott will go first.

7 Mr. Sutherland will go second. There will be no reply
8 argument. The defense did not enter any evidence nor call
9 any witnesses. So no reply argument.

10 Let's bring them in.

11 Did we get a clean computer?

12 MR. FOWLER: Yes, your Honor. We did.

13 (Jurors entered.)

14 THE BAILIFF: The jury has been seated, your Honor.

15 THE COURT: Welcome back, ladies and gentleman, and
16 thank you very much for being on time.

17 When we last left, the State rested their case.
18 The defense is now given an opportunity to put on a case if
19 they want to. They do not have to. As I've explained to
20 you, and probably one of the first things I ever said to
21 you, they don't have to prove anything and they don't have
22 the burden of proof but we give them an opportunity to put
23 on a case if they wish.

24 Mr. Sutherland, do you wish to call any witnesses?

25 MR. SUTHERLAND: I do not, your Honor. At this

1 time the defense rests, sir.

2 THE COURT: And do you renew all your previous
3 motions?

4 MR. SUTHERLAND: Yes, sir, renew all previous
5 motions and objections.

6 THE COURT: And my rulings upon them would be the
7 same. And I find that you've made them at the appropriate
8 time for the record. Thank you very much.

9 MR. SUTHERLAND: You're welcome.

10 THE COURT: Ladies and gentleman, we're about to
11 move into what are called closing arguments. As I've told
12 you before, this is the opportunity for the attorneys to
13 summarize the case from their respective points of view.

14 Now you all, all 14 of you have done an excellent
15 job this week. You paid attention to me. You paid
16 attention to the witnesses. You paid attention to the
17 attorneys. I want you to know that I appreciate that and I
18 know that they sincerely appreciate that as well. As they
19 come before you now, this is their final opportunity to talk
20 to you. So I ask that you give them your undivided
21 attention.

22 Now as with every single thing that we do in this
23 courtroom, there's a rule on who gets to go first and who
24 gets to go second. I'm not making that. In this case, the
25 State will go first so they'll be allowed to make a closing

1 argument. Then the defense will go second. Once that is
2 done, I will then charge you on the law that is applicable
3 to this case.

4 And so depending upon how long closing arguments
5 take, we may or may not take a break or we may just kind of
6 stand up and stretch and make sure we're still awake. But I
7 ask that you now give the attorneys your undivided
8 attention.

9 And Mr. Scott, whenever you're ready, you may
10 close.

11 MR. SCOTT: Thank you, your Honor. May it please
12 the Court?

13 THE COURT: Yes, sir.

14 MR. SCOTT: Ladies and gentlemen of the jury,
15 Jahquan Peterson's last moments on this earth as a living
16 breathing human being were a nightmare, an absolute
17 nightmare. Just as Mr. Fowler talked about in opening
18 statements. I know you-all have come to become familiar
19 with what I mean by that. In the blink of an eye, he went
20 from this, to this, and finally to this.

21 One minute he's getting home from work, working in
22 the kitchen. Working for a living. Can't say that for
23 everybody --

24 MR. SUTHERLAND: Objection. Facts not in evidence,
25 Judge. Sorry.

1 THE COURT: Sustained. The jury will remember the
2 testimony as it was presented throughout the trial.

3 MR. SCOTT: Remember Officer Birochak saying he
4 came home from work that night with a leftover container of
5 chicken. A working man. Went to relax, shed the day off
6 and be home with his girlfriend.

7 Next, he's on his front porch, gun to his temple,
8 Genari McNeil at the other end holding a pistol to his head.
9 Genari McNeil's accomplice, codefendant, pistol whipped him.
10 They march him inside his own home and executed him in short
11 fashion. Barely making it through the door when you first
12 start hearing gunshots. Mary Carmichael too. Short life.
13 Short time on this earth, cut short far too early and in
14 nightmarish fashion.

15 Just like her boyfriend, Jahquan Peterson, She was
16 enjoying a spring Saturday night at home. She's in her
17 bedroom where we all feel safe. She's in shorts and
18 T-shirt. All is good. The next minute, there's a commotion
19 downstairs. Next minute she's shot in the face by two home
20 invaders and is left to die on the floor of her own blood.
21 There's two lives right there cut far too short. Two lives
22 that end in a nightmare as we talked about in the opening
23 statement. What else would you call that but a nightmare?
24 Everybody's worst nightmare.

25 Two guys in a mask come in the house, guns blazing,

1 middle of the night. The man who made this nightmare a
2 reality was Genari McNeil. Genari McNeil and his accomplice
3 are responsible for this, this nightmare on earth. And it
4 took two lives far too early, undeserving, goes without
5 saying.

6 Genari McNeil and Genari McNeil's accomplice, there
7 they are. So how do we get from an uneventful Saturday at
8 home to a horrifying home invasion by these two killers?
9 How is it that there are people out there that even think
10 this way? People who are even capable to fix their mind and
11 their heart to do something like this, to plan ahead to do
12 something like this, people who do what Genari McNeil does?
13 How is it that people are even -- you know, I don't know,
14 can put the gloves on, put the masks on, drive to the scene
15 armed with guns and just ready to kill.

16 The answer is, some people have a wicked mind and
17 have a depraved heart. Some people are bent on evil intent,
18 evil doings. No real concern about their victims or the
19 outcomes. These are the kinds of people who laugh out loud
20 or even cut up during their own murder trial. That, ladies
21 and gentlemen, is a wicked mind. That, ladies and
22 gentlemen, is a depraved heart.

23 Genari McNeil, his evil ways and his evil intent
24 can be played to you like a movie thanks to a small camera.
25 And really, often, it's unnoticeable. There's a small

1 camera that sits to the left of the door that used to open
2 up to a happy home, [REDACTED] Skyland Drive, Unit [REDACTED].

3 Once upon a time that was the home of a happy
4 couple, Mary Carmichael and Jahquan Peterson. We're
5 thankful for a Ring camera but it does show some rather
6 disturbing things.

7 We have we learned about this case? We've heard
8 about the shots called alert. We heard about Officer
9 Birochak being the first one to arrive on the scene. He
10 talks about riding through Skyland because there's a general
11 vicinity where the shots came from. He has his window down
12 just to see if he could hear any type of commotion. He does
13 hear the hysterics of Josh Peterson. That was Jahquan
14 Peterson's brother who was at the scene at Skyland. You
15 see, word got out that shots had been fired in this general
16 area. And he's trying to call his brother. He's trying to
17 get an answer. Can't get an answer. Shows up. Doors
18 locked. Can't get in. Birochak is there. They see the
19 chicken on the ground. Plate of food which was abnormal.
20 They see what appears to be blood and makes the decision to
21 enter the unit and discovers, I guess, what Josh had been
22 fearing all along. It was a massacre. Worst nightmare on
23 earth.

24 Genari McNeil is responsible for it. Genari McNeil
25 created that scene on May 11th and killed two lives

1 needlessly.

2 After that body cam footage, things began to
3 develop and unfold. We heard Ms. Velvet Dubose, she gives a
4 description. She discloses that she drives a gray four-door
5 car, very similar to the one Jahquan Peterson drove. She
6 talked about coming home a little bit earlier than normal
7 that night and it was raining and she parked her car and
8 started going up the steps to her apartment. She lived in
9 Apartment ■, right next door to Apartment ■. Said she was
10 startled. Two thin, younger, black males, approached her
11 from behind, long sleeves, long pants, ski masks, startled
12 her. She turned around and made eye contact with her. They
13 look at her and whisper amongst one another. Then turn and
14 walk back into darkness.

15 We know now it was to wait for Jahquan Peterson.
16 You see, they mistook her, Ms. Dubose for Mr. Peterson just
17 based on the car. There, I guess, they lay in wait, waiting
18 for Mr. Peterson.

19 So officers now have a general description of who
20 they were looking for. The description of the two men they
21 were looking for. As Investigator Simpson begins to gather
22 information. He learned that very shortly after those shots
23 were fired, that ended up killing Ms. Carmichael and
24 Mr. Peterson. Shortly after they had incurred ■ Skyland
25 Drive, a person with gunshot wounds reports to Prisma

1 Health. It's kind of been changed to, call it Richland
2 Memorial. Y'all know where that is, where Harden Street
3 Extension is, we talked about that, where Bull meets 277
4 there?

5 The video surveillance from that hospital was
6 telling. The gunshot wound patient we now know was Genari
7 McNeil over there. He arrived at the hospital with someone
8 else. The patient, Mr. McNeil was accompanied by someone
9 who did not want to show their face. Did not want their
10 face to be seen and that is very apparent. This person was
11 a thin, black male like Mr. McNeil who used his shirt or
12 towel of some sort to cover his face. Is that normal
13 behavior to go into a hospital, ladies and gentlemen? Video
14 shows this man running in, pushing Genari in a wheelchair to
15 the elevators and then ditches him. Sprinting out of the
16 hospital, covering his face the whole time, running into the
17 night.

18 In an attempt to gain information about the
19 circumstances surrounding Mr. McNeil's injuries, George
20 Simpson speaks to Genari McNeil the next day, May 12th,
21 whenever he was able to be spoken with. What was his story?
22 What was his story to an investigator who is asking him, "I
23 see you're shot in your wrist and your leg. It looks like
24 you got a graze on your head, what happened, man?"

25 Genari McNeil told him, "I was walking by the Obama

1 Gas Station."

2 Mr. Simpson said -- Investigator Simpson said,
3 "Which one? There's two of them."

4 He said, "The one by the Colonies."

5 You heard about that. That's the one he messed up
6 on. He said he was going to see a girl. Didn't name the
7 girl. He's just out walking at ten something at night. He
8 hears a shot. He realizes he's hit and that's all he can
9 remember. Doesn't know who shot him. Doesn't know why
10 anyone would shoot him. Very vague about the whereabouts,
11 but he says, without doubt, he was on the West Beltline by
12 the Colonies. He does not say anything about being on
13 Skyland. Never mentions that once. That's his story.
14 Okay?

15 And you heard it. We asked Mr. Simpson a number of
16 times:

17 "Did he give you any further information?

18 "No, that was the story I got from him."

19 He's out on West Beltline and shot by some unknown
20 assailant. And then it gets better. Then some good
21 samaritan, presumably, picks him up. He has no clue who it
22 is. Can't even describe their car. This good samaritan, I
23 guess, figured it would be a good idea to cover their face
24 while they take him to the hospital.

25 Clearly, Investigator Simpson, realizes it's all a

1 lie. He's not being forthcoming. He doesn't make any
2 sense. He doesn't want to disclose the fact that he had
3 just been involved in a home invasion at 221 Skyland.
4 Investigator Simpson uses various tactics. He says, "You
5 sure you weren't out there at Skyland? Maybe, you know, you
6 had gone in there to hang out. Maybe you did this?"

7 "No."

8 Genari McNeil unequivocally says no every time he
9 tries to ask him, "Maybe you were over there for some other
10 reason?"

11 "No. I have never been to Skyland in my life.
12 Never."

13 You heard it. We asked Investigator Simpson how
14 many times did he ever at least, you know, say he'd been
15 there sometime in the past?

16 Did he know these people?

17 "No. I have never been to [REDACTED] Skyland. I was out
18 by the Colonies at the Obama Gas Station. I got shot by
19 somebody I have no clue of and I don't know the person who
20 took me to the hospital."

21 That's the story. And every opportunity in the
22 world to tell any other story he could have thought of,
23 that's the story he wanted to stick with. It is vague. It
24 doesn't make sense. It's not adding up. It was clear to
25 Simpson that Genari McNeil was not telling the truth. The

1 case continues to unfold.

2 George Simpson studies that Ring doorbell footage
3 and notices somethings.

4 (Vide clip playing.)

5 MR. SCOTT: George Simpson begins to notice some
6 things the more he's watching the video. One of the
7 individuals that attacks Jahquan Peterson has the exact
8 build as Genari McNeil. This individual you see on the
9 right in the video can be seen wearing gloves and holding a
10 Glock. That appears to be the gun that's left in the
11 kitchen. The same individual has pants on with a stripe
12 that runs down the sides. This particular stripe can be
13 seen when the light reflects off of it in a certain way.
14 This is the exact pattern of pants Genari McNeil shows up
15 wearing to the hospital. Y'all see that stripe now.

16 Now, he has the gunshot victim that shows up at the
17 hospital with a very odd, very vague, very undetailed story.
18 He has Ring footage that shows a person with the exact same
19 build and description as Genari McNeil. He's got that gun
20 in the kitchen, that seems to be the one that Genari is
21 holding in the video, the Ring doorbell video there.

22 Officers are able to see and obtain pictures from
23 Genari McNeil's cell phone. Pictures from one event
24 captured Investigator Simpson's attention. On this
25 particular series of pictures, there's Mr. Genari McNeil.

1 One picture he's wearing a camo jacket and smoking
2 something. The next there's a unique rather distinctive
3 pistol, a pistol with a black slide and a brownish green
4 olive-colored handle. Y'all recognize that gun from
5 anywhere?

6 It's the same gun of the guy who, just as
7 comfortable a possible, holds it up to Mr. Jahquan
8 Peterson's temple. The one he's poses with right there.
9 The same one found in the kitchen. That's compelling to
10 Investigator Simpson.

11 All this time, though, crime scene investigators
12 are doing their thing. George Potash -- I know that was an
13 exhaustive amount and tedious going through all of those
14 pictures and trying to orient you guys with what we describe
15 as an odd layout of that apartment. That is what crime
16 scene does. They document as much as possible of the crime
17 scene. So when we're in a situation like this, we can try
18 to produce these things to you, try our best to put you at
19 the crime scene.

20 Potash, during all this time he's doing this and
21 he's taking pictures, he's collecting samples, blood
22 samples, samples to be analyzed. You see, Mary Carmichael
23 apparently didn't just lie down and die. Apparently Mary
24 Carmichael was a fighter. You can hear Jahquan Peterson was
25 shot very quickly after being marched inside at gunpoint.

1 Y'all hear him go in and you'll hear a dog kind of bark and
2 a pop. He was shot rather quickly. I don't think they
3 really had any other plans but to kill him once they got
4 inside. He had been telling Mr. McNeil's codefendant, "You
5 can get it. You can get it."

6 After he's shot you can hear a voice saying, "It's
7 over there. It's over there. It's over there."

8 Is it money? We heard about a lot of money being
9 strewn about within the apartment and outside. Seems to be
10 some evidence that there was at least a small amount of
11 marijuana. Where they there to rob him of money, marijuana,
12 both? We don't know. But their intent was pretty clear.

13 Any time you go into somebody else's home at night,
14 armed with a weapon, loaded weapons, gloves on, ski masks
15 on, what intent do you have? That's what was on Genari
16 McNeil's mind that night. The evidence seems to show, after
17 Jahquan Peterson was shot in his own living room, Mary
18 Carmichael does the only thing she could do. The only hope
19 of protecting Jahquan and herself. It appears she stood at
20 the top of her stairs and fired down at the killers, struck
21 one of them. She struck Genari McNeil in his arm. Struck
22 him in his leg, grazed his face. And fire was returned and
23 Mary, as we know, was killed by these masked cowards because
24 that's what they are. Why else do you wear a mask? Why
25 else do you go in with guns blazing killing people in their

1 homes, woman. Cowards, call them what they are.

2 But now the problem for Genari is he's bleeding.
3 He didn't account for being shot at. He figured he was
4 going to go in there and do all the shooting. But Mary
5 Carmichael went out as a fighter, left the cattle bleeding
6 in a house he didn't belong in. Coward.

7 We talked to Investigator Potash and he described
8 in detail about the swabs he obtained, the blood near the
9 front door. You heard earlier about the front door leading
10 into Unit A. You would go in and there's a closet to the
11 left and a bathroom to the left. There was what's been
12 called a computer room to the right. And then of course the
13 living room, the kitchen on the left and the stairwell that
14 led upstairs to the bedroom.

15 One of the first things he talked about was the
16 frame of a closet door as you walked into the apartment.
17 That's the scene right here. And that blood, we heard from
18 an expert today, somebody whose tested thousands of DNA
19 samples, she said that is Genari McNeil's blood in there.

20 Why is he saying, "I'm out by the Obama gas
21 station, out by the West Beltline"?

22 Genari, we've got your blood at the crime scene,
23 man. Not just one spot though. He moves through the house.
24 To the right, we have the computer room. In this area, you
25 remember this? I think this is one of more memorable blood

1 patterns. Potash tested that as well. That would be the
2 hand of Genari McNeil. He's got the gloves on. We can
3 imagine him holding his head. He didn't expect to get shot.
4 He thought he was going to be doing all the shooting. But
5 Mary didn't go out as a coward like he did. She came out a
6 fighter. He's trying to get out. He's leaving just
7 undeniable evidence of his presence there during this
8 carnage. Numbers don't lie.

9 Genari McNeil's blood, the second one we've got.
10 If you look at the interior of the door, blood all over the
11 interior. As you can see, the outside here, that's the
12 exterior doorknob. Interior doorknob. Blood all over the
13 back of the wall. Potash collected a couple samples from
14 there. Potash collected samples from the doorknob itself.
15 Numbers don't lie. Genari McNeil's blood. What's he doing
16 on the inside of that house when all of this was going on?

17 Now, they're saying -- this is Marker B6. If you
18 pass the bathroom there, there's a wall right here and you
19 continue to the living room and the kitchen. Yet, again, a
20 another telltale sign of Genari McNeil's presence in that
21 home that night, even though he's denied it. Denied it.

22 "I'm at the Obama gas station walking to the
23 Colonies to see some unknown female."

24 Who are you going to believe, me or that number?

25 Believe me, he says. It doesn't have to make any

1 sense. Just believe me. That's what he's telling you.

2 Numbers don't lie. All those blood swipes, all the
3 swabs that were taken, marks left behind, undeniable
4 evidence of his presence there. The night that Jahquan and
5 Mary met their final end. It's stuff where nightmares end
6 up.

7 You can tell George Simpson over and over again,
8 you know, they're at West Beltline. He tries to sell that
9 to you guys. Numbers don't lie. Stripes on pants don't
10 lie. Pictures posing on your phone with the gun left in the
11 house, that doesn't lie.

12 You heard the indicted charges. I'm going to go
13 over it with you. The judge is going to go over them with
14 you as well. If any of my descriptions differ from his, the
15 rule is, you always go with the Judge. What he says the law
16 is, the law is.

17 Briefly what I want to tell you for burglary first.
18 We're all kind of familiar I guess with the term. All it
19 means is to enter a dwelling. A dwelling in this case is a
20 residence. There's testimony and it's very clear from the
21 pictures that that is a home. A residence is a home. A
22 dwelling is a home. Burglary first involves an invasion of
23 a home. That's the entering of a home without consent with
24 the intent to commit a crime inside.

25 I don't have to really do anything other than play

1 that video a couple times for you to realize this is a
2 rather open-and-shut case and verdict. One of the things
3 that takes it from a burglary up to a burglary first is the
4 presence of men who are armed with deadly weapons.

5 Clearly Mr. McNeil and his codefendant are armed
6 with weapons. We see Mr. McNeil with that Glock, kind of an
7 olive-brownish color as described as a Glock. And his
8 codefendant, another coward, pistol whipped Jahquan --

9 MR. SUTHERLAND: I'm just going to briefly -- just
10 objection. There's no codefendant in this case.

11 THE COURT: Sustained.

12 MR. SCOTT: McNeil's accomplice. We're going to
13 talk about accomplice liability. His accomplice. He
14 doesn't have a codefendant. We have not been able to
15 identify his codefendant. Maybe one day we will. Maybe.
16 Maybe somebody will tell us who that was. But Genari McNeil
17 and his accomplice, on the front porch, very clearly armed
18 with weapons. The coward accomplice is the one who pistol
19 whipped Jahquan. Genari is the one with that Glock, brown
20 and olive-colored Glock. You can put a checkmark by that to
21 upgrade to the burglary. Entering into that dwelling with
22 an intent to commit a crime, upping to burglary first
23 because they're armed with a weapon, but there's a couple of
24 ways to check, to show that the defendant and accomplice
25 were armed with a deadly weapon or the defendant or his

1 accomplice caused physical harm with someone not
2 participating in the crime, very clearly caused physical
3 harm to Mary Carmichael and Jahquan Peterson.

4 We don't talk about the harm caused by all other
5 people who loved those two so much. Senseless. For what?
6 They left all the money behind from running like cowards in
7 the night. That caused physical harm. I know some of this
8 may seem obvious but this is how the law is written or if I
9 show that they entered the house without consent, with
10 intent to commit a crime and they displayed a deadly weapon.
11 That, too, is burglary first. Those are all either/or,
12 either/or, but you can check all three of these because
13 they're guilty of all three.

14 This is a burglary first and it's beyond any and
15 all doubt. Certainly, beyond a reasonable doubt.

16 He is charged with armed robbery. The State must
17 prove the defendant or his accomplice with personal property
18 of either of the victims in this case by force while armed
19 with a deadly weapon. We certainly know their intent. As
20 they go in, you hear them talking. I'll let y'all listen.
21 Y'all can watch that Ring doorbell camera. I know it's very
22 unpleasant. I certainly expect you-all to watch it in
23 deliberations. See what you can hear. See what you see.
24 Maybe you see something I didn't see. But what I hear is
25 muttering to Jahquan Peterson and Jahquan Peterson is says,

1 "You can get it. You can get it. You can get it.

2 Again, you hear the gunshots and then you hear,

3 "It's over there. It's over there. It's over there."

4 You see about \$4,000 that was collected in the
5 house. You see money strewn about outside of the apartment.
6 It's very clear this was an armed robbery. I don't know how
7 there's any argument about weapons being involved because
8 they're right there on video. The intent was to take from
9 these two people who are in their own home and to take from
10 them. It's an armed robbery. Guilty beyond and all doubt
11 is Mr. McNeil.

12 Possession of a weapon during the commission of a
13 violent crime. It's the third indictment. State must prove
14 the defendant was armed with a deadly weapon or to display a
15 deadly weapon during the commission of a violent crime.

16 The Judge, I expect, will explain to you that
17 burglary first is a violent crime. Armed robbery is a
18 violent crime and certainly murder is a violent crime.

19 Our state law says, "Murder is proof beyond a
20 reasonable doubt that the defendant killed another person
21 with malice aforethought." That's what a murder is defined
22 as in South Carolina. "The killing of another with malice
23 aforethought."

24 What is malice aforethought? "Hatred, ill-will,
25 hostility towards another person, is the intentional doing

1 of a wrongful act without just cause or excuse with an
2 intent to inflict injury or under circumstances that the law
3 will infer evil intent."

4 What is malice aforethought? You hear about
5 premeditation in other states. We don't have that here. We
6 have malice aforethought. Malice aforethought may be
7 express or inferred. The terms "express" and "infer" do not
8 mean different kinds of malice, but merely the manner in
9 which malice may be shown to exist. That's either by direct
10 evidence or by inference from the facts and circumstances
11 which are proved.

12 Express malice is shown when a person speaks words
13 which express hatred or ill-will for another or when the
14 person prepared beforehand to do the act which was later
15 accomplished. Prepared beforehand to do the act which was
16 later accomplished.

17 You leave your home, put on that ski mask and arm
18 yourself with a weapon and put on gloves and lie in wait.
19 We know he was lying in wait because he was out there
20 stalking Velvet Dubose, Waiting for Jahquan Peterson.
21 Malice can be shown when the person prepared beforehand to
22 do the act which was later accomplished. Malice may also be
23 inferred from conduct showing a total disregard of value of
24 human life.

25 You think Genari McNeil gave a rip about the value

1 of Jahquan Peterson's life that night? You think he cared
2 any, at all, about the value of Mary Carmichael's life that
3 night? That's malice. When you can just kill somebody that
4 easily. No value at all.

5 The State must prove for each and every one of
6 these indictments. I gave you five indictments that I need
7 you-all to consider and deliberate on. Talk about the
8 burglary first, the armed robbery, possession of a weapon
9 violent crime and two counts of murder. I've got to prove
10 each one of those indictments to you. Each one of the
11 charges contains those indictments beyond a reasonable
12 doubt.

13 That is, and the Judge will explain to you, that
14 it's the highest standard in the law and I accept it. If I
15 bring somebody into court and accuse them of a crime, I
16 better be ready to prove their guilt to you beyond a
17 reasonable doubt. Not just sort of. I've got to prove to
18 you beyond a reasonable doubt. Anybody from here, from
19 Washington State who's been convicted of a crime, that
20 prosecutor had to prove their guilt beyond a reasonable
21 doubt. That is not a South Carolina-specific standard.
22 That is the standard across the nation.

23 Anybody you've ever heard about that is convicted
24 of any crime, I don't care if it's shoplifting up to murder,
25 they have to be proven guilty beyond a reasonable doubt.

1 It's a high standard. Does that mean it's impossible? No.
2 Does it mean beyond all doubt? No.

3 If you have a doubt and it's reasonably based on
4 logic, you should find the defendant not guilty. If you
5 really believe that, I don't know that Genari really did it?
6 Maybe there's a greater reason why his blood was there and
7 we just didn't get it? If you have a reasonable doubt,
8 you're supposed to find him not guilty. But if your doubt
9 is not proven and your doubt is not really logical, your
10 sworn oath is, then you'll find him guilty. The evidence
11 shows he's guilty beyond a reasonable doubt.

12 Does it mean you have to be 100 percent certain?
13 No. The Judge will tell you that there are very few things
14 we know in this world with absolute certainty. Criminal law
15 does not require proof that overcomes every possible doubt.
16 And based on your consideration of the evidence, you are
17 firmly convinced. That's the best way I know how to
18 describe beyond a reasonable doubt, firmly convinced. The
19 Judge is going to read that to you. He's going to say that
20 twice. He's going to use the term "firmly convinced" twice.
21 Just have that in your head when you say, all right, are we
22 all in agreement that he's guilty beyond a reasonable doubt?
23 That just mean you're all firmly convinced of his guilt.
24 That's the best way I know how to describe reasonable doubt.

25 Don't take my word over his. I expect him to give

1 you that instruction when you get described beyond a
2 reasonable doubt. "Firmly convinced." You've taken an oath
3 to find him guilty. Easy as that.

4 I try a lot of cases and even the defense lawyer,
5 we try a lot of cases and that's the standard every time,
6 beyond a reasonable doubt.

7 I know you-all have seen some unpleasant things,
8 it's an understatement. To hear everything this week, I
9 understand that. And sometimes we -- in the courtroom, we
10 may get desensitized. I don't expect this to be something
11 you guys see everyday. This is just a job we've taken and
12 maybe we get desensitize, too, sometimes.

13 I'll move on from this homicide case and I have
14 another couple dozen ready for me to deal with. I don't
15 know. I guess I've seen people getting killed every sort of
16 way possible and people doing terrible, terrible things to
17 one another. And I guess there are many cases that are
18 really the same. Facts are always going to be different.
19 The underlining circumstance are going to be different. But
20 the hundreds of murders and killings I've seen, there's one
21 common thing. I don't know that I've ever seen one that
22 wasn't this senseless. These are all senseless killings.
23 And I don't know, look at these pictures, these pictures
24 speak volumes.

25 This is as you go into the home of Mary Carmichael,

1 once shared with her boyfriend, Jahquan Peterson. One of
2 them thought that it was important to put this stencil up as
3 you walk in the door. And it says, "Bless this home and all
4 who enter."

5 Then you judge the wall with the bloody handprint
6 on it. It's the blood of Genari McNeil, who went into this
7 home. All they wanted was for it to be blessed. He went
8 into this home with guns pointed to end the two lives. Two
9 families just left with memories, that's all they've got now
10 and testimony of their nightmare too.

11 But here we are and this is the day that there's
12 justice to be had, whatever you guys decide what that
13 justice is. There really is only one verdict that does
14 speak the truth. There's only one just verdict. If you
15 look at the evidence and use your common sense, go through
16 your memory of the testimony. There's only one verdict.
17 I'm going to ask you to render that one verdict. The only
18 verdict that speaks any truth and gets any justice, that's a
19 verdict of guilty.

20 I'm going to ask you, after Mr. Sutherland's
21 closing, to deliberate with common sense, reason. Use your
22 reason, what makes sense and you'll find Mr. McNeil guilty
23 of that burglary in the first. Find him guilty of that
24 armed robbery. Find him guilty of possession of a weapon
25 during this violent crime.

1 And lastly, the only verdict that speaks any
2 justice for two lives cut too short, two counts of murder.
3 I'm going to ask you to find him guilty of the murders of
4 Jahquan Peterson and guilt of the murder of Mary Carmichael.
5 Thank you.

6 THE COURT: Thank you, Mr. Scott.

7 While they're tinkering with that, why don't y'all
8 stand up and stretch, twist, turn.

9 Whenever your ready, Mr. Sutherland, the floor is
10 yours, sir.

11 MR. SUTHERLAND: Ladies and gentlemen, you know the
12 State's thing in this case has been, "This is a nightmare."
13 It is a nightmare and I'm sure as Dale mentioned in his
14 opening, this is what we do everyday.

15 THE COURT: You'll have to speak up a little bit so
16 the court reporter can hear you, Mr. Sutherland. I'm sorry.

17 MR. SUTHERLAND: No, sir. I'll stand back a little
18 bit. I tend to crowd around the box.

19 This is what we do everyday. But it is a nightmare
20 to see the pools of blood, to see dead bodies. That's not
21 something that's normal. It's not something that my wife,
22 as a school teacher, or even my kids or anybody in our
23 community is used to seeing. And there is a reaction to
24 that, it is revulsion and it is ambiguite. You know, that
25 reaction that we have, there are some things that still do

1 it to me of being -- you know, of being . That is a
2 reaction. That is how we feel.

3 This case is not about how we feel. It's about
4 what we know. It's not about how we feel. It's about what
5 we know and I've asked you to consider -- if we go back to
6 the beginning of case, what we separately said about the
7 evidence in this case. We have these gruesome pictures. We
8 have these photographs of all these things that we've
9 seen -- we're good -- we have these things that we've seen
10 but what has changed between there and here as far as
11 what -- what I can say and what he can say about the
12 evidence?

13 Now, clearly we can point to different things. In
14 the beginning, we remember something, talking about a blood
15 trail along the walk and on the back of the doorknob getting
16 out of there. We've seen it. We're strangers. We're 14,
17 15 -- soon to be 15 strangers. All right? But we know when
18 I said that, we went through a lot of witnesses and then
19 we've seen that. We know with Investigator -- what do we
20 know with Investigator Simpson's testimony? Really?

21 Now, look, you know it's no secret, anybody can --
22 cops lie, can lie. The Supreme Court has said that they can
23 lie. But we talked about it and went back and forth. Even
24 the Solicitor in his closing, they called it a "police ruse"
25 or something. I call it lying. Ruse sounds kind of French.

1 No. We're talking about police ruse.

2 But what it is is a lie. And you know, I am an
3 honest man, I will tell you that. But I do not lie. But
4 there have been times in my life when I did. I'll tell you
5 right now, 2005 was the last time I told a lie and I'm still
6 thinking about it here today. Because what I know about
7 lying is it changes you. It turns you into something you
8 are not -- that you do things and you become that way. All
9 of a sudden it's okay. Lie on this and lie on that, you
10 know, that kind of thing.

11 I go up there, first cross-examination, I was like,
12 hey, you know, these things here, what do you call all of
13 that business here? It's Pretty much like here.

14 Then Dale gets back up and he's like, no, no, no.

15 And I had him say, just say, yes, yes, yes.

16 And so I get up there and what do I do? I do the
17 only thing I can do is to react. You mean to tell me that
18 you just on the spot made up this thing, this thing, this
19 thing and this thing and just dropped it along?

20 Well, the answer was no, but lies, they turn us
21 into something that we're really not. I'm not up here
22 saying Investigator Simpson is a bad person. I don't know
23 him. I'm not saying Dale and them are bad people or anyone
24 else. But what I'm saying is, this is not about how we
25 feel. This is about what we've done. It's not about what

1 emotions that we have. It's about what we know from the
2 evidence. What, thus far -- talk about science?

3 Well, what does the science say? What kind of --
4 I'm sorry, the 32 zeros that's up here, i've got to get rid
5 of that. If you remember, I hope, as I was talking to you
6 in the beginning, like I must do, I said, "What does the
7 science say? What has science told us that has changed
8 anything?"

9 We talked about these firearms. Now, actually, I
10 did notice a change with one of the firearms from what I was
11 explaining. I'm just going to put "S" and "W" for Smith &
12 Wesson, I'm not going to write it out.

13 What does the science tell us about Smith & Wesson
14 40 caliber pistol? We had different professionals that
15 examined this ballistic evidence. What does DNA tell us
16 about Smith & Wesson 40 caliber? Is Mr. McNeil excluded? I
17 heard that he had gloves on or something. One interesting
18 thing the DNA expert said. If you put them on, at this
19 time, you are still going to have to touch it before. It's
20 still going to be there. It's still going to be your
21 firearm. No not really if you believe some of that stuff.

22 Genari is excluded from that Smith & Wesson and
23 that's one of three firearms. Our experts had told us that
24 potentially, you know, just from, from what they found.
25 Actually, the only thing they tested was the projectiles. I

1 was a little disappointed. I did ask about that. I had to
2 asked him. I was like, "Was this the first time you've seen
3 any of these firearms?" He said yeah. So I asked him a
4 bunch of stuff about that.

5 If you haven't seen them, I don't know what there
6 is to do here. But we know he's excluded. I'm going to use
7 red on this Springfield. I mean, I wasn't kidding in the
8 beginning. Like, I don't know. I knew something, something
9 happened. I mean, I have an idea. It's not like I'm some
10 babe in the woods walking in here, getting all this stuff
11 dropped on me.

12 Let's talk about this Springfield 40 caliber. Why
13 do I write that in red? I really had -- sometimes I just
14 have no idea. Somehow what they presented to you is that
15 they pushed that for Mr. Peterson. And, look, I'd love it
16 emptied. The man is a victim. I'm saying Genari is a
17 victim too. They pushed this firearm away from him and
18 maybe towards this missing codefendant or accomplice of some
19 sort, this unknown person. What's the purpose of that? The
20 purpose of that is to get to the hand of one. I don't know
21 that they've got that. That's why I caught them doing that.

22 But what do we have here, because they come back
23 and they're like, there's blood in the house and there's
24 this in the house. Then that potentially explains -- well,
25 what part of this Springfield 40 caliber weapon were tested?

1 The gun itself was tested. The magazine was tested but the
2 bullets in the magazine. I'm over here grabbing stuff. Let
3 me just -- as an example, if you're going to put
4 something -- again, I'm familiar with rifles, pistols are
5 just sort of a smaller version of it.

6 If you're going to put something in a magazine, if
7 you're going to put a bullet in there, here's what you got
8 to do. You've got to get a pile of them here. You've got
9 to take them, grab them, put them on top and push down like
10 that. You grab the next one, put it on top, push down with
11 your thumb. It depends on the different kinds of weapons or
12 whatever but usually it takes -- you can just drop in there.
13 The purpose of the magazine is to hold them until they go up
14 into the mechanism of the rifle.

15 So you grab these things. I can go like this, I
16 can't say what was done to put those in there. I grab them
17 like this, set it on top, take the thumb, put that one in.
18 Grab the next one, put it on top, take the thumb, and it
19 makes that sound. Until you put however many -- you know,
20 these are 30-round magazine, which is what I have, which is
21 what I'm used to. I'm not trying to be Arnold
22 Schwarzenegger up here or something like that. That's what
23 I know and I know it well.

24 They find DNA on the bullets in the magazine,
25 that's why I was surprised when this thing was getting

1 pushed the other way because I don't know how in the heck --
2 how in the hell the testimony was that they were all the
3 bullets in the magazine. The magazine is the thing. Well,
4 there were some people living in there, and DNA is
5 everywhere. And it ain't on the bullets that were pushed
6 down at the bottom of the magazine. So that did surprise
7 me.

8 But what didn't surprise me was that Genari was
9 excluded. I went through the weapons with the DNA expert.
10 I said, "This one?" "Yes. He's excluded from all of these,
11 all of these things."

12 I mentioned at the beginning, they were going to
13 say that he had gloves on. Like I said to you before, you
14 know, anything -- you put gloves on a hand on something that
15 is yours, you done touched it before. It's going be on
16 there.

17 This is the one that they downloaded pictures on
18 his phone and showed you pictures of three young men that
19 include a Glock 40. They say it's a very rare handgun. OD
20 green. It's a military gun. OD green handle, black slide.
21 They say that this is his and they showed the Ring camera.
22 They showed something that looks like that firearm. It was
23 in his hands, he had it.

24 Well, he gets shot and there's still no -- he's
25 shot right there. You can see he's shot in the head and he

1 is shot in the face. Remember seeing all that blood, the
2 hand, that stuff along the wall where he's going to get out
3 of there, where he turns that handle. He's also shot in the
4 wrist. We heard testimony about that.

5 He was shot in the leg. And I do want to talk
6 about this for a minute. They're up here, you know, they
7 get on the stand well, he said it. He didn't say it. He
8 did say it. He didn't say it. And all this other kind of
9 stuff. You know, believe me now, but don't believe me two
10 minutes ago and then I want you to believe me two minutes
11 from now. They got the tapes of this stuff, folks. If
12 they're so confident that he didn't say any of this stuff,
13 do you know what they could have done? They could have come
14 up here and pressed play like they did with the Ring video,
15 like they did with one of the body cam videos. They're so
16 confident in this. They're like, oh, no.

17 You know, Tivis talked a bunch of nonsense. He
18 never said this. You-all heard the testimony, but I want to
19 explain it to you again. My memory is, "Yes." "No," but
20 then, "Okay, yes." That's too many lies for one thing to be
21 saying to somebody. "Oh, no, you're right. I just got it
22 out over time. I just got it out over time."

23 The condition that he was in when all these tapes
24 were running. He's in the hospital bed and he's shot in the
25 head, face, wrist and he's shot everywhere. He's just shot.

1 And he was taking this picture right here. And who is over
2 here asking questions? This also is a gruesome photo in my
3 view but they put this in. How? That right there, if they
4 had showed you that seven-hour interrogation video of him at
5 the Columbia Police Department, he was chained to a table in
6 his hospital garment, you would have seen that. To
7 everybody's credit, this was cleaned up. That was bleeding.
8 His wrist was bleeding. In seven hours, folks.

9 So you come up here and complain: Well, he said he
10 was going to some girl's house.

11 First of all, this is the cops; right? We don't
12 have to talk to them. If they can lie to us, I think we can
13 lie to them; right? If it's so good, the citizens are lied
14 to by government agents, but it's okay when we do; right?
15 That's what they're arguing up here and it doesn't make
16 sense. If we separate it from emotions and from what we
17 know, that's what this county is.

18 You ever wonder why a couple hundred years, you got
19 the Persians, you got the Chinese, 5,000 years old, how did
20 this little country, whatever it's called, just rise to the
21 top? We put people on the moon. Good stuff. What it is is
22 we're free. When the government is off people's back, that
23 when they do their best.

24 Do you know how I know that? This radical idea
25 here. This is where everything is best. This is where

1 people are free. These things -- you may say, well, I told
2 you I lied in 2005 and I regret it. But if they're going to
3 play that, then I'm going to play tit-for-tat.

4 The president, Secret Service, whoever, they can
5 lie to me. I think I should be able to lie to them. Ain't
6 they supposed to work for us? We do get to vote to the
7 degree that it matters, to the degree that that matters.

8 Here is what you would have been looking at. If
9 you would have seen these cops leaving him in there hour and
10 a half, two hours at a time, chained to the table, trying to
11 come in, he's like, look, my head is hurting. His face is
12 all swollen up. I can't see. He's trying to get some kind
13 of help. They were running him straight from the hospital
14 over here. And they make big deal speaking of the
15 credibility of what I said and what he affirmed, denied and
16 affirmed up here. That DNA came back in December of 2019.
17 December. He was arrested in May of 2019. What did they
18 put up here that would put him under the probable cause rule
19 that would have gotten him arrested? Of course he told him
20 that. That's part of the game.

21 Look, I know you were shooting, but it was in
22 self-defense. Why? Because they want to get that you were
23 shooting. And they come into court and say: He's lying to
24 us. Look, I know you were there. Right there you said you
25 didn't lie. You lied about everything else. That's how

1 this works. And that's the great difficulty. These other
2 horrible things that we have seen and this isn't the first
3 time that I've seen these things.

4 But the question is: What do we really know? They
5 go up and circle these little things and show the hospital.
6 They're like there's the stripe on his pants. But do we
7 remember what the testimony was? He asked, "Is it a
8 stripe?" Lead investigator says, "It's a stripe or an
9 emblem." If y'all recall that testimony.

10 Now the government witness testified for the
11 government. "Yes, it's that or...."

12 You think it's an "or," or you think it's the thing
13 the Solicitor is asking about? These are the things we have
14 to decide with this stuff.

15 We've been through these -- I didn't put -- sorry.
16 He was excluded and they did all the same testing. They
17 didn't do a single test of a single shell casing on any one
18 of these firearms. That expert testified and had never even
19 seen the firearm. He testified as to what they would have
20 done if he had shell casings and the firearm. He would have
21 taken the ones he had, he would have test fired them, put
22 them side by side and was, like, well, I think this one came
23 from this gun because -- when he was talking about all these
24 parts, the extractor.

25 It's not like a fingerprint, they're just

1 particular markings for particular firearms. When a round
2 is fired and ejected and extracted from the firearm, he
3 could have come up here and said, well -- I mean I know they
4 are up here saying well, the blazer is here, and we also
5 heard the Smith & Wesson 40 goes in any of these. So
6 including 13, 14, 15, other gun companies, what did he say:
7 Astra, Fibrique Nationale. What was that Czech one? Česká
8 Zbrojovka, something like that.

9 He went through these things. He said Springfield,
10 he said Smith & Wesson. Did he say Glock in that last? Do
11 you think within that list of potential firearms that fired,
12 that discharged these shell casing into this firearm right
13 here, do you think if in that list of 15 or so different
14 companies that are mentioned, you think they would have
15 highlighted it? You think they would have said, I know, if
16 it was a Glock, it's on the potential list. They do what
17 they do. They do something positive for them. You see it.
18 Something negative for them, they blow past it. They
19 weren't even going to talk about the DNA. They go right to
20 the supplement report. The supplemental report from 2020.
21 They skip the first one which was just guns altogether.
22 Didn't say anything about it. They jumped a year ahead and
23 said, "Well, how long was this thing here?"

24 Here is the door and along this wall was a
25 handprint here. They go to that report that says that.

1 Well, I remember talking about that in the beginning. It's
2 no surprise to me, but could be a surprise to you. But,
3 again, we don't really know each other. And it's the most
4 difficult thing about this, is to get people that you know
5 to trust you. I just do the best that I can. I know I
6 talked about that. I know I talked about, yes, he said it;
7 no, he didn't say it; yes, he said it, right? I know I
8 talked about that. And I hinted at this and that.

9 You see those numbers up there? 32 zeros. That's
10 the accuracy of this stuff? Well, you know what, when it
11 says it wasn't somebody, it stands to reason it's the same
12 accuracy; right? If it's 13 decillion, whatever the hell it
13 is, that somebody did this, then I think it should be 13
14 decillion something other that they did when they excluded
15 that person from that; right? It's the only place. The
16 only place. What does that mean, he's trying to get out?
17 That's what that goes along with and you can go back and
18 look at this stuff. You can make a decision about, was this
19 and this and this, that? You can go back and review the
20 testimony. Well, does Tivis say that? Y'all saw; right?
21 He's up here flip flopping around and that's what they do.

22 I'm not saying he's a bad person. I am saying it's
23 a bunch of lies in this. I am saying that. And that's been
24 admitted to you on the stand; right?

25 I don't have to worry because I don't lie to people

1 about having to remember what I said. I probably told y'all
2 the same thing three or four times sitting up here. When
3 there's lies, the lies cause one person to tell another
4 story to somebody up here. Telling the truth is easy.
5 Telling the truth is easy. It's lying that's hard. So we
6 know what science said. What about the testimony? Which is
7 true and which is not? You don't have any of those
8 statements back there that will squabble with that.

9 Not even the hospital one. There was a chunk
10 missing, eight hours of that young man in that condition
11 right there in police custody. He doesn't have a split
12 second to lie. You're going to lie on what you're talking
13 about. I think there was some flip flopping going on. He
14 was saying, "I'm just going to say this, you're going to
15 rely in one place and not rely in another?" That's what
16 they want you to do. When something's bad for us, it's a
17 lie. When something's good for us, Jesus comes down and
18 gives it to us; right?

19 Please do everything you can to help Genari. He
20 was 18 at that time, a teenager. He's 22 now. The
21 consequences here, I can't tell you. They ain't put the
22 snitch up that was talked about in the beginning. I wasn't
23 able to ask him either. I think we can feel better if you
24 talk about doing the right thing. It may be distasteful
25 after seeing all this stuff. It's the right thing to do.

1 It's still right now, when Dale comes up here and says well,
2 at one point during the testimony, if somebody leans over
3 the rail like that, could somebody get in here and come
4 out -- y'all remember that? They got it there. They need
5 evidence to support that and they ignore the evidence that
6 doesn't.

7 All of the firearms in the house. Did you hear
8 something about GSR? Oh, no. I asked him about the
9 residue; right? So you said, "Well, there was gunshot
10 residue on your hands"; right? What did he say? No. He
11 shutdown every time you got to that point where you were
12 saying you know he shot a gun. Yes. It's not a comfortable
13 thing to do but it is the right thing to do.

14 You know, relative to the laws of persuasion, that
15 was some law and order type, you've got a big thing. But
16 you know, I talk with law and order types. I tell them, you
17 got a kilogram of cocaine in the trunk? Yes, sir, I do. He
18 got it. Well, that's not right.

19 If they can go to mine, a young black man's truck,
20 they can go in yours. And that is when -- and look, you
21 have to be pigeonholed, a libertarian, I guess that's what
22 my job wanted me to go into.

23 You know, it's a personal fit. If you don't go
24 over this stuff and you got to decide what do they have and
25 what do they don't have. Well, this thing over here, is it

1 because of what he said or is it what's there? You have an
2 infrared camera, you make up whatever you will. Go through
3 each of these charges. I'm not going to sit up here and do
4 like Dale and talk about all this stuff.

5 When they talk about an armed robbery, arm robbery
6 is depriving somebody of something. Who said anything was
7 missing from that house? Who said? Well, there's money out
8 front. There's dollar bills in the parking lot. \$10 or \$20
9 bills over the fence. Who sat up there and put in evidence
10 that this was taken from that house? That's another thing
11 that we don't know. And when we don't know, we may not like
12 it. We may like it. But it's the right thing to do.
13 You'll be able to sleep at night. Will you be able to sleep
14 at night? If they don't have an element of a crime, they
15 haven't carried away something, then we're fine. They can't
16 say he did it.

17 Essentially, you got four people shooting in there.
18 Not included if the gun and gloves don't have a clue. They
19 shouldn't be asking the citizens and members of this
20 community who are sitting on the jury to guess. He says he
21 has a duty. That's right, he has a duty. What's the
22 evidence say, nothing. Not a single, this person did that.
23 Nothing. And that's important.

24 I mentioned at the beginning that I can go on and
25 on and on. I think I've said what needs to be said here.

1 Just you-all took an oath to scrutinize the government's
2 case, not scrutinize this young man here. Please, just do
3 your best. Thank you.

4 THE COURT: Okay. Thank you very much
5 Mr. Sutherland.

6 MR. SUTHERLAND: Yes, sir.

7 THE COURT: Everybody let's stand up, twist, turn,
8 stretch.

9 Now, ladies and gentleman, it is my obligation to
10 charge you on the law in this case. As exciting I want my
11 jury charge to be, it's virtually impossible to be exciting
12 and riveting and captivating while reading law. Okay? So
13 please stay with me. This charge is very important. This
14 is the law that you must apply in this case and because of
15 the number of charges, it is going to take a little bit
16 longer than normal. And bear with me, okay, as we go
17 through it.

18 As I told you in the beginning, the indictments in
19 this case have charged the defendant with burglary in the
20 first degree, possession of a weapon during the commission
21 of a violent crime, armed robbery and two counts of murder.

22 I remind you that the fact that the defendant was
23 arrested and charged and indicted in this case is not
24 evidence of anything and cannot be considered by you as
25 evidence of guilt; nor does it create any presumption or

1 inference of guilt.

2 These indictments are simply the formal written
3 instruments that contain the charges made against the
4 defendant. They are the formal documents by which the case
5 is brought into this court.

6 Now, you and I have different duties to perform.
7 As the trial judge, it is my responsibility to preside over
8 the trial and to rule upon the admissibility of the evidence
9 offered. You are to consider only the competent evidence
10 before you. If there was anything ordered stricken, you
11 must disregard that testimony. You are to consider only the
12 testimony which has been presented from the witness stand
13 and any exhibit which have been made apart of the record in
14 this case.

15 I have the additional duty to charge you on the
16 law. I am the sole judge of the law and it is your duty to
17 accept it and apply it as I now give it to you. If you have
18 an idea as to what you think the law is or what you think
19 the law ought to be and it doesn't agree with what I now
20 tell you the law is, you must abandon your own idea because
21 you are sworn to accept the law and apply it exactly as I
22 give it to you.

23 You are the sole and exclusive judge of the facts.
24 I am not allowed to state anything or comment on or make any
25 statement to a trial jury about the facts. You are the sole

1 judge of the facts. You should not infer from anything that
2 I have said during this trial or anything that I say now
3 that I have any opinion about the facts in this case. The
4 law does not allow me to have an opinion about the facts.
5 This is for you to determine. It is your duty to determine
6 the effect, the value, and the weight of the evidence
7 presented.

8 The defendant has pled not guilty to these charges
9 and they plea puts the burden on the State to prove the
10 defendant guilty. A person charged with committing a crime
11 in South Carolina is never required to prove himself
12 innocent. It is an important rule of law that the defendant
13 in a criminal trial, no matter what the seriousness of the
14 charge may be, will always presumed to be innocent of the
15 crime for which the indictment was issued unless guilt has
16 been proven by evidence that satisfies you of that guilt
17 beyond a reasonable doubt.

18 This presumption of innocence doesn't end when you
19 begin your deliberations, but it accompanies the defendant
20 throughout the trial until you reach a verdict of guilt
21 based upon evidence that satisfies you of that guilt beyond
22 a reasonable doubt. The presumption of innocence is like a
23 robe of righteousness placed about the shoulders of the
24 defendant which remains with him until it has been stripped
25 from the defendant by evidence that satisfies you of the

1 defendant's guilt beyond a reasonable doubt.

2 The presumption of innocence is not just some mere
3 legal theory. It's just not some thing that we say in this
4 country. It is a substantial right to which every single
5 defendant is entitled, unless you are satisfied from the
6 evidence what -- of the defendant's guilt beyond a
7 reasonable doubt.

8 So that begs the question, what does beyond a
9 reasonable doubt mean?

10 The State has the burden of proving the defendant
11 guilty beyond a reasonable doubt. Some of you may have been
12 jurors in civil cases where you were told that it is only
13 necessary to prove that a fact is more likely true than not
14 true such as by the greater weight or the preponderance of
15 the evidence. In criminal cases, the State proof must be
16 more powerful than that. It must be beyond a reasonable
17 doubt.

18 Proof beyond a reasonable doubt is proof that
19 leaves you firmly convinced of the defendant's guilt. There
20 are very few things in this world that we know with absolute
21 certainty, and in criminal cases, the law does not require
22 proof that overcomes every possible doubt.

23 If, based on your consideration of the evidence,
24 you are firmly convinced the defendant is guilty, you must
25 find the defendant guilty. If, on the other hand, you think

1 there's a real possibility that the defendant is not guilty,
2 you must give the defendant the benefit of the doubt and
3 find him not guilty.

4 There are things which occurred in this trial which
5 would appear to be or sound like evidence, but they are not
6 evidence. Let's talk about things you saw and heard that
7 are not evidence.

8 Number 1, the statements and the arguments of the
9 attorneys are not evidence. They're not witnesses.

10 The questions that they ask and the objections that
11 they raise are not evidence.

12 And Number 3, anything that I told you to
13 disregard.

14 There are two types of evidence which may be
15 presented: Direct evidence and circumstantial evidence.

16 Direct evidence directly proves the existence of a
17 fact and does not require any deduction.

18 Circumstantial evidence is proof of a chain of
19 facts and circumstances that indicate the existence of a
20 fact. Crimes may be proven by circumstantial evidence. The
21 law makes no distinction between the weight or the value to
22 be given to either direct or circumstantial evidence.

23 However, to the extent that the State relies on
24 circumstantial evidence, all of the circumstances must be
25 consistent with each other and when taken together, point

1 conclusively to the guilt of the accused beyond a reasonable
2 doubt. If these circumstances merely portray the defendants
3 behavior as suspicious, the proof has failed.

4 The State has the burden of proving the defendant
5 guilty beyond a reasonable doubt. This burden rest with the
6 State regardless of whether they rely on direct evidence,
7 circumstantial evidence or some combination of the two.

8 Now, you must also determine the credibility of the
9 witnesses who have testified in this case. Credibility
10 simply means believability. It is your duties to analyze
11 and evaluate the evidence. In determining the believability
12 of the witnesses, you may believe one witness over many or
13 many over one. You may believe a part of a testimony of a
14 witness and reject the remaining part. You may believe the
15 testimony of a witness entirely or reject it entirely. You
16 may consider whether the witness has demonstrated to you any
17 interest or bias or prejudice or other motive in this case.
18 You may also consider the appearance and manor or demeanor
19 of the witness while on the witness stand. I probably gave
20 you some example in the beginning about how you judge
21 people's credibility all day long. You do it so much, you
22 don't even know you're doing it anymore and you do it all
23 day long with your common sense and you didn't leave your
24 common sense at the metal detector when you came back from
25 lunch. Just use your common sense in determining the

1 credibility of the witnesses.

2 We had a couple of witnesses who were experts.
3 These are people who were allowed to testify to their
4 opinions or conclusions. And they're witnesses by education
5 and experience and have become an expert in some art or
6 science or profession and they're allowed to give their
7 opinions and the basis for their opinions.

8 So you should consider any expert opinion received
9 as evidence in this case. And like any other piece of
10 evidence, you give it the weight that you believe it
11 deserves. If you have believe or you decide that the
12 opinion of the expert isn't based upon sufficient education
13 and experience or if you conclude that the reasons given in
14 support of the opinion are not sound or that the opinion is
15 outweighing that other evidence, you may disregard that
16 opinion entirely.

17 An expert witnesses testimony is to be given no
18 greater weight than the other witnesses simply because we
19 call them "experts." And you are not required to accept an
20 expert's opinion even though it is not contradicted.

21 Now, I instruct you and I emphasize to you that the
22 fact that the defendant in this case did not testify is not
23 a factor to be considered by you in any way during your
24 deliberation and in your consideration on the question of
25 guilt or the innocence of the defendant. It must not be

1 considered by you in any manner whatsoever.

2 A defendant in this country has a constitutional
3 right to remain silent and the assertion of this right must
4 not be considered by you in deliberations. I repeat, under
5 your oath, you are to draw absolutely no conclusion
6 whatsoever from the fact that the defendant in this case did
7 not testify. The fact that this defendant did not testify
8 should not even be discussed in the jury room. The burden
9 of proof, as I told you from Monday, is upon the State. The
10 defendant is not required to prove his innocence. The
11 burden of proof remains on the State to prove guilt beyond a
12 reasonable doubt.

13 Now, there's a statement that is alleged to have
14 been made by the defendant that I have admitted into
15 evidence in this case. While I have determined it is
16 admissible, you make the ultimate decision of whether or not
17 the defendant made the statement. If the defendant did make
18 the statement, you must determine whether the statement was
19 made by the defendant voluntarily and by his own free-will.
20 This means he was not caused by pressure, force, fear,
21 threats, coercion or intimidation or by hope or a promise of
22 leniency or a reward of any kind.

23 In determining whether the statement was voluntary,
24 you should consider both the characteristics of the
25 defendant and the details of the questioning. You may

1 consider the age of the defendant, the defendant's education
2 or lack thereof, the defendant's mental ability or capacity,
3 the defendant's intelligence, the defendant's background and
4 environment, the place and the length of the detention, the
5 nature of the questioning, the advice or lack thereof of his
6 Constitutional rights, including but not limited to, his
7 right to remain silent, that any statement can be used
8 against him in court. The right to have a lawyer present.
9 If he couldn't afford one, one would be appointed and that
10 he could stop making statements at any time.

11 You must carefully consider all of the surrounding
12 circumstances before you give any weight to an alleged
13 statement. The State has the burden of proving beyond a
14 reasonable doubt that the alleged statement was voluntary.
15 If you determine it was, you may give the statement any
16 further consideration you deem proper. You must decide what
17 weight, if any, should be given to the alleged statement.
18 If you determine the alleged statement was not the free and
19 voluntary statement of the defendant, you should not
20 consider it at all.

21 We're going to switch gears. We've kind of been
22 talking about general legal principles. We're going to
23 switch gears into the element of each of the charges. So
24 there are multiple charges. We have to go through each
25 charge and talk about what the State has to prove for each

1 of those charges.

2 To start that conversation, we have to talk about
3 the concept called "intent." In order to establish criminal
4 liability, criminal intent is required. For example, the
5 criminal intent might be purpose, knowledge, recklessness or
6 criminal negligence. Criminal intent must be proven by the
7 State beyond a reasonable doubt.

8 Now, criminal intent is always a matter that must
9 be determined from the circumstance surrounding the
10 situation. There is no way to prove intent to a
11 mathematical certainty. There's no way that science can
12 dissect a person's brain and determine what that person had
13 in mind. The law says that you may infer intent from the
14 circumstances shown to have existed and that's how you make
15 a determination of whether or not the element that requires
16 intent was present. It is not necessary to establish intent
17 by direct and positive evidence, but intent may be
18 established by inference in the same way as any other fact,
19 by taking into consideration the acts of a party and all the
20 facts and circumstances of the case.

21 Criminal intent is a mental state. It is a
22 conscious wrongdoing. It is up to you to determine what the
23 defendant intended to do based upon the circumstances shown
24 to have existed. Criminal intent can arise from an action
25 or a failure to act. It may arise from negligence,

1 recklessness or indifference to duty or in consequences that
2 are considered by the law to be the equivalent of criminal
3 intent.

4 Now, these charges are in a particular order but we
5 are going to start with burglary. The charge is burglary in
6 the first degree. The defendant is charged with
7 first-degree burglary.

8 First, the State must prove and the standard is
9 beyond a reasonable doubt that the defendant entered a
10 dwelling without consent. So what is a dwelling? A
11 dwelling is any building or portion of a building in which a
12 person ordinarily sleeps. A building constructed as a
13 dwelling that has never been occupied cannot be considered a
14 dwelling for purposes of a burglary. But a building is a
15 dwelling even if the residents are temporarily absent from
16 the building.

17 In order to prove that the defendant entered the
18 dwelling, the State does not have to show that the
19 defendant's entire body entered the dwelling. The smallest
20 entry is sufficient. It may be any part of the human body
21 such as a hand or foot or even an instrument such as a hook
22 or other instrument. In addition, the State does not have
23 to prove that force was used to gain entry.

24 Next, the State must prove beyond a reasonable
25 doubt that the defendant intended to commit a crime, either

1 a felony or a misdemeanor at the time of entry. The mere
2 entry into a dwelling without consent is not a burglary.

3 Are you okay?

4 THE JUROR: I'm sorry, your Honor. I have to go to
5 the bathroom extremely bad.

6 THE COURT: Okay. Everybody pause. You go to the
7 restroom and we'll stay right here.

8 (Whereupon, a short recess was taken.)

9 THE COURT: Welcome back. So we're on burglary and
10 we talked about how a burglary is the entering of a dwelling
11 of another without consent.

12 Next, the State must prove beyond a reasonable
13 doubt the defendant intended to commit a crime, either a
14 felony or a misdemeanor at the time of entry. The mere
15 entry into a dwelling without consent is not a burglary. If
16 the intent to commit a crime is formed after the entry, it
17 is not a burglary. On the other hand, if the defendant
18 intended to commit a crime at the time of entry, it is a
19 burglary even if the intent was abandoned after the entry.
20 It does not matter that the intended crime was not
21 completed.

22 Intent may be shown by acts and conduct of the
23 defendant and other circumstances from which you may
24 naturally and reasonably infer intent.

25 Finally, we're still in burglary in the first

1 degree. The State must prove one of the following. I'm
2 about to give you four examples. They don't have to prove
3 all four. They just have to prove one of the four.

4 First one: When entering or while in the dwelling
5 or when fleeing, the defendant or an accomplice was armed
6 with a deadly weapon.

7 What is a deadly weapon? A deadly weapon is any
8 article, instrument or substance which is likely to cause
9 death or great bodily harm. Whether an instrument has been
10 used as a deadly weapon depends on the facts and
11 circumstance of each case. The following are examples of
12 instruments which may be deadly weapons: A firearm. And a
13 gun may be a deadly weapon even if it is not operating.

14 Number 2 -- again, this is not an "and," this is an
15 "or," or when entering, while in the dwelling, or when
16 fleeing, the defendant or an accomplice caused physical
17 injury to any one not participating in the crime.

18 Or when entering or while in the dwelling or when
19 fleeing, the defendant or an accomplice used or threatened
20 to use a dangerous object.

21 Or Number 4: When entering, while in the dwelling,
22 or when fleeing, the defendant or an accomplice displayed
23 what was or appeared to be a pistol, revolver or other
24 firearm. That's burglary in the first degree.

25 The second charge is armed robbery. The defendant

1 is charged with armed robbery. In order to prove this
2 offense, the State must first prove beyond a reasonable
3 doubt that the defendant took personal property from the
4 person or presence of another person.

5 Property is in the presence of a person if it is
6 within the person's reach, inspection, observations or
7 control so that the person could, if not overcome with
8 violence or prevented by fear, keep possession of the
9 property. The State must also prove beyond a reasonable
10 doubt that the defendant carried the property away intending
11 to permanently deprive the owner of the property and to keep
12 the property for the defendant's own use.

13 The slightest removal of the property or the
14 complete possession of the property even for an instant by
15 the defendant is sufficient to show a taking and carrying
16 away of the property.

17 The taking and carrying away of the property must
18 have been done with violence or by putting the owner of
19 property in fear of violence.

20 And finally, the State must prove beyond a
21 reasonable doubt that the defendant was armed with a deadly
22 weapon during the robbery. A deadly weapon is any article,
23 instrument or substance which is likely to cause death or
24 great bodily harm and whether the instrument has been used
25 as a deadly weapon depends on the facts and circumstance of

1 the case.

2 The following are examples of instruments which may
3 be deadly weapons: A pistol or a firearm. A gun may be a
4 deadly weapon even if it is not operating.

5 The next charge is murder. Now there's two counts
6 of murder.

7 So the defendant is charged with murder. The State
8 must move beyond a reasonable doubt that the defendant
9 killed another person with malice aforethought. So what
10 does malice aforethought mean?

11 "Malice is hatred, ill-will or hostility towards
12 another person. It is the intentional doing of a wrongful
13 act without just cause or excuse and with an intent to
14 inflict an injury or under circumstances where the law will
15 infer evil intent."

16 Malice aforethought does not require that malice
17 exist for any particular time before the act is committed,
18 but it must exist in the mind of the defendant just before
19 and at the time the act is committed; therefore, there must
20 a combination of previous evil intent and the act.

21 So malice aforethought may be expressed or it may
22 be inferred. These terms "express" or "inferred" do not
23 mean different kinds of malice, but merely the manner in
24 which the malice may be shown to exist, that is either by
25 direct evidence or by inference from the facts and

1 circumstances which have been proven.

2 Express malice is shown when a person speaks words
3 which express hatred or ill-will for another or when the
4 person prepared beforehand to do the act which was later
5 accomplished. For example, lying in wait for a person or
6 any other acts of preparation going to show that the deed
7 was within the defendant's mind would be expressed malice.
8 Malice maybe inferred from conduct that shows a total
9 disregard for human life.

10 The last charge is possession of a weapon during
11 the commission of a violent crime. The defendant is charged
12 with possession of a weapon during the commission of, or an
13 attempt to commit a violent crime. The State must prove
14 beyond a reasonable doubt that the defendant was in
15 possession of a firearm or visibly displayed what appeared
16 to be a firearm during the commission of a violent crime.

17 So what is a firearm? A firearm means any gun,
18 revolver, pistol or any weapon which will, is designed to or
19 readily converted to expel a projectile.

20 In order to find the defendant guilty of this
21 charge, you must first find the defendant is either guilty
22 of committing a violent crime or attempting to commit a
23 violent crime.

24 Under the law of South Carolina burglary in the
25 first degree, armed robbery and murder are all violent

1 crimes.

2 The State must also prove beyond a reasonable doubt
3 that the weapon further advanced or helped in the commission
4 of a crime.

5 Now, we're going to talk about a concept under the
6 law that's called the "Hand of one is the hand of all."

7 If a crime is committed by two or more people who
8 are acting together to commit a crime, the act of one is the
9 act of all. A person who joins with another to commit an
10 unlawful act is criminally responsible for everything done
11 by the other person which happens as a probable or natural
12 consequence of the acts done in carrying out the common plan
13 and purpose.

14 For example, two people can be guilty of killing
15 another person when only one of the two had a gun. There
16 was only one bullet and only one of the two fired a shot
17 that caused the death. If two or more people are together
18 and acting together, assisting each other in committing the
19 offense, the act of one is the act of all. Or as we like to
20 say it is called, "the hand of one is the hand of all."

21 So prior knowledge that a crime is going to be
22 committed without more is not sufficient to make a person
23 guilty of that crime. Mere knowledge that another person is
24 going to commit a crime, even if the defendant is present,
25 is not sufficient to convict the defendant as a principal.

1 Guilty as a principal is shown by actual or
2 constructive presence at the scene as a result of a prior
3 arrangement; therefore, a finding of a prior arranged plan
4 or common scheme is necessary for a finding of guilty as a
5 principal.

6 The State must prove beyond a reasonable doubt by
7 competent evidence the theory of the hand of one is the hand
8 of all.

9 A principal in a crime is one who either actually
10 commits the crime or who is present and aiding and abetting
11 or assisting in committing the crime. When a person does an
12 act in the presence of and with the assistance of another,
13 the act is done by both two. Where tow or more acting with
14 a common plan or intent are present at the commission of a
15 crime, it does not matter who actually commits the crime,
16 all are guilty. "The hand of one is the hand of all."

17 Present at the commission of a crime sufficiently
18 near to aid and abet and assist in the commission of the
19 crime; however, mere presence at the scene of a crime is not
20 sufficient to convict one as a principal on the theory of
21 aiding and abetting.

22 Intent is also a necessary element, for there must
23 have been a common design or intent to commit the crime and
24 a crime must have been committed pursuant thereto with a
25 person aiding and abetting by some overt act.

1 Intent means intending the result which actually
2 occurs, not accidentally or involuntary. Intent may be
3 shown by acts and conduct of the defendant and other
4 circumstances from which you may infer intent. The State
5 must prove these elements beyond a reasonable doubt.

6 Now, there are five charges in the case. Do you
7 understand that? Each charge contains a separate and
8 distinct defense and you must decide each indictment
9 separately on the evidence and the law applicable to it,
10 uninfluenced by your decision, as to any other indictment.

11 The defendant may be convicted or acquitted on any
12 or all of the offenses charged. You will be asked to write
13 a separate verdict for each. There's one exception to that
14 that I will explain to you in just a second.

15 A verdict in this case cannot be based upon
16 sympathy, passion, prejudice or emotion or something else
17 not found in the evidence.

18 Okay. Most of you have probably never deliberated
19 before. So let's talk about what that looks like. So the
20 word deliberation is defined as a "careful consideration
21 weighing up with a view to a decision." The genius of this
22 system is that it allows 12 good men and women from 12
23 totally different backgrounds, life experiences and
24 prospective, to consider the evidence, talk about it and
25 reach a verdict.

1 We call them deliberations for a reason. You are
2 to consider the evidence in this case carefully and
3 deliberately. And you should be discussing it in a calm,
4 thorough, courteous manner.

5 You are not a partisan, nor an advocate. You are a
6 judge. You are a judge of the facts. Listen to each others
7 views and points of view and talk about and discuss the
8 evidence.

9 Remember, if you're doing something deliberately,
10 you're not in a big hurry and you should not be in a hurry
11 here. This case is very important to both sides. This is
12 their only day in court to resolve this matter.

13 You should discuss the case with your fellow jurors
14 to reach agreement if you can. Your verdict must be
15 unanimous. That means you 12 must agree. Each of you must
16 decide the case, but only after you have impartially
17 considered the evidence, discussed it fully with which each
18 other and listened to each others views.

19 Don't be afraid to change your opinion if the
20 discission persuades you that you should. But don't come to
21 a decision, well, because everyone else thinks it's the
22 right thing to do; right?

23 You have to make your own decision. And do not
24 change an honest belief about the weight and the effect of
25 the evidence in order to reach a verdict; in other words,

1 don't change your opinion solely for the sake of reaching
2 the unanimous verdict.

3 Okay. Mr. Foreman, what I'm going to do is go over
4 these verdict forms with you. They're all essentially the
5 same except for I changed the charge in each one. Let me
6 give a couple of things. There's some videos in this case,
7 right, so we're going to send back with you what we call a
8 "clean" computer that shall allow you to play the video. So
9 you can slow it down, speed it up, watch it as many times as
10 you want to, pass it around.

11 If you get back there and you can't figure out how
12 to play the things, just knock on the door and let us know
13 and I'll send my law clerk in and she'll show you how to
14 make all that work. We will also send back gloves with you,
15 if you want to touch anything. Anyone want to put on
16 gloves, you will have a box of gloves with you to put them
17 on. That's completely and totally your decision, but I
18 wanted you to have that option if you need it.

19 Now, as you go back -- and I'm about to send you
20 back to the jury room, you're still not allowed to talk
21 about the case. I need to make sure that everything I just
22 said to you was right with the lawyers. The sign that you
23 can start deliberating is when all of this comes in the
24 room. When the bailiff's bring in all the evidence, that's
25 your visual sign that you can start deliberating.

1 When you start deliberating, all 12 of you have to
2 be in the room to deliberate. So if somebody needs to go to
3 the restroom, somebody needs to take a smoke break, somebody
4 needs to go call home, deliberations stop unless all 12 of
5 you are in the room. Okay?

6 Don't tell me the count. I learned this one the
7 hard way. You never need to send out a note that says the
8 count is X to Y. Your count is your count. You don't ever
9 need to report to me your count. Your verdict must be
10 unanimous. That means you 12 must agree.

11 These verdict forms are very simple. They all look
12 really kind of the same, but all this stuff at the top is
13 the same. It's just a case caption. It says, "By unanimous
14 consent, we find the defendant as to the charge of murder."

15 And then on the murder ones, we actually list out
16 the individual victims because you don't have what number
17 goes with what victim. Then you either check "guilty" or
18 "not guilty," then sign it.

19 There is no rhyme or reason why guilty and not
20 guilty are in the order I put them in. I change them up
21 every single trial. The last trial I did was in Greenville
22 and I started with one. So I've got to put one first and
23 put one second. Don't read anything into it.

24 Second form is the same except it's to the male
25 victim. The third form is for the burglary. Again, these

1 are in no order. Fourth form is for the armed robbery, same
2 form.

3 Now, one thing I told you about just a second ago,
4 the one exception. You can only consider the gun charge if
5 you find that he is guilty of either A, murder -- you have
6 to find him guilty of one of the other charges before you
7 consider the gun charge.

8 If you find him not guilty on all of the other
9 charges, you never need to get to the gun charge. To be
10 convicted of possession of weapon during the commission of a
11 violent crime, you have to find that he's guilty of a
12 violent crime. You don't have to find that he's guilty of
13 all the violent crimes. But if you find that he is guilty
14 of one of them, then you can consider the weapons charge;
15 otherwise, you don't need to get to that. And that's what
16 that extra little box right there at the top says.

17 I will give you these. Now go back to your jury
18 room. Don't discuss the case. The sign that you can start
19 is when all of this comes in. Thank you.

20 (Jurors exited.)

21 THE COURT: Anything from the State on the charge?

22 MR. SCOTT: Nothing from the State.

23 THE COURT: From the defense?

24 MR. SUTHERLAND: No, sir. The record is taken care
25 of.

1 THE COURT: Good job. All of you did a very good
2 job trying the case. Here's what we're going to do: Make
3 sure Serena has your phone numbers and that includes all
4 three of you. Make sure she has your phone numbers.

5 The next thing I need you to do is to get with the
6 court reporter and my law clerk and make sure that the right
7 exhibits are the ones going back. Then once all of you sign
8 off on the exhibits that go back, then Mr. Tolbert can take
9 the exhibits back.

10 Good job.

11 (Whereupon, the jury began deliberations at 3:40
12 p.m.)

13 THE COURT: We're back on the record. Mr. McNeil
14 is present, along with his attorney and both prosecutors.
15 We received a note a little while ago that said, "Can you
16 please assist with the volume on the laptop?"

17 So we switched out that laptop for the other one.
18 I marked that notice as Court's Exhibit Number 2.

19 (Court's Exhibit 2, Juror Note, was marked for
20 identification.)

21 (Court's Exhibit 3, Juror Note, was marked for
22 identification.)

23 THE COURT: And just a few moments ago we received
24 Court's Exhibit Number 3, that says, "Can we please access
25 Google Maps to view a map of the address or the crime

1 scene?"

2 Which I've shown to both the parties.

3 What's the State's position?

4 MR. SCOTT: No, your Honor. It's not in evidence.

5 THE COURT: And the defense's position?

6 MR. SUTHERLAND: I was fine with it, but we can't.

7 THE COURT: I don't think we can add new evidence
8 to the record. So I will put on here, "No, you have all the
9 evidence that is in the record."

10 Are you okay with that?

11 MR. SCOTT: Yes, sir.

12 THE COURT: Are you okay with that?

13 MR. SUTHERLAND: Yes, your Honor.

14 THE COURT: So I put, "No, you have all the
15 evidence that is in the record," and initialed it. We'll
16 send that back to them.

17 Let's not go 20 minutes away.

18 MR. SUTHERLAND: No, sir.

19 THE COURT: All right. We'll be in recess.

20 Thank you.

21 (Whereupon, a short recess was taken.)

22 THE BAILIFF: Come to order.

23 All rise please.

24 THE COURT: Thank you. Take your seats.

25 THE BAILIFF: Please make sure all cell phones are

1 turned completely off. Thank you.

2 THE COURT: Okay. Let's bring them in.

3 As the jury comes in, if you cannot control your
4 emotions, you should exit the courtroom now. If you are in
5 here, I will expect that no one is making any outbursts or
6 loud noises or screaming or yelling, other than crying, is
7 the only appropriate motion.

8 If you cannot control yourself, leave the courtroom
9 now. Someone can come tell you what happens. If there is
10 an outburst, you will more than likely be taken into
11 custody.

12 (Jurors entered.)

13 THE BAILIFF: The jurors are seated, your Honor.

14 THE COURT: Welcome back, ladies and gentlemen,
15 Mr. Foreman. It is my understanding that there is a
16 verdict?

17 MR. FOREMAN: Correct, your Honor.

18 THE COURT: Would you please hand it to
19 Mr. Tolbert. I find the verdict is in its proper form and
20 the clerk may publish.

21 THE CLERK: The State of South Carolina versus
22 Genari "Gre'Sean" McNeil, Indictment Numbers
23 2019-GS-40-06963, 6964, 6965, 6966, 6967.

24 We, the jury, by unanimous consent, find the
25 Defendant, Genari "Gre'Sean" McNeil, as to the charge of

1 murder of Mary Carmichael on Indictment 2019-GS-40-06966,
2 guilty.

3 This is signed Foreperson Juror Number 26, March
4 22, 2023.

5 As to the charge of murder of Jahquan Peterson on
6 Indictment 2019-GS-40-6967, the verdict is guilty. This is
7 signed by Foreperson Juror Number 26, March 22, 2023.

8 As to the charge of armed robbery on Indictment
9 2019-GS-40-6965, the jury finds the defendant guilty. This
10 is signed Foreperson Juror Number 26, March 22, 2023.

11 As to the charge of burglary in the first degree on
12 Indictment 2019-GS-40-6963, the jury finds the defendant
13 guilty. This is signed Foreperson Juror Number 26, March
14 22, 2023.

15 As to the charge of possession of a weapon during
16 the commission of a violent crime, on Indictment
17 2019-GS-40-6964, the jury finds the defendant guilty. This
18 is signed Juror Number 26, March 22, 2023.

19 Mr. Foreman, are these your verdicts and the
20 verdicts of the entire jury?

21 MR. FOREMAN: Yes, ma'am.

22 THE COURT: Does either side request polling?

23 MR. SUTHERLAND: Yes, your Honor.

24 THE COURT: Ladies and gentleman, your number is
25 going to be called. The clerk's going to ask you, "Is this

1 your verdict," and "Is it still your verdict?" If you'll
2 please just answer out loud.

3 THE CLERK: Jury number 26, were these your
4 verdicts?

5 JUROR NUMBER 26: Yes.

6 THE CLERK: Are they still your verdicts?

7 JUROR NUMBER 26: Yes.

8 THE CLERK: Juror Number 112, were these your
9 verdicts?

10 JUROR NUMBER 12: Yes.

11 THE CLERK: Are they still your verdicts?

12 JUROR NUMBER 112: Yes.

13 THE CLERK: Juror Number 289, were these your
14 verdicts?

15 JUROR NUMBER 289: Yes.

16 THE CLERK: Are they still your verdicts?

17 JUROR NUMBER 289: Yes.

18 THE CLERK: Juror Number 223, were these your
19 verdicts?

20 JUROR NUMBER 223: Yes.

21 THE CLERK: Are they still your verdicts?

22 JUROR NUMBER 223: Yes.

23 THE CLERK: Juror Number 322, were these your
24 verdicts?

25 JUROR NUMBER 322: Yes.

1 THE CLERK: Are they still your verdicts?

2 JUROR NUMBER 322: Yes.

3 THE CLERK: Juror Number 225, were these your
4 verdicts?

5 JUROR NUMBER 225: Yes.

6 THE CLERK: Are they still your verdicts?

7 JUROR NUMBER 225: Yes.

8 THE CLERK: Juror Number 69, were these your
9 verdicts?

10 JUROR NUMBER 69: Yes.

11 THE CLERK: Are they still your verdicts?

12 JUROR NUMBER 69: Yes.

13 THE CLERK: Juror Number 155, are these your
14 verdicts?

15 JUROR NUMBER 69: Yes.

16 THE CLERK: Are they still your verdicts?

17 JUROR NUMBER 69: Yes.

18 THE CLERK: Juror Number 167, are these your
19 verdicts?

20 JUROR NUMBER 69: Yes.

21 THE CLERK: Are they still your verdicts?

22 JUROR NUMBER 69: Yes.

23 THE CLERK: Juror Number 283, were these your
24 verdicts?

25 JUROR NUMBER 283: Yes.

1 THE CLERK: Are they still your verdicts?

2 JUROR NUMBER 283: Yes.

3 THE CLERK: Juror Number 326, were these your
4 verdicts?

5 JUROR NUMBER 326: Yes.

6 THE CLERK: Are they still your verdicts?

7 JUROR NUMBER 326: Yes.

8 THE CLERK: Juror Number 292, were these your
9 verdicts?

10 JUROR NUMBER 292: Yes.

11 THE CLERK: Are they still your verdicts?

12 JUROR NUMBER 292: Yes.

13 THE CLERK: The jurors have been polled, your Honor.

14 THE COURT: Anything for the jury before they are
15 released?

16 From the State?

17 MR. SCOTT: No, your Honor. Other than thank you
18 for your service.

19 THE COURT: From the defense?

20 MR. SUTHERLAND: No, sir.

21 THE COURT: Ladies and gentlemen, I want to say,
22 thank you very much for your service this week. You have
23 done an admirable job for your community and for your
24 county. You've all been here. You've all paid attention.
25 You've all been on time. You've paid attention to the

1 lawyers, the witnesses, to me. That is much appreciated.
2 You took your job seriously and I sincerely appreciate that.
3 You are now free to discuss the case with anyone
4 you want to, in any way that you want to. If you don't want
5 to talk to whoever may be trying to talk to you, just tell
6 them that. If they don't leave you alone, just call up here
7 and I'll deal with it personally.

8 Second thing is: You have a jury exemption for the
9 rest of this year and the following two years. So if you
10 get called for jury duty during that time, you just tell
11 them that you served with me for this week. We can get a
12 work excuse for anyone that needs a work excuse, you just
13 need to let the bailiff's know that. We will be escorting
14 you to your cars this evening.

15 There are some -- I used to park in that parking
16 garage a long time ago, across the street, and I know that
17 sometimes when you go over there, there's some less than
18 appealing things that are present over there. So we will
19 have the sheriff's department escort you to your vehicles.

20 I want to say thank you for your service. You do
21 not have to call back this week. You do not have to come
22 back this week. You are completely and totally done. Thank
23 you very much. You may be excused. Everyone else will stay
24 seated.

25 (Jurors exited.)

1 THE COURT: Mr. Scott, if you'll prepare the
2 appropriate sentencing sheets. I'll be back in just a
3 couple of minutes.

4 (Whereupon, a short recess was taken.)

5 THE COURT: Mr. Sutherland, do you want to make any
6 posttrial motions?

7 MR. SUTHERLAND: Yes, sir. Would it be possible
8 for me to take lead under the rule to file posttrial motions
9 within ten days?

10 THE COURT: Yes. They need to be filed within ten
11 days and I need a copy of it and Mr. Scott needs a copy of
12 them. You have ten days from today's date to do that.

13 MR. SUTHERLAND: Yes, sir.

14 THE COURT: Do we have some sentencing sheets
15 coming down?

16 MR. SCOTT: Your Honor, we've got handwritten
17 material. I'd prefer they were typed.

18 THE COURT: Okay. Do we have anybody from the
19 victim's family that needs to speak?

20 MR. SCOTT: Donna Bose, the grandmother of Mary
21 Carmichael wishes to speak. Jennifer Goldsmith is the
22 mother of Mary Carmichael, she wishes to address the court.

23 THE COURT: Who wants to go first? Tell me your
24 name, please, ma'am.

25 MS. GOLDSMITH: My name is Jennifer Goldsmith.

1 THE COURT: And your relation to the parties?

2 MS. GOLDSMITH: Mary Carmichael was my daughter.

3 THE COURT: Ms. Carmichael was your daughter?

4 MS. GOLDSMITH: Yes.

5 THE COURT: And I've notice you've been here for
6 the trial. Thank you for your appearance and being here
7 this week. And I'm happy to hear anything you'd like to
8 tell me about your daughter.

9 MS. GOLDSMITH: Thank you, your Honor.

10 First off, I want to say thank you to my Heavenly
11 Father to ensure that justice was done for my daughter. For
12 she was just not my child, she was His. She knew Him as her
13 Lord and Savior because she had accepted Him into her heart.
14 And I know that through His own amazing grace and the
15 blessed assurance, the Glory of God, I will be with her one
16 day.

17 But the sad fact remains that today we are here to
18 seek final justice for the malicious acts that the defendant
19 committed, not against one but two individuals.

20 Your Honor, he had 3,600 opportunities that night,
21 one per second, to do the right thing. However, he chose to
22 lie in wait with malice aforethought. He did not just kill
23 Ja and Mary, for he has sentenced us all to a life sentence,
24 a life sentence of undeniable grief and pain.

25 As a mother, you cannot begin, nor could anyone

1 ever begin to comprehend the unimaginable grief and pain
2 that I go through on a daily basis. A life sentence that I
3 could never appeal nor receive a pardon for or get paroled.

4 Your Honor, I ask today, that like a rabid dog who
5 is filled with venom for which is his evil, that in the path
6 of his wake, he is filled with destruction and death, that
7 he not be allowed to do what he has done to another family,
8 that that insidious parasite that sits before you today
9 stands judgment.

10 And your Honor, I ask you to please not allow my
11 daughter's death to be in vain, that through you and through
12 the power you have that's bestowed upon you from the State
13 of South Carolina, that you find in him for the charges he
14 already been found guilty of, that you sentence him to the
15 maximum amount required by law up, until life and for those
16 sentences to be run consecutively, and to ensure that he
17 never has another opportunity to decimate families the way
18 he has done to ours.

19 Thank you, your Honor.

20 THE COURT: Thank you, ma'am. Thank you for being
21 here and thank you for your presence throughout the trial.

22 Yes, ma'am. Could you tell me your name, please?

23 MS. BOSE: My name is Donna Bose and I am a proud
24 grandmother.

25 THE COURT: Thank you for being here, Ms. Bose, and

1 I'm happy to hear from you, ma'am.

2 MS. BOSE: We refer to her as "Kiana" or "our baby
3 girl." She was our only granddaughter. She had just
4 celebrated her 23 birthday that Monday. She loved to go out
5 and eat crab legs. So me and her poppa took her to eat crab
6 legs Tuesday night. The last thing I was able to write in
7 her birthday card was, "I can't wait to meet Jesus
8 face-to-face so I can tell him how thankful, how honored I
9 am that he gave me such a precious granddaughter."

10 She'd call and texted me and her poppa every single
11 day. In fact, that Saturday that some coward came into her
12 home and decided to take her life, she had just texted me at
13 4:30 that afternoon and told me how much she loved me and
14 how much she was thankful that I was her grandmother. She
15 always told us that she was going to look out for me and her
16 poppa in our old age. But little did I know that she was
17 going to be looking out for us as an angel. And I know
18 she's an angel, because when he had dinner with her, she sat
19 there crying at the table, not laughing, not smirking, but
20 crying. Crying and saying what God was doing in her life.

21 Little does she know that a coward would come and
22 get her. Just like the coward that dropped her off that
23 didn't have a face to take him into the hospital when he was
24 supposed to be hurting so bad. I don't have to stand up
25 here and cover my face and my head up and take off. I am a

1 proud grandmother of Mary "Kiana" Carmichael.

2 The last thing I want to say is we always told her,
3 me and her poppa, when she left home, we always stretch our
4 arms out to each other and said, "Baby girl, we love you as
5 big as the whole wide world, forever and ever."

6 And that means forever and ever. And when the
7 smile comes back on my face is when I know somebody's going
8 to take his last breath and go straight to hell. And that's
9 what I wish upon him.

10 THE COURT: Thank you, ma'am.

11 Anybody else?

12 Mr. Scott, does the State want to be heard as to
13 sentencing?

14 MR. SCOTT: Yes, Judge. I'm going to ask you --
15 and I don't often do this. I remember when I started of
16 prosecuting cases -- you'll remember this -- it seemed like
17 somebody convicted at trial of murder, it was life. Absent
18 some kind of mitigating circumstances, it was life. And I
19 understand that's not maybe as much en vogue now. But
20 certainly a case like this, somebody who is convicted of a
21 weapons charge, assault and battery first charge and the
22 next year is out doing this.

23 He has been convicted now of armed robbery, that's
24 a ten to 30-year sentence as you know. Burglary in the
25 first degree is 15 to life, as you know. Two counts of

1 murder, 30 to life. Two lives taken. Imagine from your
2 viewpoint up there, Judge, you've seen a lot of what I've
3 seen. I don't often look at the defendant in trial but I
4 have seen him smirking. I've seen him laughing. I've seen
5 him rocking in his chair, having what seems to be a good
6 time. I have not seen one shred of remorse. And that is
7 the person we're dealing with. That is the person you are
8 tasked with sentencing.

9 And you've seen the case, Judge, and I know you've
10 watched the videos and you've seen just how heinous the
11 crime was. Again, I'm not the boy who cried wolf. You
12 don't hear me ask for life all the time on these murders.
13 But if this doesn't deserve a life sentence, two lives taken
14 in their own home. And to this day, isn't it interesting
15 that we don't know who that other individual was? I don't
16 know, maybe one day Mr. McNeil, maybe it's year ten, 20, 30
17 of his sentence will come to me and say, "Mr. Scott, maybe
18 you'll reduce my sentence a little bit. I'm willing to tell
19 you the truth now."

20 Maybe he'll just die in prison. That's up to him.
21 This is a life sentence, Judge, and that's what I'm asking.

22 THE COURT: Mr. Sutherland?

23 MR. SUTHERLAND: Thank you, your Honor. May it
24 please the Court?

25 And I've spoken with Neri's family and they're just

1 a little broken up and they're unable to address the Court.
2 I understand the nature of the offenses, the number of the
3 offenses. I understand what the conviction, what the
4 verdict means. And the verdict is what it is. There's no
5 making any sort of comments about that. We have a verdict.
6 We have a decision by the citizens and members of this
7 community and that's where we are.

8 What I would ask the Court to consider, to consider
9 that we had a plea offer of 45 years, your Honor. And I
10 would ask the Court to consider granting him that 45-year
11 sentence, just like he made the decision to come to trial.
12 I would hope the Court would consider the 45 years would put
13 him at 63 when he gets out.

14 Your Honor, I think that that would be just under
15 the circumstances. I understand where we are and what we're
16 dealing with here, sir.

17 THE COURT: Mr. McNeil, you're welcome to say
18 something if you want to. You don't have to. But I want to
19 give you the opportunity to be heard. But you don't have to
20 say anything at all if you don't want to.

21 I've given you the opportunity to speak. If you
22 wanted to, you can. If you don't, that's fine too. But I
23 don't want you to feel like I didn't give you the
24 opportunity to. Mr. Sutherland knows what I'm trying to
25 say.

1 MR. SUTHERLAND: Yes, sir.

2 THE COURT: That's fine. Well, this is a very
3 tragic case and it's a very sad case and it's a very
4 unnecessary case. Unfortunately, in our community, this is
5 the level that we've come to; and frankly, in most of the
6 other counties in this state, this would have probably been
7 a death penalty case. Two people executed here in the
8 middle of an arm robbery, during the middle of burglary in
9 the first degree, the Court is taking all that into
10 consideration.

11 Court is also taking into consideration
12 Mr. McNeil's age, that he is a young man and even though he
13 does have some prior criminal history, it certainly isn't at
14 a level that we see some people.

15 On the burglary, the armed robbery and the weapons
16 charge, the sentence will be 30, 30 and five. Those will
17 run concurrent.

18 On the two murder charges, the sentences will be
19 life without the possibility of parole. Those will run
20 consecutive to each other.

21 Thank you, very much.

22 (Whereupon, Day 3 in the State of South Carolina v.
23 Genari McNeil was concluded, March 22, 2023.)

24

25

C E R T I F I C A T E

I, the undersigned Maria DiScioscia, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the record of all the proceedings in the captioned case, in the Circuit Court for Richland, South Carolina, on the 22nd day of March, 2023.

I do further certify that I am not related, either by blood or marriage, to any of the parties in this action; and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Maria DiScioscia". The signature is written in dark ink and is positioned above a horizontal line.

Maria DiScioscia
Official Court Reporter



Jahquan Peterson FA19-151

Contents: DIAGRAM

5/12/2019

9:00 AM

Monroe

RCCO 2019-001436

EKG

Forensic Pathology Services
www.ppspath.com

Weight: 320

Length: 72

Temp: 100.1

Pulse: 94

Livor: post. 1/4

Scalp hair: b/k

Facial hair: 4/4

Eyes: brn = cln gpt

Ears: --

Nose: --

Teeth: good

Neck: --

Abdomen: 05

Genitalia: 07

1 69 06-28-72

2 "God's Child

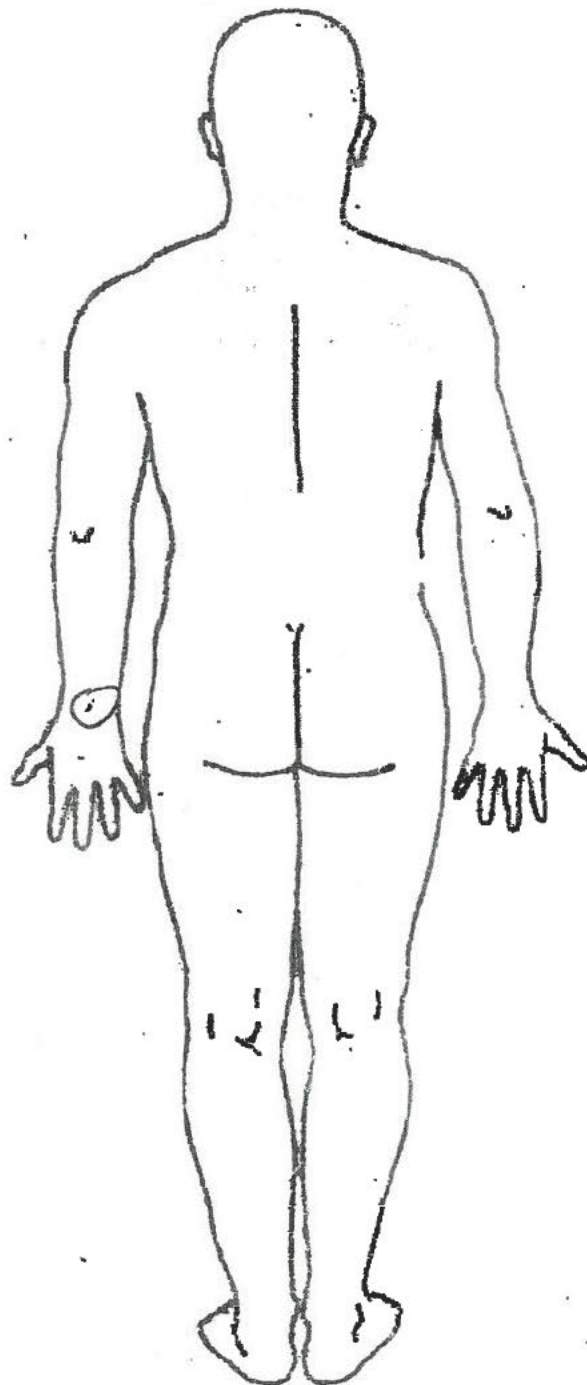
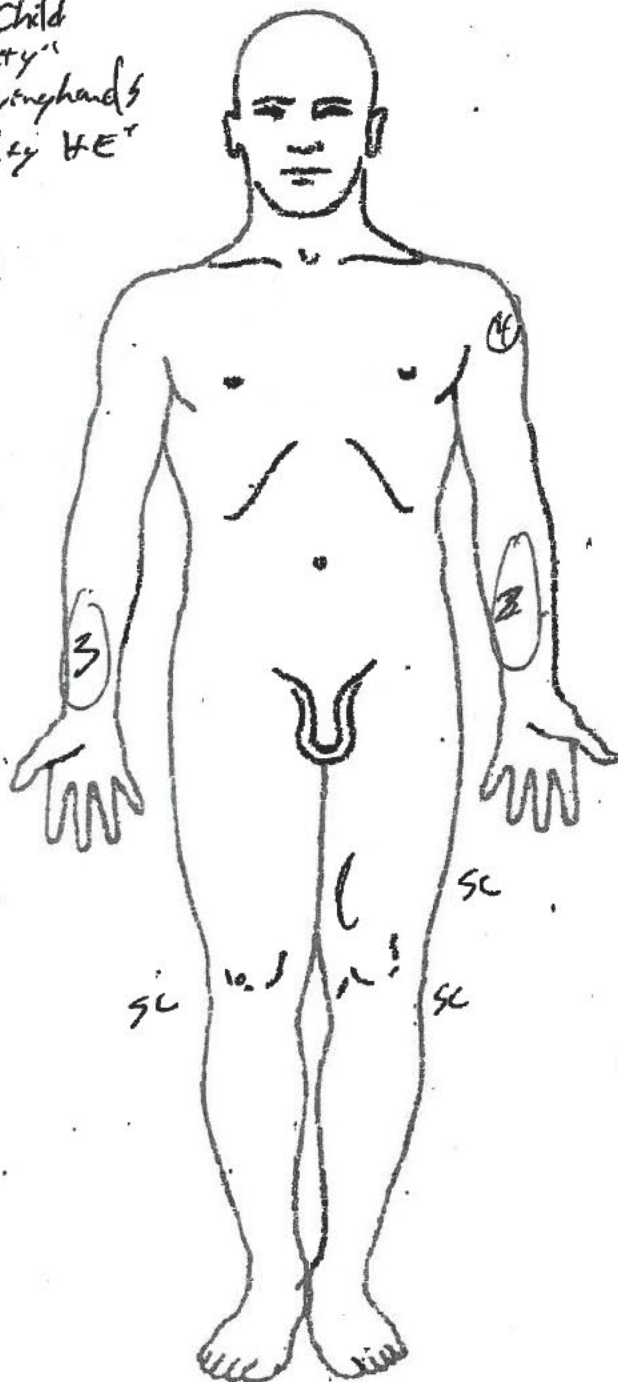
Loyalty"

praying hands

3 "Royalty HE"

#

Hatched



R) ankle monitor in place

CASE NO. _____

Jahquan Peterson

FA19-151

Contents: DIAGRAM

5/12/2019

9:00 AM

Monroe

RCCO: 2019-001436

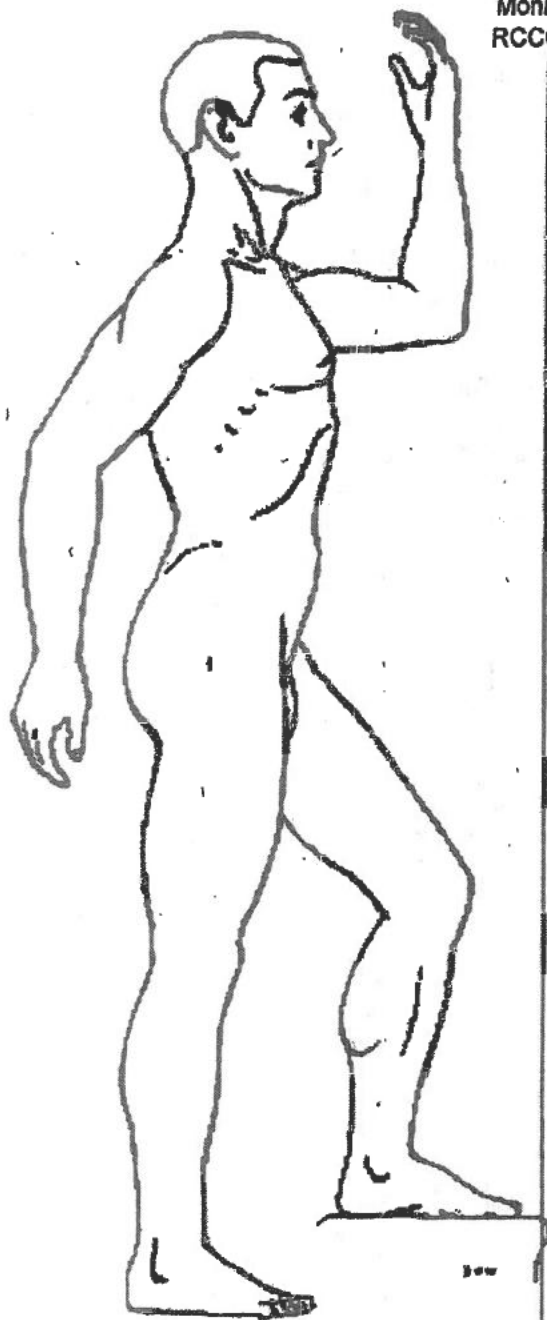


DIAGRAM B

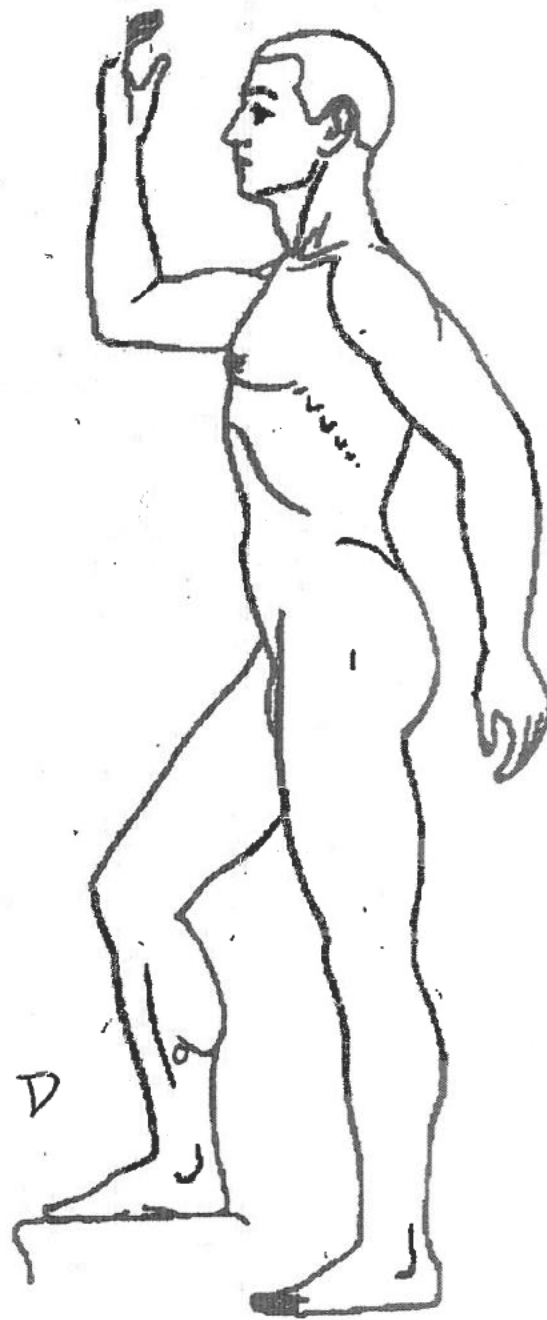


Figure 25 (R)

Weight:
Length:
Temp:
Rigor:
Livor:
Scalp hair:
Facial hair:

Eyes:
Ears:
Nose:
Teeth:
Neck:
Abdomen:
Genitalia:

Jahquan Peterson FA19-151

Contents: DIAGRAM

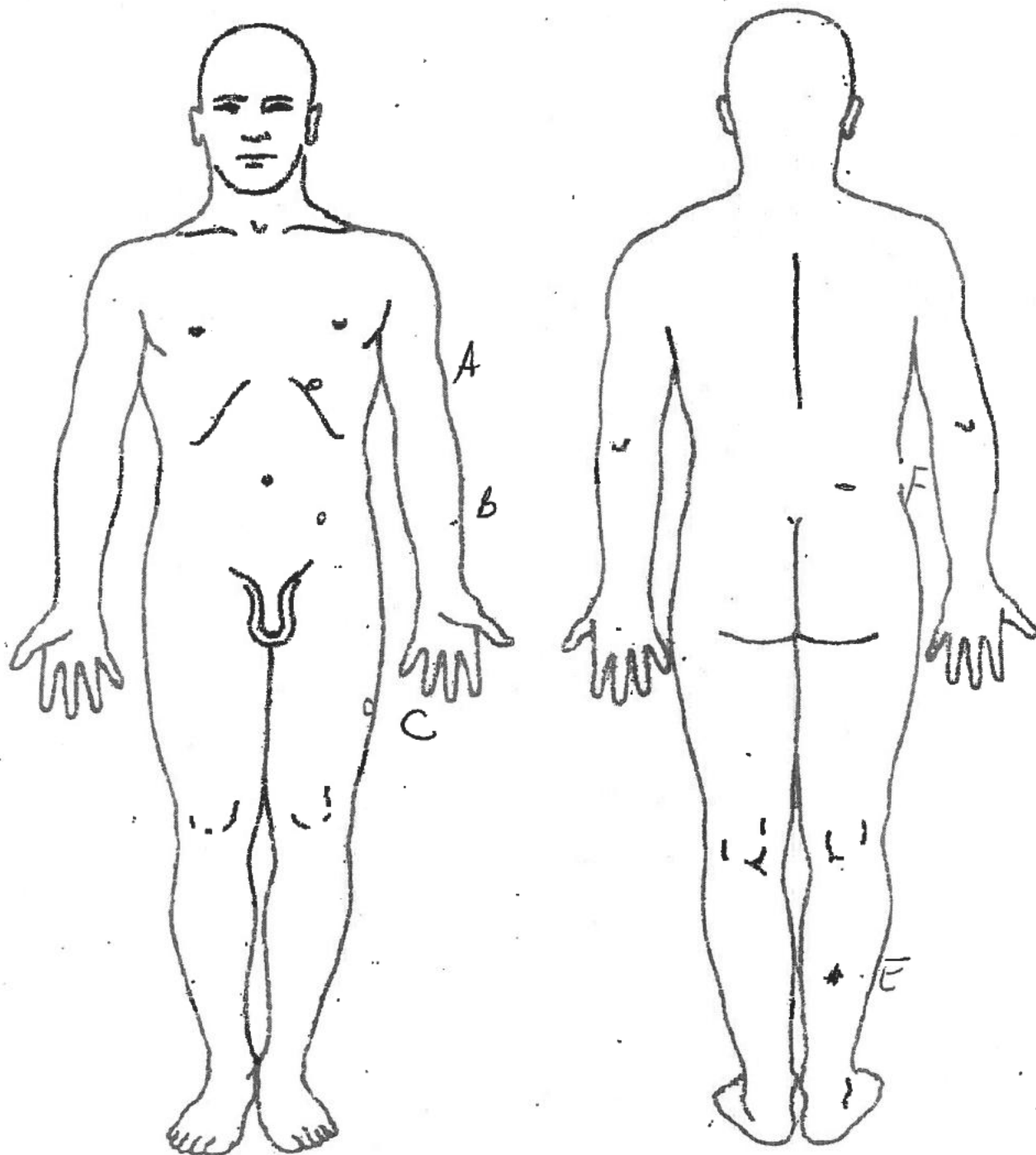
5/12/2019

9:00 AM

Monroe

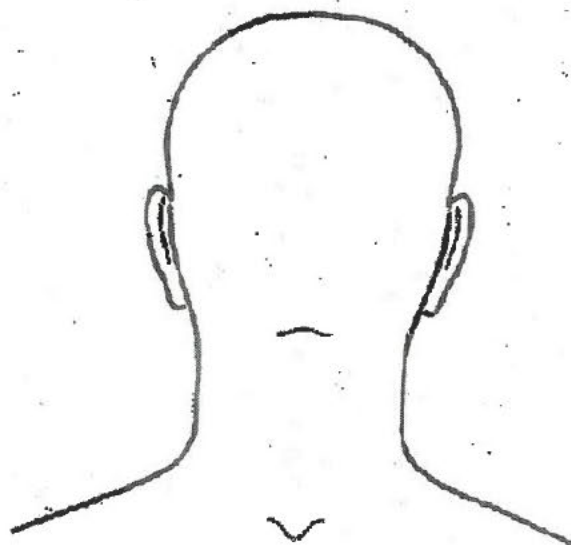
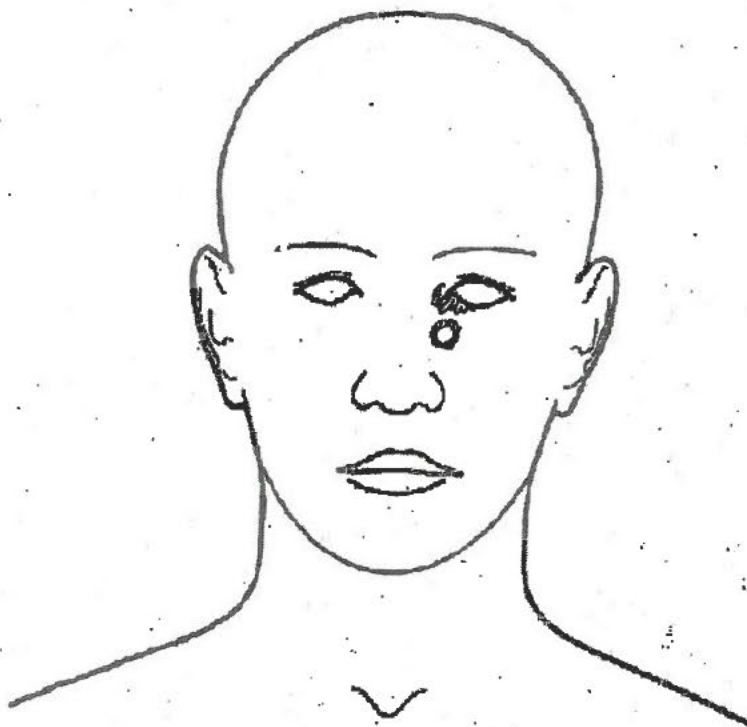
RCCO 2019-001436

PROFESSIONAL PHOTOGRAPHY SERVICES
www.ppsphoto.com





Mary K. Catmichael FA19-150
Contents: DIAGRAM
5/12/2019 7:15 AM
Monroe
RCCO 2019-001435





Case: 190013005 - NOT TO SCALE - Skyland Dr



Case: 190013005 - NOT TO SCALE - Skyland Dr



STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)

CERTIFICATION OF AUTHENTICITY
 FOR BUSINESS RECORDS PURSUANT
 SC CODE 19-5-520 and RULE 902, SCRE

PERSONALLY APPEARED BEFORE ME, the undersigned affiant, who being duly sworn, deposes and says:

NAME: Keith R. Kirchner

OCCUPATION/TITLE: Security Manager

EMPLOYER: Prisma Health

LENGTH OF EMPLOYMENT: 5 years

I hereby attest to and certify that the attached records submitted to law enforcement and/or the 5th Circuit Solicitor's Office, identified as one disc containing 3 videos from Prisma Health surveillance cameras. (description of the records, recordings, etc.) were produced and are maintained in the regular course of business, and the copy of such records fairly and accurately depicts the original record from the date(s) and time(s) in question. I declare under penalty of perjury that the foregoing is true and correct.

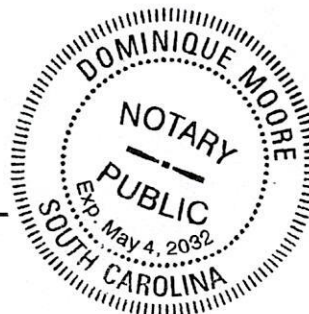
SIGNATURE: Keith R. Kirchner

DATE: 3-10-2023

Sworn to and subscribed before me
 this 13th day of March, 2023.

[Signature]

Notary Public for South Carolina
 My commission expires: 5/4/2032



STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
THE STATE)
vs.)
GENARI MCNEIL,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

Indictment No.: 2019A4021601469-73

MOTION FOR NEW TRIAL

RICHLAND COUNTY
FILED
2023 APR -3 AM 8:49
JEANE L. MCBRIDE
C.C.P., G.S. & F.C.

Renewing all previous motions and objections, the Defendant, through counsel, does move for a new trial including, but not limited to the following bases:

I. Gruesome Photographs

State's exhibits, including 46 and 47, could have been presented to the jury through competent testimony, including the diagram that was admitted with no objection. These photographs showed Mary Charmichael deceased, in pools of blood with blood smeared on the walls and pooled on steps around her corpse. This scene was established through competent testimony and diagrams, diminishing the probative value of the gruesome photographs.

The Supreme Court addressed the admission of *autopsy* photographs in *State v. Kornahrens*, 290 S.C. 281, 350 S.E.2d 180 (1986). The Court found the admission of color photographs proper. However, the photos were only admitted in the sentencing phase of a death penalty case, not the guilt phase.

II. Lack of Foundation for admission of Hospital Video

The Defense objected to the admission of the hospital video pursuant to the State's effort to authenticate the video via affidavit, per § S.C. Code Ann. § 19-5-520. The Defense argued that the State should provide live witness testimony citing *Watts v. Chastain*, 2022 S.C. App. LEXIS 124.

The hospital video displayed a **stripe** on the Defendants pants that was matched to ring video of the robbery where the assailants were masked and otherwise unidentifiable. This evidence was damning.

The objection of the Defense was overruled, however, it is the belief of counsel that the affidavit was not entered into evidence before the jury. Thus the evidence considered by the jury was not properly authenticated, and a new trial should be granted on that basis.

Based on the foregoing issues and all others motions and objections not specified above, the Defense does move for a new trial in the above captioned case.

Respectfully submitted,

Tivis Sutherland SCBAR 69695
Tivis Sutherland, Attorney for Defendant
1516 Richland Street Suite B
Columbia, SC 29201
(803)787-5737

Columbia, South Carolina

This 2nd Day of April, 2023

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

The State of South Carolina)

-vs-)

Genari McNeil)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
 FIFTH JUDICIAL CIRCUIT

**ORDER DENYING DEFENDANT'S MOTION
 FOR A NEW TRIAL**

Indictment No(s): 2019-GS-40-06963-67

RECEIVED

Apr 14 2023

SC Court of Appeals

IT APPEARS THAT on April 3, 2023, Genari McNeil, by and through his attorney, Tivis Sutherland, filed a Motion for a New Trial pursuant to Rule 29(b). At the conclusion of the trial of his case, Genari McNeil was convicted of two counts of Murder, Armed Robbery, Burglary in the First Degree, and Possession of a Weapon During a Violent Crime, found guilty by a jury in Richland County, on March 22, 2023. The State was represented by Senior Assistant Solicitor Dale Scott and Assistant Solicitor Nicolas Fowler.

IT FURTHER APPEARS THAT in support of his Motion for a New Trial, Defendant Genari McNeil, by and through his attorney, asserts the following grounds for a new trial, which will be addressed in turn.

I. Admission of Gruesome Photographs

The Defense has moved for a new trial in part on the grounds of the Court's admission of photographs of the crime scene, including State's Exhibits 46 and 57. These photographs showed one of the victims, Mary Carmichael, deceased. The Defense asserts that the State could have established the facts of the crime scene through competent testimony and diagrams, and for that reason the probative value of the photographs was diminished. Regarding the admissibility of this evidence and the State's use of such evidence during the presentation of its case, this Court has

Not 10/2

ruled upon these issues; therefore, the Defendant's Motion for a New Trial on these grounds is **denied**.

II. Lack of Foundation for Admission of Hospital Video

Next, the Defense raises the concern in its Motion that the State utilized a hospital video, the admission of which was objected to by the Defense. That objection was overruled by this Court. The video depicted the Defendant's clothing while present at the hospital. The State argued that the Defendant's pants in the video matched the Ring camera footage also entered into evidence during this trial. The admissibility of this evidence was ruled upon by this Court at the time this objection was raised. Therefore, the Defendant's Motion for a New Trial on these grounds is **denied**.

CONCLUSION

IT APPEARS THAT upon careful consideration of the oral arguments made by Counsel, as well as the aforementioned filings, the Court has determined that the Defendant's Motion for a New Trial pursuant to Rule 29(b) is denied.

IT IS THEREFORE ORDERED that the Defendant's Motion for a New Trial is now and hereby **DENIED**.

AND IT IS SO ORDERED.



The Honorable Robert E. Hood
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina
This 4th day of April, 2023.

WITNESSES

(S) George Simpson
- Columbia Police Department

DOCKET NO. 2019GS4006963

The State of South Carolina

County of

Richland

ARREST WARRANT NUMBER

2019A4021601469

ACTION OF GRAND JURY

TRUE BILL

Kenneth R. Jones

Foreperson of Grand Jury OCT 16 2019
Date:

VERDICT

Foreperson of Petit Jury
Date:

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

Witness:

C.C.C. PLS. AND G.S.

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

67

THE STATE
vs.

Genari Gre'Sean Mcneil

Indictment for
BURGLARY / BURGLARY (AFTER JUNE
20, 1985) - FIRST DEGREE

SC Code: 16-11-0311
CDR Code: 0079

483

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 15, 2019, the
Grand Jurors of Richland County present upon their oath:

BURGLARY, 1ST DEGREE

That Genari Gre'Sean Mcneil did in Richland County on or about
May 11, 2019, enter the dwelling of Rufus Carmichael, and/or Mary
Carmichael and/or Jahquan Peterson, located at [REDACTED] Skyland Drive,
without consent and with the intent to commit a crime therein and when, in
effecting entry or while in the dwelling or in immediate flight, the defendant
was armed with a deadly weapon, and/or caused physical injury to a non-
participant in the crime, and/or used or threatened use of a dangerous
instrument, in violation of Section 16-11-0311(A), Code of Laws of South
Carolina, 1976, as amended.

Against the peace and dignity of the State, and contrary to the
statute in such case made and provided.



BYRON E. GIPSON, SOLICITOR

WITNESSES

(S) George Simpson
- Columbia Police Department

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

ARREST WARRANT NUMBER

2019A4021601470

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

67

Defendant

Witness:

C.C.C. PLS. AND G.S.

ACTION OF GRAND JURY

TRUE BILL

Genari Gre'Sean Mcneil

**THE STATE
vs.**

Kenneth R. Jones
Foreperson of Grand Jury
Date: OCT 16 2019

VERDICT

**Indictment for
WEAPONS / POSS. WEAPON DURING
VIOLENT CRIME, IF NOT ALSO
SENTENCED TO LIFE WITHOUT PAROLE
OR DEATH**

SC Code: 16-23-0490
CDR Code: 0549

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 15, 2019, the
Grand Jurors of Richland County present upon their oath:

**POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME**

That Genari Gre'Sean Mcneil did in Richland County, on or about
May 11, 2019, 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.



BYRON E. GIPSON, SOLICITOR

WITNESSES

(S) George Simpson
- Columbia Police Department

ARREST WARRANT NUMBER

2019A4021601471

ACTION OF GRAND JURY

TRUE BILL

Kenneth R. Jones
Foreperson of Grand Jury

Date: OCT 16 2019

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS4006965

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

67

THE STATE
vs.

Genari Gre'Sean Mcneil

Defendant

Witness:

C.C.C. PLS. AND G.S.

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

Indictment for
ROBBERY / ARMED ROBBERY, ROBBERY
WHILE ARMED OR ALLEGEDLY ARMED
WITH A DEADLY WEAPON

SC Code: 16-11-0330(A)
CDR Code: 0139

487

SCANNED

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 15, 2019, the
 Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Genari Gre'Sean Mcneil did in Richland County on or about
 May 11, 2019, commit robbery by feloniously taking from the person or
 presence of Mary Carmichael and/or Jahquan Peterson, by means of force
 or intimidation, goods or monies of Mary Carmichael and/or Jahquan
 Peterson, such goods or monies being described as money and/or other
 items, with the intent to deprive the owner permanently of such property,
 while armed with a pistol or other deadly weapon, or while alleging, either
 by actions or words, that he was armed while using a representation of a
 deadly weapon or any object which a person present during the
 commission of the robbery reasonably believed to be a deadly weapon. All
 in violation of §16-11-330(A), SC 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.



BYRON E. GIPSON, SOLICITOR

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

Witness:

C.C.C. PLS. AND G.S.

DOCKET NO. 2019GS4006966

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

67

THE STATE
vs.

Genari Gre'Sean Mcneil

Indictment for
MURDER / MURDER

SC Code: 16-03-0010
CDR Code: 0116

WITNESSES

(S) George Simpson
- Columbia Police Department

ARREST WARRANT NUMBER

2019A4021601472

ACTION OF GRAND JURY

TRUE BILL

Kenneth R. Jones
Foreperson of Grand Jury OCT 16 2019
Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 15, 2019, the
Grand Jurors of Richland County present upon their oath:

MURDER

That Genari Gre'Sean Mcneil did in Richland County, on or about
May 11, 2019, kill the victim, Mary Carmichael, with malice aforethought,
either express or implied, by means of shooting, and the victim did die as a
proximate result thereof. All 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.



BYRON E. GIPSON, SOLICITOR

WITNESSES

(S) George Simpson

-- Columbia Police Department

ARREST WARRANT NUMBER

2019A4021601473

ACTION OF GRAND JURY
TRUE BILL

Kenneth R. Simpson

Foreperson of Grand Jury OCT 16 2019
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS4006967

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

OCTOBER TERM 2019

67

THE STATE
vs.

Genari Gre'Sean Mcneil

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

Witness:

C.C.C. PLS. AND G.S.

Indictment for
MURDER / MURDER

SC Code: 16-03-0010
CDR Code: 0116

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on October 15, 2019, the
Grand Jurors of Richland County present upon their oath:

MURDER

That Genari Gre'Sean Mcneil did in Richland County, on or about
May 11, 2019, kill the victim, Jahquan Peterson, with malice aforethought,
either express or implied, by means of shooting, and the victim did die as a
proximate result thereof. All 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.



BYRON E. GIPSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Genari Gre'Sean Mcnell

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Gaston, SC 29053-9546DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 40 - 6863

A/W#: 2019A4021601469Date of Offense: 5/11/2019S.C. Code § 16-11-0311CDR Code #: 0079

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was X CONVICTED OF or PLEADSTO: Burglary / Burglary (After June 20, 1985) - First degreeIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

NON-VIOLENT

X 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:

[Signature] 73081

Scott, Dale

SC Bar #

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction, ☐ County Detention Center,for a determinate term of 30 ~~months~~ 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: ☒ 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. 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. Genari Gre'Sean Mcneil INDICTMENT/CASE#: 2019 - GS - 40 - 6963

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 _____ 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	\$ 45.00
§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		\$ 198.75

Clerk of Court/ Deputy Clerk: Jeanette McBrade
Court Reporter: D. L. L. L.Presiding Judge: Re Hardy
Judge Code: 2164
Sentence Date: 3/24/23

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Genari Gre'Sean Mcneil

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Gaston, SC 29053-9546DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 40 - 6964

A/W#: 2019A4021601470Date of Offense: 5/11/2019S.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. (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Scott, Dale

SC Bar #

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: ☐ 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. 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. Genari Gre'Sean Mcneil INDICTMENT/CASE#: 2019 - GS - 40 - 6964**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 _____ 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	\$ <u>100.00</u>
§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	\$ <u>25.00</u>
§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	\$ <u>3.75</u>
☐ 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 \$ 128.75Clerk of Court/ Deputy Clerk: _____
Court Reporter: _____*Janette McBride*
*Assistant*Presiding Judge: _____
Judge Code: _____
Sentence Date: _____*Pe Hood*
2164
3/22/23

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Genari Gre'Sean Mcneil

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Gaston, SC 29053-9546DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 40 - 6965A/W#: 2019A4021601471Date of Offense: 5/11/2019S.C. Code § 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was X 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 # 0139NON-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:

[Signature] 73081
Scott, Dale SC Bar # 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: ☒ 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. 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. Genari Gre'Sean Mcneil INDICTMENT/CASE#: 2019 - GS - 40 - 6965**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 _____ 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	\$ <u>100.00</u>
§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	\$ <u>25.00</u>
§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	\$ <u>3.75</u>
☐ 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 \$ 128.75Clerk of Court/ Deputy Clerk: _____
Court Reporter: _____*Jeannette McBratton*
*Discipline*Presiding Judge: _____
Judge Code: _____
Sentence Date: 3/22/23

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Genari Gre'Sean Mcneil

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Gaston, SC 29053-9546DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 40 - 6966

A/W#: 2019A4021601472Date of Offense: 5/11/2019S.C. Code § 16-03-0010CDR 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 X CONVICTED OF or PLEADSTO: Murder / Murderin violation of § 16-03-0010of 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:

Scott, DaleSC Bar # 73081

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction, ☐ County Detention Center,for a determinate term of Life Without Parole 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 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: 201965406967☐ 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. 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. Genari Gre'Sean Mcneil INDICTMENT/CASE#: 2019 - GS - 40 - 6966**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 _____ 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 instalments)	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 \$ 128.75Clerk of Court/ Deputy Clerk:
Court Reporter:

Jeannette Mc Bride ggs
Dixson

Presiding Judge:
Judge Code:
Sentence Date:

Re Hood
2164
3/22/23

STATE OF SOUTH CAROLINA

COUNTY OF Richland

STATE

VS.

Genari Gre'Sean Mcneil

AKA:

Race: BLACK Sex: M Age: 22DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Gaston, SC 29053-9546DL#: [REDACTED] SID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019 - GS - 40 - 6967A/W#: 2019A4021601473Date of Offense: 5/11/2019S.C. Code § 16-03-0010CDR 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 X CONVICTED OF PLEADSTO: Murder / MurderIn violation of § 16-03-0010 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:

Scott, DaleSC Bar # 73081

Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction, ☐ County Detention Center,for a determinate term of Life Without Parole 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 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:

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STATE VS. Genari Gre'Sean Mcneil INDICTMENT/CASE#: 2019 - GS - 40 - 6967**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 _____ 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 _____

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3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
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☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk:
Court Reporter:

Jeanette McBride
Di Sciscia

Presiding Judge:
Judge Code:
Sentence Date:

R. Hood
2164
3/22/23

CERTIFICATE OF COUNSEL FOR APPELLANT

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,

RECEIVED

Dec 05 2024

SC Court of Appeals



Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of December, 2024.

RECEIVED

Dec 05 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

Honorable Robert E. Hood, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GENARI GRE'SEAN MCNEIL,

APPELLANT

APPELLATE CASE NO. 2023-000591

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 Tommy Evans, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 5th day of December, 2024.


Joanna K. Delany
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT