

Dec 11 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROBERT LEE BELCHER III,

APPELLANT

APPELLATE CASE NO. 2023-001378

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2020-GS-23-05541 (Belcher)
COUNTY OF GREENVILLE	)	2020-GS-23-05236 (Martinez)
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ROBERT BELCHER AND RAYMOND	)	
MARTINEZ, JR.,	)	
DEFENDANT.	)	
_____	)	

July 17, 18, 19 and 20, 2023
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, JUDGE, and a
jury.

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CHERYL A. SMITH
Circuit Court Reporter

1 I believe that that's all the information that I will
2 tell you at this point.

3 When y'all take your first break this afternoon, I'm
4 going to ask that you select a foreperson between the 12
5 jurors. The alternate is not available for that. And
6 y'all just -- it's somebody -- the foreperson is not --
7 they don't have any -- I always say they don't get more
8 pay. It's the same. But they're going to be doing -- may
9 lead the discussions and communicate with the Court if
10 needed by notes and stuff. But anyway, I'm going to get
11 y'all to select that person before y'all leave today.

12 So that's kind of my remarks about where we're going
13 and kind of what I call my roadmap for the trial. And at
14 this point I'm going to turn it over to the attorneys for
15 opening statements.

16 So State, you may proceed.

17 OPENING STATEMENTS

18 MR. GRESHAM: Thank you, Your Honor. May it please
19 the Court. Mr. Gibson, Mr. Grubbs.

20 In for a penny, in for a pound, that's a phrase that
21 is tragically applicable to this case, which you'll soon
22 understand why. Today you'll learn this case involves
23 four defendants, two of whom have already pled guilty due
24 to their involvement in this matter. But before I address
25 the defendants' involvement I want to talk about the

1 victim, Jermaine Bruster, who also went by the nickname
2 Twin.

3 Now, at the time of this incident, Mr. Bruster was
4 39 years old. He wasn't perfect, but he was a friend, a
5 father and a fiance.

6 On New Year's Eve 2017, Jermaine was hanging out with
7 friends at his apartment complex on Rasor Drive in
8 Greenville County. He was waiting on his fiancée to
9 prepare food for the night's festivities, and he was going
10 to go pick up his fiancée at her house, bring her back to
11 his apartment complex where they were going to celebrate
12 the new year with family and friends. Sadly, Jermaine
13 never saw his fiancée again, nor was he able to see the
14 new year. And that, ladies and gentlemen, is where the
15 defendants' involvement in this case comes into focus.

16 The defendants Raymond Martinez and Robert Belcher,
17 who you see sitting at defense table, and Kirk Porter and
18 Keyla Mansell, the two that have already pled guilty, had
19 different plans that New Year's Eve. They met earlier
20 that night at a separate apartment complex where they
21 hatched a plan and conspired to rob Jermaine, who one of
22 them knew.

23 The defendants then got into a vehicle and drove to a
24 location nearby Jermaine's apartment where defendants
25 Martinez and Belcher exited that vehicle and walked the

1 distance under the cover of darkness to Jermaine's
2 apartment.

3 Once at Jermaine's apartment, Defendants Martinez and
4 Belcher unlawfully entered his apartment, shot Jermaine in
5 the chest with a gun which killed him, and then proceeded
6 to ransack his apartment in their robbery of him.

7 Now, you will learn all of this occurred in a matter
8 of minutes and all done without drawing the attention of
9 Jermaine's neighbors. After all, it was conveniently New
10 Year's Eve, and the sounds of fireworks and the comings
11 and goings of people dominated the area.

12 Now, the evidence will also show that after the
13 defendants unlawfully entered Jermaine's residence that
14 evening, killing and robbing him in the process, the
15 defendants then went to a nearby Ingles supermarket where
16 Defendant Martinez is seen on CCTV footage entering that
17 Ingles with a plastic cheese ball container filled with
18 coins which he stole from Jermaine's apartment that night.
19 He then cashed those coins at a Coinstar kiosk located
20 inside that Ingles.

21 You will learn that, based on those circumstances
22 which were uncovered through an extensive law enforcement
23 investigation, the defendants were charged with various
24 crimes of which Judge Gravely has instructed you that they
25 have been charged with. And those crimes are murder,

1 armed robbery, burglary in the first degree, possession of
2 a weapon during the commission of a violent crime,
3 conspiracy and petit larceny.

4 Now, each defendant is as criminally responsible for
5 those crimes as the other based on South Carolina law
6 which firmly recognizes the act of one is the act of all,
7 the hand of one is the hand of all. And that means the
8 defendants joined together to aid, assist and carry out
9 those illegal acts against Jermaine that New Years Eve,
10 because they were all present for their outcome that
11 fateful night. And now they're all equally criminally
12 responsible for those acts. The defendants were all in it
13 together for those literal pennies, that container of
14 change. And now they're in it for a pound. And in this
15 case, that pound is years of their lives, the criminal
16 penalties that the law provides for those criminal acts.

17 Now, you may be thinking about the law that I just
18 referenced to you. Judge Gravely has done a good job of
19 explaining it early on, but he'll explain it to you in
20 more detail later on. He'll explain to you each element
21 of each criminal offense the defendants have been charged
22 with which the State, myself and Ms. Gary, bears the
23 burden of proving to you beyond a reasonable doubt.

24 But keep in mind, before that's even done, this is
25 probably the most serious type of case that can take place

1 in this country, and we don't take our duty today for
2 granted.

3 With that said, we will prove to you beyond a
4 reasonable doubt that these two defendants, along with
5 their two codefendants who have already pled guilty, did
6 commit these crimes they've been charged with. And at the
7 close of this trial, that based on the testimony, based on
8 the evidence that you will soon hear and see, that you
9 return a verdict of guilty.

10 Thank you.

11 THE COURT: Mr. Gibson?

12 MR. GIBSON: Thank you, Your Honor. May it please
13 the Court. Counsel.

14 Good afternoon, ladies and gentlemen. Today the
15 government is attempting to do something that our Founding
16 Fathers considered to be one of the most extraordinary
17 things in our nation. Today the government seeks to label
18 one of its own citizens a criminal and take away that
19 citizen's liberty. Now, fortunately for my client,
20 Mr. Belcher, and fortunately for all of you and all of us
21 in the room, the government can't just come in here and do
22 that. The government has to prove that Mr. Belcher
23 committed a crime, and they have to prove it beyond a
24 reasonable doubt. And at the end of this trial, each and
25 every one of you is going to have to believe beyond a

1 reasonable doubt, based upon the evidence that's been
2 presented, that Mr. Belcher did this or you are obligated
3 to find him not guilty.

4 Now, the government intends to do that by basically
5 relying on the testimony of one person. And that person
6 is Kirk Porter.

7 Now, I don't know if Kirk Porter was actually
8 involved in this particular crime or not. Kirk Porter has
9 said that he was. And the way that they ended up getting
10 Kirk Porter to say that was they brought him in for an
11 interrogation. Investigator Maltby, who you will hear
12 from in this case, was there, and they used a technique in
13 interrogation called the Reid technique. It's used by law
14 enforcement all over pretty much the United States. And
15 basically, what they do is they put you in a position
16 where you feel like they have all of this evidence against
17 you, and they ratchet it down and ratchet it down and
18 ratchet it down, and when you feel like you have no way
19 out, they give you an alternative. They say, well, it's
20 either this situation or it's this situation. And one of
21 the situations seems like you're going to be scot-free.
22 The other situation seems like you're going to jail. And
23 when you're put in that situation, that's the choice that
24 you make.

25 Now, sometimes, ladies and gentlemen, when people are

1 given that choice, they choose the thing that they think
2 is showing that they are not guilty, but actually both of
3 them prove that you are guilty. And sometimes people
4 choose that situation that they're not guilty or say facts
5 regarding those situations regarding that situation that
6 are not, in fact, true. And that's what happened here.

7 Kirk Porter is a liar. He is a thief. He is a
8 robber. He is the type of person who will take a gun and
9 put it in your face and take everything that you have if
10 he thinks that it benefits him. So he will certainly lie
11 his way to get out of a situation where he's looking at
12 spending the rest of his life in jail, because that's
13 exactly what he was in this particular situation.

14 When he was asked the question of whether or not
15 there was another way out, he chose to lie. And he said
16 that he was involved in this, but he was in the car. And
17 the reason why he came up with that statement, ladies and
18 gentlemen, is because that's what Investigator Maltby
19 pretty much told him to say.

20 In the process of this -- in this interview, and
21 you're going to see the interview, Investigator Maltby
22 tells him, Kirk, you need to get your head right. He
23 tells him that we don't want the person -- the only person
24 I want is the one who pulled the trigger. If you were in
25 the car and you didn't have anything to do this, you will

1 be okay. And as he tells him that, he tells him about
2 evidence that he has not just for this case.

3 MR. GRESHAM: Objection, Your Honor. This isn't in
4 evidence yet.

5 THE COURT: Sustained. Keep it appropriate.

6 MR. GIBSON: Thank you, Your Honor.

7 He tells him it's not about the evidence in this case
8 but evidence -- other evidence that he has against him to
9 make him feel more and more ---

10 MR. GRESHAM: Objection.

11 MR. GIBSON: Your Honor, it goes to the bias argument
12 that I ---

13 THE COURT: It's still not evidence.

14 MR. GIBSON: And he tells him about evidence that he
15 has about him in other cases. And they ratchet him down,
16 ratchet him down and ratchet him down to the point where
17 Kirk Porter, the liar that he is, lies. And he comes up
18 with this story that he was in the car when all of this
19 happened, and he says that two other people were involved.

20 Now, like I say, I don't know if Kirk Porter is
21 involved in this or not, but I can tell you this much.
22 Robert Belcher was not. Robert Belcher was not with Kirk
23 Porter. He was not involved in this particular crime.
24 What Kirk Porter says about him is a lie. And as you go
25 through this case, ladies and gentlemen, you're going to

1 see red flag after another which shows that to you. Those
2 red flags are going to be in the instance of evidence that
3 is presented and evidence that's not presented.

4 For instance you're not going to hear about any
5 physical evidence that ties Robert Belcher to this crime.
6 You're not going to hear about any DNA. You're not going
7 to hear about any fingerprints that put him there. You're
8 not going to hear testimony from any individual other than
9 Kirk Porter that puts Robert Belcher at this crime.
10 You're not going to hear someone say I saw Robert Belcher
11 coming out of Mr. Bruster's house. You're not going to
12 hear someone say Robert Belcher told me that he did this
13 crime.

14 But the biggest red flag you're going to want to hear
15 in this case, for instance, in this case, ladies and
16 gentlemen, is that Kirk Porter himself, after he worked
17 his deal and got pretty much all of his charges dismissed
18 and escaped the liability and responsibility for what he
19 had done, he decided for at least one instance to do the
20 right thing and he signed a notarized affidavit stating
21 that the comments that he had made about Robert Belcher
22 were untrue, and he asked that they be withdrawn. He
23 wanted to recant his statement, and he submitted that
24 statement.

25 Now, ladies and gentlemen, at the end of this case,

1 after you hear all of the evidence, the Court is going to
2 ask you to render a verdict. And based upon everything
3 that you hear in this case, specifically with respect to
4 Robert Belcher, if you follow your vow, if you follow the
5 evidence, if you follow the rules, you're going to have
6 no choice whatsoever but to render a verdict of not
7 guilty.

8 Thank you for coming. Thank you for the vow that you
9 have taken. Thank you for agreeing to hold the State to
10 its burden in this particular case.

11 THE COURT: Defense -- or Martinez.

12 MS. DIAZ: May it please the Court.

13 Once a liar, always a liar. But why lie? There's
14 plenty of reasons that someone will tell a lie. You can
15 lie to avoid punishment, to protect yourself. You can lie
16 to exercise power over someone. You can lie to gain a
17 benefit. You can tell a few lies, one lie, a web of lies.
18 And on December 31, 2017, the first lie about this case is
19 told. And since then, the lies have never stopped.

20 On this day a man lost his life, but not at the hands
21 of Raymond Martinez. Throughout this trial, you are going
22 to hear a few things that the State claims ties Raymond
23 Martinez to this case. You're going to hear that
24 Raymond's fingerprints were in a car. But you'll hear
25 testimony that Raymond had been in that car before,

1 including on the morning of this incident.

2 You're going to hear that Raymond used a Coinstar
3 machine. You'll hear testimony that Kirk Porter, a man
4 who likes to be in control, is the one who drove him
5 there. And Raymond was just the one told to go inside and
6 exchange some change. And you're going to hear from Kirk
7 Porter himself, a man with every motivation to lie, a man
8 who lied to avoid punishment, a man who lied to protect
9 himself, a man who lied to benefit himself.

10 Kirk Porter, as you heard, was also charged with
11 murder just like Raymond Martinez and just like Robert
12 Belcher. Kirk Porter's not here standing trial for murder
13 because Kirk Porter pled guilty to manslaughter, and in
14 exchange, the State dismissed 15 other charges against
15 him. You have the right to ask why.

16 We talked about what the State claims they do have on
17 Raymond Martinez, but there are several things, evidence
18 that you won't hear. No murder weapon, no eyewitnesses,
19 no gun, no ballistics, no prints, no DNA, no signs of
20 forced entry, no forensics, no physical evidence stating
21 that Raymond Martinez was there or committed this crime.
22 Just the statements of a man who lies more than he tells
23 the truth.

24 You'll hear from several witnesses. And as you've
25 heard Judge Gravely state, your job as jurors is to be

1 critical of what those witnesses say. So look at the
2 evidence that the State does and does not present.

3 And remember that Raymond Martinez is presumed
4 innocent. Raymond doesn't have to prove his innocence, as
5 you've heard. It is up to the State to prove that he is
6 guilty beyond a reasonable doubt.

7 You keep hearing "beyond a reasonable doubt," and I
8 know that we'll get into it later. But just to go over it
9 briefly, if something gives you pause, that's reasonable
10 doubt. If you hesitate, that's reasonable doubt. If you
11 ask questions or have questions, that is reasonable
12 doubt. And at the end of this trial, we are confident
13 that the State will fail to prove that burden, will leave
14 you with reasonable doubt. And at that time we will ask
15 that you the jury find the defendant Raymond Martinez not
16 guilty.

17 Again, I want to reiterate what Mr. Gibson said. We
18 thank you guys for being here and for doing this for us,
19 and we are looking forward to the rest of it.

20 THE COURT: All right. State, you may call your
21 first witness.

22 MR. GRESHAM: Thank you, Your Honor. The State calls
23 Cedric McKinney as its first witness.

24 THE CLERK: Please place your left hand on the Bible
25 and raise your right hand.

1 WHEREUPON,

2 CEDRIC McKINNEY

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please take a seat and state
5 your name for the record.

6 THE WITNESS: Cedric McKinney.

7 DIRECT EXAMINATION

8 BY MR. GRESHAM:

9 Q Mr. McKinney, how old are you?

10 A 40.

11 Q And where do you live?

12 A In Greenville, South Carolina.

13 Q How long have you lived in Greenville?

14 A 40 years.

15 Q Do you have any family?

16 A Yes, sir.

17 Q Where do you work?

18 A P.L. Developments.

19 Q And how long have you worked there?

20 A I recently just got hired there about three months
21 ago.

22 Q Let's go back to December of 2017. Where did you
23 work at that time?

24 A Blockhouse Oyster Bar and Grill.

25 Q So take you back to 2017. Let's go back to New

1 Year's Eve of that year. Where were you living at that
2 time?

3 A Rasor Court Apartments.

4 Q And what apartment particularly?

5 A Apartment Number 9.

6 Q Is that location within Greenville County?

7 A Yes, sir.

8 Q And how long have you been living at that apartment?

9 A About five years.

10 MR. GRESHAM: Your Honor, I think his mic might be
11 muted.

12 BY MR. GRESHAM:

13 Q Would you repeat that answer for us?

14 A Around five years.

15 Q Did you have a roommate?

16 A Yes, sir.

17 Q And who was it?

18 A Jermaine Bruster.

19 Q Jermaine Bruster. Thank you.

20 Now, was that apartment, that Apartment 9, whose
21 apartment was that?

22 A It was actually Jermaine's.

23 Q Okay. And how long did Jermaine have that apartment?

24 A From the time he came home from prison.

25 Q Okay. We're going to get to that.

1 Did Jermaine have a nickname?

2 A Yes, sir.

3 Q What was it?

4 A Twin.

5 Q Is that what you usually called him?

6 A Yes, sir.

7 Q Now, we just talked about that. Did you ever know
8 Jermaine to deal drugs?

9 A Yes, sir.

10 Q And did he go to prison for that?

11 A Yes, sir.

12 Q When did he get out?

13 A I want to say two years prior to the incident, two or
14 three.

15 Q So '15 or '14?

16 A Yes, sir.

17 Q 2015.

18 Did you ever know Jermaine to have a gun?

19 A No, sir.

20 Q And who else lived at the apartment with you, if
21 anybody?

22 A Me and this friend guy named Nip.

23 Q Do you know his real name?

24 A No, sir.

25 Q And did your roommates, did they stay there

1 regularly?

2 A No.

3 Q So it was just you?

4 A Yes, sir.

5 Q Where did they stay when they weren't there?

6 A His girlfriend's house.

7 Q Both of them?

8 A Uh-huh.

9 Q Their individual girlfriends.

10 And who was Jermaine's girlfriend?

11 A Shelvis Gambrell.

12 Q And how long had Jermaine and Shelvis been together?

13 A A long time. 20 years plus.

14 Q And where did Shelvis live at that time?

15 A Not too far from Rasor Court. Around by the Sue
16 Cleveland Elementary School.

17 Q What community in Greenville is that? Is that
18 Cherrydale area?

19 A Yeah. Cherrydale.

20 Q And are you related to Shelvis?

21 A Yes, sir.

22 Q All right. Let's go back to your apartment and talk
23 about Jermaine. Where was Jermaine on New Year's Eve?

24 A He was in the apartment.

25 Q And when was the last time that day that you saw him?

1 A Earlier that day when we got -- when I got dressed,
2 got back from the mall.

3 Q Can you give us a time?

4 A Around 5:30-ish, 5:00.

5 Q Was that the last time you saw him alive?

6 A Yes, sir.

7 Q All right. Well, take us back before 5:00. Tell us
8 about that day with you and Jermaine and what was going
9 on.

10 A We would just wake up every day, you know, meet and
11 greet, talk to each other, doing regular things. We
12 decided to go to the mall and get an outfit for New Year's
13 Eve. And, you know, we came back home, had a couple
14 drinks, and that was it.

15 Q Was there a party going on?

16 A Not yet. It was getting started.

17 Q Tell us about that.

18 A Okay. Well, everyone got the call to meet up at the
19 apartment for New Year's celebration.

20 Q Let me stop you there. Which apartment? Be specific
21 as much as you can, if you don't mind.

22 A All right. Apartment, my aunt's apartment, and my
23 cousin's apartment, and my cousin -- both of my cousins'
24 apartment.

25 Q And where are those apartments in relation to

1 Apartment 9, your apartment?

2 A Okay. If Apartment 9 is here, it's like a
3 cul-de-sac, the other two apartments is here, and one is
4 straight across from them.

5 MR. GRESHAM: Your Honor, may I approach?

6 THE COURT: You may.

7 BY MR. GRESHAM:

8 Q Now, I'm handing you State's Exhibit Number 1. Do
9 you recognize that?

10 A Yes, sir.

11 Q What is that?

12 A That's the entrance of the apartment, Rasor Court.

13 Q Rasor Court Apartments?

14 A Yes, sir.

15 Q And you're familiar with it because you lived there?

16 A Yes, sir.

17 Q Is that a fair and accurate depiction of that
18 entryway?

19 A Uh-huh.

20 MR. GRESHAM: All right. I'm going to take that back
21 from you.

22 Your Honor, at this time the State requests to admit
23 this into evidence as State's Exhibit Number 1.

24 THE COURT: Any objection from Belcher?

25 MR. GIBSON: I'd like to see it, Your Honor.

1 MR. GRESHAM: My apologies.

2 MR. GIBSON: No objection, Your Honor.

3 MS. DIAZ: No objection, Your Honor.

4 THE COURT: All right. In without objection.

5 (WHEREUPON, State's Exhibit Number 1 was admitted into
6 evidence.)

7 MR. GRESHAM: Request permission to publish, Your
8 Honor.

9 THE COURT: Yes.

10 And that was what exhibit number?

11 MR. GIBSON: This is State's Exhibit Number 1. This
12 is of the Rasor Court Apartment's entryway.

13 BY MR. GRESHAM:

14 Q All right. Now, Mr. McKinney, I might get you to
15 step down just to show us where your apartment was or
16 Mr. Bruster's and your apartment, Apartment 9.

17 A This is the front side of the apartment, but our
18 apartment sits here. My cousin lives here and my aunt
19 lives here and my cousin lives here (indicating
20 throughout).

21 Q And why don't you step on this side so the jury can
22 tell.

23 Now, you were just talking about that apartment that
24 you went to the party with. Where was the -- of those two
25 you said where your cousins live and your aunt live, which

1 one were you in?

2 A I was in this (indicating) one.

3 Q Okay. And yours is, again, Apartment 9?

4 A That's Apartment 9. It sits here (indicating).

5 Q Okay. All right. You can have a seat.

6 All right. Now, you talked about that party. What
7 was the plan for that night?

8 A A family gathering, celebrating New Year's, bringing
9 in the new year.

10 Q Okay. Now, did you leave that party at some point
11 and go back to your apartment?

12 A Yes, sir.

13 Q What was that purpose?

14 A To go get Jermaine and tell him that Shelvis was
15 ready to be picked up.

16 Q Who told you to get Jermaine?

17 A My cousin Rico got the phone call from Tiffany.

18 Q When you went back to the apartment, tell us what
19 happened.

20 A So I came out from -- came out of the apartment here
21 (indicating). He told me he was at Tiffany's house. So
22 when I came out of the apartment, I went right to
23 Tiffany's house. And she's standing in the living room
24 and talking to a friend. So I said, Tiffany, is your man
25 here?

1 And she's like, no. He's over at the apartment.

2 So I went straight across the middle of the complex
3 and to the apartment.

4 Q So when you went back to the apartment, tell us what
5 you saw, what you found.

6 A Well, I opened the door and I found Jermaine laying
7 in the floor.

8 Q And I know this is difficult.

9 You came in. And where was he positioned?

10 A Right in the middle of the floor close to the door.

11 Q Okay. Were there -- at that point were there signs
12 that he had been shot?

13 A No, sir. The house was ramshacked.

14 Q So we're going to talk about Jermaine. We're going
15 to get there as well.

16 Could you tell if he was alive or not at that point?

17 A No, sir. He was like -- like he was snoring,
18 gargling on his blood while he was snoring. I just
19 couldn't tell.

20 Q Okay. And you briefly touched upon it, but what was
21 he wearing?

22 A He had a black shirt on, no pants.

23 Q Okay. Now, did someone call 9-1-1?

24 A Yes, sir. I screamed for Tiffany, Tiffany, come
25 here, come here. So as she is coming, she got in the door

1 and she proceeded to call 9-1-1.

2 Q How long did it take for first responders to get
3 there?

4 A Seven or eight minutes or so.

5 Q All right. Well, now, you've touched upon about the
6 apartment being in ramshackles. I think you used that
7 word.

8 A Yes, sir.

9 Q What did the apartment normally look like?

10 A Clean, organized.

11 Q So tell us a little bit about the ramshackle, this --
12 of the apartment.

13 A The couch pillows ripped up, open everywhere, drawers
14 open in the kitchen. My room was to the left, was totally
15 destroyed.

16 Q Okay. What was going through your mind at the time
17 that you saw Jermaine in that condition and then the
18 apartment, the condition of the apartment? What were you
19 thinking?

20 A Been a robber.

21 MR. GRESHAM: May I approach, again, Your Honor?

22 THE COURT: You may.

23 BY MR. GRESHAM:

24 Q Mr. McKinney, I am -- excuse me.

25 (Pause in proceedings.)

1 BY MR. GRESHAM:

2 Q All right. Mr. McKinney, do this again. Handing you
3 what are State's Exhibits -- they're in backward order
4 now, but they are 3 through 15. I'll let you sort through
5 them for a minute, let you look at them.

6 A (Reviews exhibits.)

7 Q Do you recognize these photos that I'm showing you?

8 A Yes, sir.

9 Q How do you recognize them?

10 A It's inside of the apartment.

11 Q And the apartment, just for clarification purposes,
12 what apartment is that one?

13 A Apartment 9.

14 Q Your apartment?

15 A Yes, sir. My apartment.

16 Q And do they accurately depict the condition of the
17 apartment the night of New Year's Eve 2017?

18 A Yes, sir.

19 MR. GRESHAM: I'll let you continue to look through
20 them and then I'll take that back from you.

21 Your Honor, at this time the State moves to enter
22 State's Exhibit Numbers -- for accuracy, this will be
23 State's Exhibit Number 9, 8, 7, 6, 5, there's one that's
24 out of order, 4, 3, 11, 12, 10, 13, 14 and 15 into
25 evidence and request permission to publish to the jury.

1 THE COURT: Any objections from Belcher?

2 MR. GIBSON: No objection, Your Honor.

3 THE COURT: Martinez?

4 MS. DIAZ: Your Honor, the only thing we would object
5 to, I believe it's State's Exhibit 7 just based on the
6 content of that photo.

7 THE COURT: Let me see Exhibit 7. (Reviews exhibit.)

8 I believe that that's appropriate. I'm going to deny
9 -- I'm going to overrule your objection.

10 (WHEREUPON, State's Exhibit Numbers 3 through 15 were
11 admitted into evidence.)

12 BY MR. GRESHAM:

13 Q Now, Mr. McKinney, I know you said you recognize
14 these. I want to go through each one. If you'll identify
15 the different areas so the jury is familiar with the
16 apartment.

17 This is State's Exhibit Number 3.

18 A That's in front of the apartment outside.

19 Q All right. And that's the front stairs?

20 A Front stairway, yes, sir.

21 Q And then this is -- what is this, State's Exhibit 4?

22 A It's the front of the apartment, the stairs.

23 Q Okay. Are those your cars off to the right?

24 A The red Camry, yes. Yes, sir.

25 Q What is State's Exhibit Number 5?

1 A That's the back door.

2 Q Okay. Is there only one back door?

3 A Yes, sir.

4 Q Okay. State's Exhibit Number 6. I'm going to turn
5 it around.

6 A That's the backside of the apartment, like the wooded
7 area on the backside of the apartment.

8 Q Okay. And where would that back door be off? To
9 which side?

10 A The back door would be right here (indicating).

11 Q Okay. And now State's Exhibit Number 7, is this what
12 you saw upon entry into the apartment?

13 A Yes, sir.

14 Q All right. I know this one's tough to see, but was
15 this unusual? Obviously, the mess inside the apartment,
16 was that not the typical state of the apartment?

17 A No. We had -- a few things would be on the table,
18 but not all this. Never that messy.

19 Q Yes, sir.

20 State's Exhibit Number 8?

21 A That's the front in the living room.

22 Q Take your time, Mr. McKinney.

23 A It's the front living room leading towards the
24 hallway. That's the front door you actually took the
25 picture of.

1 Q State's Exhibit Number 9?

2 A Front living room headed towards the kitchen.

3 Q Okay. And you talk about headed towards the kitchen.

4 Is that back door of what we just saw previously, is that
5 in the back of that? Does that lead to it?

6 A Yes, sir. Back door would be on here (indicating).

7 Q Okay. State's Exhibit Number 10?

8 A That's the living room.

9 Q And are those couches there, that's not common?

10 A No, sir.

11 Q And then when you left, I think you said 5:00, 4:30,
12 5:00, did it look like that?

13 A No, sir.

14 Q Everything was in order?

15 A Yes, sir.

16 Q And then State's Exhibit Number 11, where are we
17 looking?

18 A Looking through the kitchen towards the front door.

19 Q And the back door, where is that?

20 A Back this way (indicating).

21 Q Where we can't see?

22 A Yes, sir. This is the front door (indicating).

23 Q Okay. State's Exhibit Number 12, where is this in
24 the house?

25 A This is Nip's bedroom, the second bedroom to the back

1 of the house.

2 Q And none of that was there when you left?

3 A No, sir.

4 Q How about State's Exhibit No. 13?

5 A That's my -- my bedroom.

6 Q Tell us about this condition. Was that abnormal?

7 A No, sir.

8 Q So it wasn't like that when you left.

9 A No, sir.

10 Q And 14?

11 A That's also my room. It's towards the back wall and
12 the closet here (indicating).

13 Q Behind the door or leading into the door? I see what
14 you mean.

15 I think this is the last one Mr. McKinney. State's
16 Exhibit Number 15?

17 A It's the kitchen facing the back door.

18 Q Okay. And do y'all keep that -- typically keep that
19 locked?

20 A Yes, sir. Keep -- keep the -- stay here, lock on the
21 door unless we are in the house.

22 Q So let's go back to when law enforcement arrived.

23 Once law enforcement arrived on the scene, what happened?

24 A They took me to the back room so I couldn't -- I
25 don't know what they did.

1 Q Okay. Did you give a statement to law enforcement at
2 that point?

3 A Not at that time.

4 Q Did you give a statement to law enforcement?

5 A Yeah. I told him -- yeah. I told him, you know,
6 when I came into the house, that's when they asked me.
7 But as far as when they arrived, they, you know, asked me
8 did I live here.

9 Q I've got you.

10 Where did you give that statement to law enforcement?

11 A In the bedroom.

12 Q Okay. Did you talk to them elsewhere?

13 A No, sir.

14 Q Did you go to the Law Enforcement Center?

15 A Yeah.

16 Q And then when you were at the Law Enforcement
17 Center, would you tell us about what happened when you're
18 there?

19 A I mean, they asked me to -- you know, to retell my
20 story. They also fingerprinted me and checked me for gun
21 residue and took pictures of me.

22 Q Okay. And did you return to the apartment after you
23 left the Law Enforcement Center?

24 A Yes, sir. Yes, sir.

25 Q Were you staying there after that?

1 A Yes, sir.

2 Q Did you stay elsewhere at any point?

3 A Yeah. Not -- not that night I didn't stay there, but
4 I returned back to the apartment, Apartment 10 where I was
5 at.

6 Q Okay. And when did you -- did you ever move back
7 into Apartment 9?

8 A No, sir.

9 Q But you returned to it later eventually at some
10 point?

11 A Yes. She -- the rental agency, she got in contact
12 with me and gave me like the first, the rest of that month
13 and gave me also till February to get everything out until
14 I felt comfortable back to entering the apartment.

15 Q Understood. I think you said February.

16 A Yes, sir.

17 Q That would have been -- how long was that after this
18 incident?

19 A Two months.

20 Q Two months.

21 And when you returned in February, did you notice
22 anything was missing?

23 A Yes, sir.

24 Q And what was that?

25 A My change jar that I kept in my room.

1 Q You kept it inside your room?

2 A Yes, sir.

3 Q Tell us a little bit about that change jar.

4 A About yay high (gesturing), purple and orange
5 yellowish writing with a purple lid.

6 Q Okay. And had purple writing. What was the writing
7 on it?

8 A Cheese balls, cheese knots or something like that.

9 Q Like you buy at the store.

10 A Yes, sir.

11 Q And you said you had a lid on it. Tell us about the
12 lid.

13 A Well, I taped it down to the top of the container,
14 and I cut a slit in it just so I can -- you know, won't
15 have to -- no one gets in. I just automatically drop my
16 change, my scratch-offs, dollar bills, whatever.

17 Q Was it all your change or was it like shared?

18 A Mine.

19 Q Okay. And when you came back, you said you noticed
20 that the container was missing.

21 A Yes, sir.

22 Q Did you find the lid?

23 A Yes, sir.

24 MR. GRESHAM: Your Honor, may I approach?

25 THE COURT: You may.

1 BY MR. GRESHAM:

2 Q Mr. McKinney, I am handing you State's Exhibit
3 Number 21. You're going to have some scissors. And I'll
4 let you open that. Don't cut yourself.

5 Do you recognize what's in that package?

6 A Yes, sir.

7 Q How do you recognize it?

8 A It's the lid I made, and also found it and put it in
9 this Crown Royal bag.

10 Q When you found it at the scene?

11 A Yes, sir.

12 Q Okay. Has the lid changed since you found it at the
13 scene when you returned in that February?

14 A Yes, sir. It's busted open.

15 Q It has?

16 A Yeah. I know I just had a slit. I see this is
17 ripped here, ripped here, ripped here, you know.

18 Q But you cut that slit in there?

19 A Yes, sir.

20 MR. GRESHAM: Okay. I'm going to take that back from
21 you. Thank you.

22 Your Honor, at this time the State moves to enter
23 State's Exhibit Number 21 into evidence and request
24 permission to publish it to the jury.

25 THE COURT: Any objection from Belcher?

1 MR. GIBSON: Yes, Your Honor. Objection to lack of
2 chain of custody. Also, apparently, from the testimony it
3 appears that it had been altered since the time that he
4 last saw it.

5 THE COURT: All right. Anything from ---

6 MS. DIAZ: Your Honor, I would just join that
7 objection.

8 THE COURT: He identified it as his, so I'm going to
9 overrule your objection.

10 (WHEREUPON, State's Exhibit Number 21 was admitted into
11 evidence.)

12 BY MR. GRESHAM:

13 Q You said you cut this lid right here?

14 A Yes, sir. Straight, yes, sir.

15 Q And this is the Crown Royal bag. Show it to the
16 jury.

17 So when you said -- you turned that over eventually
18 to Mr. Maltby?

19 A Yes, sir.

20 MR. GRESHAM: Investigator Maltby. All right.

21 Approach again, Your Honor?

22 THE COURT: Any objection to whatever this is?

23 MR. GIBSON: None from Mr. Belcher, Your Honor.

24 MS. DIAZ: No objection, Your Honor.

25 THE COURT: All right. In without objection.

1 (WHEREUPON, State's Exhibit Number 2 was admitted into
2 evidence.)

3 BY MR. GRESHAM:

4 Q Mr. McKinney, I am showing you State's Exhibit
5 Number 2. Do you recognize this photo I'm showing you?

6 A Yes, sir.

7 Q How do you recognize it?

8 A I recognize the container in his hand.

9 Q Okay. Have you seen that previously?

10 A Yes, sir.

11 Q Do you know where that location is?

12 A Yes, sir.

13 Q Where is it?

14 A That's the Ingles in Cherrydale.

15 Q Was that -- this photo shown to you by Investigator
16 Maltby?

17 A Yes, sir.

18 Q During this investigation?

19 A Uh-huh.

20 Q All right. Do you recognize the man in the photo?

21 A No, sir.

22 MR. GRESHAM: I'll take it back from you.

23 Your Honor, at this time the State moves to enter
24 State's Exhibit Number 2 into evidence.

25 THE COURT: They already said they didn't have an

1 objection.

2 MR. GRESHAM: I'm going to publish it to the jury
3 then, Your Honor, with your permission.

4 THE COURT: Yes.

5 BY MR. GRESHAM:

6 Q So -- and you recognize this. Is that the writing?

7 A Yes. The orange is the writing.

8 Q And how much change can you -- do you remember how
9 much change was in there? I know it's been quite some
10 time.

11 A Yeah. 75 to a hundred dollars or somewhere in there.

12 MR. GRESHAM: All right. That's all the questions I
13 have for you, Mr. McKinney. Please answer any the defense
14 has for you.

15 THE COURT: Cross-examination from Belcher.

16 MR. GIBSON: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MR. GIBSON:

19 Q Mr. McKinney, I'm very sorry for the loss of your
20 friend.

21 Let me ask you just a couple questions, though, and
22 I'm going to try to be brief on this, okay? You said that
23 that night you got a call from Rico?

24 A Yes, sir.

25 Q Who's Rico?

1 A Rico is a cousin of the family.

2 Q Rico calls you and tells you ---

3 A No. He -- he yells in the back room where I was at
4 and tells me that Shelvis has called and said that she's
5 ready to be picked up.

6 Q Okay. And just to be clear, at this time you were at
7 whose apartment?

8 A Rico's.

9 Q Rico's apartment.

10 A Yes, sir.

11 Q All right. And then my understanding is you went
12 from there to Tiffany?

13 A Uh-huh.

14 Q And how long do you think it took you -- let me back
15 up. Do you remember when -- do you have any idea when
16 this call was actually made or when Rico told you to go
17 over there?

18 A Seven, seven-ish, seven something-ish.

19 Q Seven something-ish?

20 A Yes.

21 Q But you didn't look at your watch or anything like
22 that.

23 A No, sir.

24 Q Okay. So then after Rico tells you this, you go and
25 you see Tiffany, right?

1 A Uh-huh.

2 Q How long did it take you to get from the point where
3 Rico tells you this to Tiffany?

4 A 30 steps maybe, 20 steps.

5 Q So you went from Rico's apartment over to Tiffany's
6 apartment.

7 A Uh-huh.

8 Q So you were outside. Did you happen to look down the
9 way and look at your apartment?

10 A No, sir.

11 Q All right. So you get to Tiffany's apartment. You
12 see Tiffany. How long did it take you to get from the
13 first point when you get to Tiffany to get back to your
14 apartment?

15 A Same, about 20, 30 steps.

16 Q So, what, 10, 15 seconds?

17 A Uh-huh.

18 Q Or how fast do you walk?

19 A Yeah. About 10, 15 seconds.

20 Q Okay. So from the point where Rico calls you and a
21 point where you get back to your apartment, it's basically
22 about a minute.

23 A Uh-huh.

24 Q All right. Now, during this time frame for the last,
25 say, 20, 30 steps, you're actually looking at your

1 apartment, correct?

2 A Uh-huh.

3 Q And did you see anybody leave?

4 A No, sir.

5 Q So you didn't see Robert Belcher in that site or any
6 -- him around there or anywhere whatsoever, correct?

7 A No, sir.

8 MR. GIBSON: Okay. Thank you, Mr. McKinney.

9 THE COURT: Martinez?

10 CROSS EXAMINATION

11 BY MS. DIAZ:

12 Q Mr. McKinney, at the time of this incident, you lived
13 with Mr. Bruster and one other person named Nip, correct?

14 A Yes, ma'am.

15 Q And even though Mr. Bruster lived there, he didn't
16 actually have a bedroom in that apartment, right?

17 A Yes, ma'am.

18 Q You said that he would stay with his girlfriend a
19 lot, right?

20 A Uh-huh.

21 Q The bedroom you were living in, that used to be
22 Mr. Bruster's bedroom?

23 A Correct.

24 Q And besides the living room, your bedroom was the
25 only one ransacked that night, correct?

1 A Correct.

2 Q So you kept most of your personal belongings in your
3 bedroom?

4 A Uh-huh.

5 Q And one of those belongings, as discussed, was the
6 cheese ball container?

7 A Correct.

8 Q Which you kept in your room. And you kept spare
9 change in it, correct?

10 A Uh-huh.

11 Q You've been throwing change in there for
12 approximately like four months?

13 A Somewhere in there.

14 Q But you didn't keep track of how much change you were
15 throwing in there, right?

16 A No, ma'am.

17 Q You don't know how much change was actually in the
18 container, right?

19 A (Nonverbal answer.)

20 Q Didn't keep track. Just an estimate.

21 A Right.

22 Q So you remember seeing the lid on the cheese ball
23 container the night of New Year's Eve 2017, correct?

24 A Yes, ma'am.

25 Q And told investigators you knew the lid was on the

1 container when you saw it earlier that day.

2 A Uh-huh.

3 Q And this cheese ball container was taken the night of
4 the incident.

5 A Correct.

6 Q You testified that you didn't go back to the
7 apartment for a while, right?

8 A Uh-huh.

9 Q You didn't go back until, I believe, it was the end
10 of January/early February?

11 A Uh-huh.

12 Q And the reason you didn't go was because -- or go
13 back to the apartment until then -- or I'm sorry. The
14 reason you did not notice that it was missing at the time
15 was because you didn't go back for a little while, right?

16 A Correct.

17 Q And when you finally noticed it was gone, the cheese
18 ball container, you found the lid as well in the
19 apartment, right?

20 A Yes, ma'am.

21 Q And you told investigators that the suspect must have
22 left the lid when they took the container, right?

23 A Uh-huh.

24 Q Now, originally, you told investigators in one of
25 your interviews that Mr. Bruster didn't sell drugs,

1 correct?

2 A Correct.

3 Q Your testimony today is that he did, right?

4 A Yes, ma'am.

5 Q There was weed or marijuana found in the apartment
6 that night.

7 A Uh-huh.

8 Q There were scales found in the apartment that night.

9 A Uh-huh.

10 Q Mr. Bruster sold drugs.

11 A Also told me that it was my weed.

12 Q Okay. There was marijuana found in there.

13 A Yeah.

14 Q And there was scales, right?

15 A Uh-huh.

16 Q Mr. Bruster sold drugs at some point?

17 A Uh-huh.

18 MS. DIAZ: No further questions.

19 THE COURT: Any redirect?

20 MR. GRESHAM: Just briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. GRESHAM:

23 Q I just want to verify the timeline that Mr. Gibson
24 questioned you on. You said -- you testified that you
25 left that apartment, the last time you saw Mr. Bruster was

1 4:30, 5:00?

2 A Yes, sir.

3 Q Okay. Now, briefly go into this again is that you
4 returned to the apartment because Tiffany or was it
5 Shelvis that told you to go back to check on him, that he
6 wasn't answering his phone?

7 A Shelvis.

8 Q Okay. And you don't really know when that was. You
9 approximate?

10 A Correct.

11 MR. GRESHAM: Okay. All right. No further
12 questions.

13 THE COURT: All right. You may step down. Thank
14 you.

15 State, call the next witness.

16 MS. GARY: Thank you, Your Honor. At this time the
17 State calls Tiffany Gambrell.

18 Ms. Gambrell, if you would, come forward and be
19 sworn.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 TIFFANY GAMBRELL

24 After having been duly sworn, testified as follows:

25 THE CLERK: Thank you. Please take a seat and state

1 your name for the record.

2 THE WITNESS: Tiffany Gambrell.

3 DIRECT EXAMINATION

4 BY MS. GARY:

5 Q Tiffany, can you hear me back here?

6 A Yes.

7 Q Okay. How are you today?

8 A I'm good. How about you?

9 Q I'm fine.

10 Can you tell the jury how old you are?

11 A I'm 46 years old.

12 Q Where are you from originally?

13 A Greenville, South Carolina.

14 Q Okay. Where do you live currently? Generally
15 speaking, what area of town?

16 A Off of Poinsett Highway.

17 Q Okay. Were you or how were you related to Jermaine
18 Bruster?

19 A He's my sister's -- was my sister's fiance.

20 Q Your sister Shelvis we heard about?

21 A Yes, yes.

22 Q Okay. Do you know Cedric McKinney?

23 A Yes.

24 Q How do you know him?

25 A That's my first cousin.

1 Q So you and Shelvis and Cedric are cousins.

2 A Yes.

3 Q Okay. And you said that Shelvis and Jermaine Bruster
4 were engaged to be married?

5 A Yes, ma'am.

6 Q How long had they been a couple?

7 A Since 12 or 13 years old.

8 Q Did Jermaine have any children?

9 A Yes.

10 Q Tell us about his children.

11 A Jurquesa [phonetic], his daughter and Mellow
12 [phonetic], his son.

13 Q Okay. Tiffany, where did you live in December of
14 2017?

15 A Right across the street from Jermaine.

16 Q Okay. And what are those apartments? Is that an
17 apartment complex?

18 A Yes, ma'am.

19 Q Okay. What are those apartments called?

20 A Razor Court Apartments.

21 Q And what was your address?

22 A Number 12.

23 Q Okay. Is that [REDACTED] Razor Drive?

24 A Yes, ma'am.

25 Q Apartment 12?

1 A Yes, ma'am.

2 Q Do you know the number of the apartment where
3 Jermaine and Cedric lived?

4 A Number 9.

5 Q Okay. And are those apartments in Greenville County?

6 A Yes, ma'am.

7 Q Tiffany, do you remember New Year's Eve of 2017?

8 A Yes, ma'am.

9 Q Tell the jury, what were your plans that day?

10 A We were getting ready to have a New Year's Eve party.

11 Q Okay. Where was that to be held?

12 A At my home.

13 Q So Apartment 12?

14 A Apartment 12.

15 Q Who was cooking the food?

16 A My sister Shelvis.

17 Q Okay. Is that normal?

18 A Yes.

19 Q I'm going to show you what's already in evidence as
20 State's Exhibit 1. We've heard a little bit about this.
21 But tell us, ma'am, do you recognize this?

22 A Yes, ma'am.

23 Q You can move that picture if you need to.
24 What's depicted in State's Exhibit 1?

25 A Razor Court Apartments.

1 Q Okay. And if you would, if you can step down for me
2 and use this larger television behind you. Could you
3 indicate to the jury where your apartment, Apartment 12
4 would be in this photo?

5 A It would be all the way off of that left corner
6 (indicating).

7 Q Okay. And I know you're not really able to see it,
8 but can you tell us generally where Apartment 9 is?

9 A It's like right across the street.

10 Q So would it be like kind of back in this corner back
11 here (indicating)?

12 A Yes, ma'am.

13 Q Do you know Rico?

14 A Yes.

15 Q Were did Rico live?

16 A He lived here (indicating) in Number 13.

17 Q Okay. Thank you. You can have a seat.

18 Tiffany, describe this neighborhood. It looks to be
19 a bit of a neighborhood. Did you know your neighbors?

20 A Yes.

21 Q Were you related to some of your neighbors?

22 A Yes.

23 Q Okay. Were there going to be a lot of people at this
24 party?

25 A Yes. Family and friends.

1 Q And where was Shelvis cooking?

2 A At her home.

3 Q Okay. How was she supposed to get to the party?

4 A Jermaine was supposed to bring her.

5 Q He was supposed to go get her?

6 A Uh-huh.

7 Q Okay. Tiffany, let's talk about Jermaine. We talked
8 about he was engaged to be married to Shelvis. He has two
9 children. Had he spent some time in prison?

10 A Yes, ma'am.

11 Q Okay. About how long had he been home as of December
12 of 2017?

13 A Maybe two years, or a year and a half or two years.

14 Q Okay. Did Jermaine have a nickname?

15 A We called him Jermaine.

16 Q Okay. Did Jermaine have a twin brother?

17 A Yes.

18 Q Who had already passed away before this happened?

19 A Yes, ma'am.

20 Q Did you ever hear anybody call Jermaine, Twin?

21 A Yes.

22 Q Okay. Did you know Jermaine to have guns?

23 A No. Never.

24 Q Do you know why he did not have guns?

25 A I don't think he cared for guns.

1 Q Let's talk -- while we're talking about those
2 apartments, we need a picture. Tell us, what's the area
3 behind Rasor Court Apartments like? Is it well lit?

4 A It's just the neighborhood. Not -- not really well
5 lit, but it's lit. I mean, it has streetlights and
6 things.

7 Q Okay. Are there areas -- is there a wooded area
8 behind that complex?

9 A Yes.

10 Q Okay. Let me show you State's 6. It's a little
11 difficult to see. This is State's Exhibit 6. Are you
12 familiar with this dark area behind some of the
13 apartments?

14 A Yes, ma'am.

15 Q And that would be what you described as a wooded
16 area?

17 A Yes.

18 Q Okay. What leads -- and this is actually from behind
19 Apartment Number 9. What leads back there; do you know?

20 A It's like a wooded fence and a home like behind the
21 apartment. Well, Number 9 I would say is just woods kind
22 of, and it kind of backs up to the home behind us, maybe
23 two homes up, backyard.

24 Q Okay. Tiffany, do you remember being asked to call
25 9-1-1 that night?

1 A I don't remember being asked. I think I ran and got
2 my telephone and called 9-1-1.

3 Q That's fair. Perhaps that was a bad question.
4 Did you call 9-1-1 that night?

5 A Yes, yes.

6 Q Okay. What happened that led to you calling 9-1-1?

7 A Cedric had -- well, my sister had called and said
8 that Jermaine wasn't answering the phone. So I called
9 Rico and asked Rico was Jermaine over to his home. He
10 said no. I said, well, is Cedric there? He said yes.
11 And I asked him to ask Cedric to go tell Jermaine that
12 Shel was -- Shelvis was ready to bring the food, to come
13 and get her and to bring the food up there, to bring the
14 food.

15 Q So Jermaine wasn't answering the phone.

16 A No, ma'am.

17 Q And you asked Cedric -- or you directed that Cedric
18 go look for Jermaine.

19 A Yes, ma'am.

20 Q Okay. And what happened when Cedric went to look for
21 Jermaine?

22 A He just started screaming my name for me to come over
23 to see what was going on.

24 Q Okay. Do you know about what time of night that was?

25 A It was around -- I guess it was about 7:50, 7:55,

1 something like that.

2 Q Okay. And I know you said your party was about to
3 get started. Were there other parties happening around
4 you?

5 A Yes. There was one across the street. Just the guys
6 were hanging out over there.

7 Q Had you heard any fireworks yet that night?

8 A Yes, ma'am. Fireworks were going off all day.

9 Q And you said you did call 9-1-1.

10 A Yes, ma'am.

11 Q All right. Tiffany, I'm going to show you what's
12 been marked as State's Exhibit 16 and just ask you,
13 without telling us what it is, see if you recognize that.

14 A Yes, ma'am.

15 Q How do you recognize that?

16 A Because I signed my name -- signature -- initials on
17 it.

18 Q Your initials are on it?

19 A Yes, ma'am.

20 Q Okay. Did you put those there after you reviewed it?

21 A Yes, ma'am.

22 Q And what was on this disc?

23 A It was the 9-1-1 call.

24 Q Okay. Did it appear to be an accurate recording of
25 that call you made that night?

1 A Yes, ma'am.

2 MS. GARY: All right. Your Honor, at this time we'd
3 move State's Exhibit 16 into evidence.

4 THE COURT: Any objection from Belcher?

5 MR. GIBSON: No objection, Your Honor.

6 THE COURT: Any objection from Martinez?

7 MS. DIAZ: No objection, Your Honor.

8 THE COURT: All right. In without objection.

9 (WHEREUPON, State's Exhibit Number 16 was admitted into
10 evidence.)

11 THE COURT: What exhibit number?

12 MS. GARY: 16, Judge.

13 (WHEREUPON, State's Exhibit Number 16, an audio recording,
14 was played in open court.)

15 MS. GARY: All right. Tiffany, those are all my
16 questions. Answer any questions the defense attorneys
17 have, okay?

18 THE COURT: All right. Cross-examination?

19 MR. GIBSON: No questions, Your Honor.

20 THE COURT: Martinez?

21 CROSS EXAMINATION

22 BY MS. DIAZ:

23 Q I'm sorry for your loss.

24 So you lived in the Rasor Apartments?

25 A Yes, ma'am.

1 Q In Apartment 12?

2 A Yes.

3 Q There was a get-together happening that New Year's
4 Eve.

5 A Yes.

6 Q And you received a call from your sister Shelvis at
7 7:48 p.m.

8 A Yes.

9 Q And she wanted you to see why Mr. Bruster wasn't
10 answering his phone.

11 A Yes.

12 Q She wanted you to check on him.

13 A Yes.

14 Q You didn't check on him yourself.

15 A No.

16 Q You, as Ms. Gary said, directed Cedric McKinney to
17 check on him.

18 A Yes, yes.

19 Q When you were -- after Mr. Bruster had been
20 discovered, there was a ton of people around, right?

21 A After he had ---

22 Q So after you were told -- or everyone was asked to
23 check on him, there was people in the area that started
24 coming out of their apartments and family coming out,
25 correct?

1 A Yes. Correct.

2 Q So there was a lot of people around Apartment 9 at
3 that time.

4 A I would say about three or four people.

5 MS. DIAZ: No further questions.

6 THE COURT: Redirect?

7 MS. GARY: No, sir.

8 THE COURT: All right. Thank you. You may step
9 down.

10 MS. GARY: Your Honor, may we approach for scheduling
11 purposes?

12 THE COURT: Yes.

13 (WHEREUPON, a bench conference was held off the record.)

14 THE COURT: All right. Ladies and gentlemen, the
15 next witness is going to be rather lengthy and we've got
16 some matters we need to go over with the attorneys, so I'm
17 going to go ahead and I'll let y'all go early today. Does
18 9:30 work for everybody in the morning? And we should --
19 we don't have to do all the stuff we did this morning so
20 we should be able to start right at 9:30. And every time
21 I say that, that's when something pops up and I have to be
22 -- you know. But like I said, we will be leaving probably
23 as close to 3:00 as possible tomorrow, so y'all can make
24 plans.

25 All right. I'm going to give you my four rules, and

1 still in their case in chief. And at this time we'll have
2 the State call their next witness.

3 MR. GRESHAM: Thank you, Your Honor. May it please
4 the Court. As the State's third witness, we call
5 Investigator Chad Maltby to the stand.

6 THE CLERK: Please place your left hand on the Bible
7 and raise your right hand.

8 WHEREUPON,

9 CHAD MALTBY

10 After having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Please take a seat and state
12 your name for the record.

13 THE WITNESS: Chad Maltby.

14 DIRECT EXAMINATION

15 BY MR. GRESHAM:

16 Q Investigator Maltby, where are you employed?

17 A I'm employed with the Greenville County Sheriff's
18 Office.

19 Q And how long have you been employed there?

20 A I've been here for 15 years.

21 Q Can you tell us your position?

22 A I'm currently a lieutenant over the Drug Enforcement
23 Unit.

24 Q And can you tell us first how long you've been in
25 that unit, but also as long as you've been an

1 investigator?

2 A I have been with this unit for about three years, an
3 investigator over my 18-year career probably 12 of those.

4 Q And would you tell us your duties and
5 responsibilities involved as an investigator?

6 A Yes. Well, there's all different kinds of
7 investigators. At the time of this incident, I was
8 assigned to the Criminal Investigation Division,
9 specifically to the Homicide Unit.

10 Q And did you receive special training to perform those
11 duties?

12 A Yes, sir. Other than your basic police officer
13 academy training, I received a two-week specific homicide
14 investigations class from the University of Louisville.
15 I've been to various other trainings to include wound
16 patterning, interview, interrogation techniques, et cetera.

17 Q Awesome.

18 And on top of those special trainings you received,
19 do you have actual educational background in criminal
20 justice?

21 A I've got an associate degree in criminal justice.

22 Q Okay. And prior to working for the Greenville County
23 Sheriff's Office, did you previously work in law
24 enforcement?

25 A I did. I worked previously for the Macon Police

1 Department in Macon, Georgia.

2 Q And how long were you there?

3 A That was three years.

4 Q And what was your duty in Macon?

5 A At that time just uniform patrol officer.

6 Q All right. Now, this is talking about your entire
7 law enforcement career. How many murder cases have you
8 worked?

9 A I'd have to estimate around 30.

10 Q That's a lot.

11 All right. Let's go back to New Year's Eve of 2017,
12 specifically the incident we're here today. You briefly
13 touched upon it, but would you describe, again, what your
14 duties were at that time?

15 A Yes. New Year's Eve of that year I was the lucky
16 person to be on call. And that was for homicide-related
17 incidents.

18 Q All right. Did you receive a call to the Rasor Court
19 Apartments that day?

20 A I did.

21 Q And what time was that?

22 A Estimated time of that call would be around 8:30, a
23 little after, maybe.

24 Q Okay. And was there a particular apartment in that
25 apartment complex that was the main focus of that call?

1 A Yes, sir. Apartment Number 9.

2 Q Okay. And is the Razor Court Apartments, is that
3 location within Greenville County?

4 A It is. Yes, sir.

5 MR. GRESHAM: All right. I'm going to show you
6 State's Exhibit Number 17.

7 May I approach?

8 THE COURT: You may.

9 BY MR. GRESHAM:

10 Q Investigator Maltby, I'm handing you State's Exhibit
11 Number 17. Are you familiar with what I've just shown
12 you?

13 A Yes, sir.

14 Q Would you tell us what it is?

15 A This shows the incident location, [REDACTED] Razor
16 Drive, Apartment Number 9. It also shows the Cherrydale
17 area in Greenville County which is Poinsett Highway near
18 State Park Road, that big intersection. It also shows the
19 apartments of Crestwood Forest Drive, [REDACTED] Crestwood Forest
20 Drive.

21 Q And how many times have you been to that general
22 area?

23 A Thousands. I pass through this location on my normal
24 travels. I also worked as a uniform patrol deputy
25 answering calls in this area.

1 Q And is all that area that you see in that map, is
2 that all within Greenville County?

3 A Yes, sir.

4 Q And how accurate would you say that aerial map is?

5 A It's an accurate depiction.

6 MR. GRESHAM: Your Honor, the State moves to admit
7 State's Exhibit Number 17 into evidence and requests
8 permission to publish to the jury.

9 THE COURT: Any objection from Belcher?

10 MR. GIBSON: No objection.

11 THE COURT: From Martinez?

12 MR. GRUBBS: No objection.

13 THE COURT: All right.

14 (WHEREUPON, State's Exhibit Number 17 was admitted into
15 evidence.)

16 BY MR. GRESHAM:

17 Q All right. I'm just going to get you -- I know you
18 just stated what was there, but for the jury, if you
19 wouldn't mind coming down just to show where the Razor
20 Court Apartments is located on this map.

21 A Yes, sir. Notated with this green dot, [REDACTED] Razor
22 Drive, Apartment Number 9 (indicating).

23 Q Okay. And now would you point out to the jury where
24 the Ingles supermarket is located in connection to that
25 apartment?

1 A Yes. If you come out, this is Poinsett Highway, this
2 would be the Lowe's, this is the major intersection at
3 Cherrydale, and here would be the Ingles (indicating
4 throughout).

5 Q Okay. Now, where is Crestwood Forest Apartments?

6 A Crestwood Forest Apartments are these set of
7 apartments right here (indicating).

8 Q Okay. And then the third notation on the map, that
9 location is what?

10 A 515 Tindal Road, Northside Baptist Church.

11 Q Okay. Is that behind the Dixie Gem area?

12 A Yes. Just behind -- behind that right here
13 (indicating) would be the Dixie Gem.

14 Q Okay. All right. You can have a seat.

15 All right. Let's go back to your call that day at
16 the Rasor Court Apartments. Now, after you received that
17 call I think you said at 8:30-ish?

18 A Roughly from -- that was from the uniform patrol
19 sergeant, which is standard protocol. Once they get
20 there, they answer the initial 9-1-1, determine that a
21 violent crime or homicide had occurred, and that's when
22 they contact the on-call Criminal Investigator Division.

23 Q So you responded after that call to the apartments?

24 A Yes, sir.

25 Q And once you arrived, what did you do and see?

1 A I arrived approximately 9:06 p.m. At that time I
2 observed the scene secured with yellow crime scene tape.
3 It was an outer perimeter of tape, which was located maybe
4 100 yards down Razor Court. And then that was keeping all
5 individuals from accessing the scene at that point. And
6 then there was an internal perimeter tape, yellow crime
7 scene tape which surrounded the actual incident location
8 residence.

9 I met with the sergeant on scene, gave me a brief
10 overview. Informed me there was a deceased male inside
11 Apartment Number 9, and that once EMS and deputies
12 arrived, there were several individuals inside of
13 Apartment 9, some of which were rendering aid.

14 Q I'm going to stop you right there. We're going to
15 get there.

16 So you talked to the deputy that was commanding the
17 scene at that point or controlling the security at that --
18 you just testified to. Now let's slowly break it down for
19 the jury. So once you did arrive to the apartment,
20 Apartment 9, once you made entry into that apartment, what
21 did you see then?

22 A Walked up the stairs and into the front door.
23 Observed a male victim who was lying on his back generally
24 in the center of the room. He had a black shirt that had
25 been cut off presumably by medical personnel. He had some

1 blue jean shorts on. These were not all the way buckled
2 and were partially down. He had one shoe on, one shoe
3 that was off that was also visual. You could see it in
4 the room as well.

5 Q Was it readily apparent at that point that he was
6 deceased?

7 A It was. And I was notified by the medical personnel
8 on scene of such.

9 Q Okay. And did you see a wound to his body?

10 A Yes. I observed an obvious deformity to his upper
11 left chest area that was consistent with a gunshot wound.

12 Q Can you point to on your body where it was?

13 A Somewhere in this (indicating) general area here.

14 Q Okay. And now tell us about the condition of the
15 apartment when you made entry.

16 A Yes, sir. You could immediately tell that it was in
17 disarray. It had been ransacked. Couches were flipped
18 upside down. Items were not consistent with how people
19 live. Like I said, everything was torn, upside down, or
20 flipped upside down, tossed on the ground, piled up. Just
21 was in complete disarray.

22 Q Okay. Now, after you saw all that, did you request
23 forensics to respond to the scene?

24 A Yes. They were requested.

25 Q Can you tell us about that?

1 A Yes. So which is standard protocol for a violent
2 crime, I requested our Forensics Unit to come on scene. I
3 believe it was Kretschmar, Roller are the investigators,
4 and Investigator Wolfe with Greenville County Forensics.

5 Q And how long would you say it took them to respond?

6 A Not very long. I actually believe they probably
7 would have been notified or monitoring the radio prior to
8 my arrival.

9 Q Okay. Now let's talk a little bit about what
10 happened after they did arrive. Can you tell us?

11 A Once EMS arrived?

12 Q No. Forensics.

13 A Okay. Correct. So they just -- they have a standard
14 protocol that they follow when they're on a violent crime
15 scene. So they'll process the scene, which basically
16 they'll photograph everything thoroughly, the outside, the
17 outer perimeter all the way inside to the house, document
18 that with photographs, document the victim's location with
19 photographs. They will attempt to lift latent
20 fingerprints off of items that they can that are readily
21 available. They will attempt to swab for DNA on different
22 areas inside the house. They will secure any evidence
23 that the investigator requests to be secured.

24 Q So does that encompass a search or is the search more
25 in your line of work?

1 A Well, legally, yes, sir, it is a search which is why
2 we obtained a search warrant prior to this. But they're
3 -- kind of a play on words. It is a search because they
4 are inside the house and they are documenting or possibly
5 moving items. But an actual, physical hand search would
6 have actually been done later.

7 Q Okay. And once this processing was done, were you
8 involved with that? Were you present at that?

9 A No, sir. I don't think "involved" would be the right
10 word. I was present. Yes, sir.

11 Q Okay. Was any blood found inside the apartment?

12 A Yes. There was a couple I'll call them puddles,
13 maybe 5- to 6-inch circumference inside the apartment and
14 also just outside the front door.

15 Q Okay. Let's talk about the blood inside the
16 apartment. How close was that blood found next to the
17 victim?

18 A It was close. Close proximity.

19 Q And once you were in the house, did you see any signs
20 of forced entry?

21 A Did not see any signs of forced entry. And that was
22 documented as well with the photographs.

23 Q And after the apartment -- interior of the apartment
24 was processed, searched, were the vehicles associated --
25 surrounding the apartment, were they inventoried or

1 searched or noted?

2 A They were noted. There were several vehicles as it
3 was, you know, they'd been having a get-together in the
4 cul-de-sac. So just to be thorough, we documented every
5 vehicle that was out there. Identified one vehicle to be
6 what the vehicle -- or the victim was driving earlier in
7 that day. And it was actually, I believe, sealed and
8 processed later, I believe.

9 Q Okay. Now will you tell us a little bit, were any
10 items collected at the scene during that processing?

11 A The items I discussed, their actual processing of the
12 scene, anything that they would have collected, meaning
13 forensics. There was also, I think, a beer bottle, an
14 empty beer bottle that was inside the living room, a pair
15 of scissors, and, I believe, a set of keys that were near
16 the victim.

17 Q Was any of that useful in your investigation?

18 A It was not. And that was -- that's taken out of an
19 abundance of caution. At the initial part of the
20 investigation, we have no idea what just happened, if it
21 was from somebody within or from somebody that came in.
22 So we took those just because an abundance of caution.

23 Q Okay. I am going to show you a few photos which were
24 shown yesterday, but I'll go over them with you. Make
25 sure I get the right ones. These are -- for the record

1 these are State's Exhibit Numbers 3 through 15. Would you
2 take a look at these?

3 A (Reviews exhibits.)

4 MR. GRESHAM: Your Honor, I'm going to publish these
5 again as well for the jury.

6 THE COURT: All right.

7 BY MR. GRESHAM:

8 Q Now, this is State's Exhibit Number 3. I'm going to
9 move this down so we can all see it. Is this what the
10 apartment looked like when you came to the scene?

11 A Yes, sir, it is.

12 Q Is that the crime scene tape that you mentioned?

13 A Correct. That would be the inner perimeter that I
14 mentioned.

15 Q Okay. And when you came into the apartment, when you
16 made entry into Apartment 9, was that the way you went in?

17 A Yes, sir.

18 Q Okay. And you see those cars outside.

19 A Yes, sir.

20 Q Are those the cars that you said that you noted and
21 at least checked out?

22 A Yes, sir.

23 Q Okay. Now, this is State's Exhibit Number 4. Is
24 that the entryway?

25 A Yes.

1 Q And do you recall what State's Exhibit Number 5 is?

2 A This would be the rear of the residence and the back
3 door of the residence, Number 9.

4 Q Okay. And now we're getting ready to go in here, but
5 this is the one. So this is the area -- tell us this area
6 -- is this the one right behind the back door that we just
7 saw?

8 A Yes, sir. If the person taking this would have just
9 angled to the left, you'd see that red door. And then you
10 can see this back area (indicating) which is like a -- I
11 call it a wooded area with just leaves. And if you could
12 look at it from farther back, you would see that Apartment
13 Number 9 sits here, and then sequentially they go up, down
14 Razor Court all the way out to Razor Drive. So you've got
15 an area that looks similar to this behind all those
16 apartments.

17 Q So Razor Drive would be pretty much where I am in
18 association with that.

19 A Yes, sir.

20 Q Okay. Now, you see there's a light in that picture.
21 Is that a light from the camera or is that area actually
22 lit at all?

23 A It's not lit at all. What you see is probably a
24 porch light on the road behind. I think there's a couple
25 fences in between.

1 Q All right. We'll move along. I know this is a tough
2 photo. But is this what you saw when you came in?

3 A Yes, sir.

4 Q And that white sheet that you see next to the victim,
5 how did that come there?

6 A We learned that that was placed there by medical
7 personnel.

8 Q Okay. Now, when you said you talked about the
9 condition of the apartment being a wreck, is this what you
10 meant?

11 A Yes, sir. As you can see, part of this couch on the
12 left, it's flipped upside down.

13 Q And are these the beer bottles that you said that
14 were collected?

15 A Yes, sir.

16 Q Okay. And this is State's Exhibit Number 9. Is that
17 the same room that we just saw?

18 A It is. The bottom left is a photograph. You can see
19 the sheet you just referred to. And then if you look at
20 the back of the photograph would be the kitchen area, and
21 just outside of sight would be that red door from the
22 back, the back door.

23 Q Okay. State's Exhibit Number 10, are these the
24 couches that were in disarray in the same room?

25 A Yes, sir. That's the living room. Same room.

1 Q All right. Tell us about State's Exhibit Number 11.

2 A That would be a photograph. The person taking this
3 was back -- was on or close to that red door in the back.
4 That's looking out into the living room where the previous
5 photograph you just showed.

6 Q Okay. Now we're looking towards the front of the
7 door from the rear. Are there rooms down on this side if
8 you're going through that door?

9 A Yes, sir. If you go out that door and turn right,
10 there are two bedrooms.

11 Q Okay. All right. This is State's Exhibit Number 12.
12 Is this one of those bedrooms that you just talked about?

13 A Yes, sir. That would be the back bedroom.

14 Q Do you know who that bedroom belonged to?

15 A I do, but I would have to look through my report.

16 Q This is State's Exhibit Number 13. Is this another
17 one of those bedrooms?

18 A Yes, sir. That would be the front bedroom.

19 Q Is that how it looked when you got there?

20 A Yes, sir.

21 Q State's Exhibit Number 14, is that that same bedroom?

22 A Yes, sir.

23 Q All right. And that door, do you know where that
24 leads?

25 A That leads back out into the hallway, very small

1 hallway, but actually out into the living room.

2 Q State's Exhibit Number 15, what is this showing?

3 A That is taken from the living room and showing the
4 back door through the kitchen.

5 Q And what is this that you see in the photo? Point it
6 out here. But what is that (indicating)?

7 A Commonly referred to as a burglar bar, a way to
8 secure a door.

9 Q All right. After forensics processed the scene, what
10 did you do at that point? What was the next step of your
11 investigation actually on the scene?

12 A Yes, sir. So I'd been informed that there were a
13 number of family members at another apartment which was
14 just two over, Apartment Number 13, some of which were on
15 the scene when EMS and deputies arrived, some of which
16 were not. So I made contact over there with the victim's
17 fiancée and the victim's fiancée's sister and interviewed
18 them.

19 Q I'm going to stop you right there. Do you recall
20 their names?

21 A Yes, sir.

22 Q Who was the victim's fiancée?

23 A Shelvis Gambrell.

24 Q And her sister?

25 A Tiffany Gambrell.

1 Q Okay. What did you learn about the incident then?

2 A In speaking with them, I learned that that night was
3 just any other night. They were having a gathering for
4 New Year's Eve, mostly family, some friends in that whole
5 cul-de-sac area. Shelvis Gambrell was to contact the
6 victim who was to pick her up and bring her to that party
7 at some point.

8 Q Okay. Now, after you learned this information from
9 them, what happened next; do you recall? Were you
10 contacted about the victim's roommate?

11 A Yes. Mr. McKinney, Cedric McKinney was on scene
12 whenever deputies and EMS arrived. Prior to my arrival,
13 due to him living at the residence, he voluntarily went to
14 the Law Enforcement Center for an interview with another
15 investigator.

16 Q And what happened at the Law Enforcement Center with
17 Mr. McKinney?

18 A Mr. McKinney was completely cooperative, provided a
19 statement which directly matched what Tiffany and Shelvis
20 had told me about the evening's events and about what was
21 to transpire afterwards, meaning that the victim was to
22 come over, that Tiffany was to -- I'm sorry. That Shelvis
23 -- or the victim was supposed to pick up Shelvis and bring
24 her back to the Razor Court.

25 Q Okay. And while he was at the Law Enforcement

1 Center, wasn't DNA testing done on him as well as
2 photographs and what they call GSR, gunshot residue?

3 A Yes, sir. He was photographed. He consented to a
4 search, basically, for his DNA to be obtained, and also
5 consented to a gunshot residue test being that he was on
6 scene at the time that the body was found, out of
7 abundance of caution on that, and as well consented to a
8 search of his cell phone, which was later downloaded.

9 Q Was there anything useful for that for your
10 investigation?

11 A No, sir, there was not. It was reviewed thoroughly,
12 but there was nothing useful.

13 Q So what did you think about Cedric at that point?

14 A At that point I figured he was just an acquaintance
15 and somebody, a witness who was on scene.

16 Q Okay. Now, as the next part of your investigation,
17 did you go back to the scene and conduct an area canvass?

18 A Yes. Went back during daylight hours just to conduct
19 more of a thorough search. Sometimes you can see
20 something else that you did not see during the dark.

21 Q Did I use that right term? Is it a canvass?

22 A Yes, sir. We actually canvassed the night of the
23 incident.

24 Just to explain that, we just basically try to make
25 contact with any potential witnesses, knock on doors, try

1 to look for surveillance cameras, which I did. There were
2 none. There were none in the complex. There were none on
3 Rasor Drive, basically, branching all the way out down the
4 main roads of possible routes a suspect would take. The
5 only video footage we obtained for that was a mile or so
6 away off Old Buncombe Road, just abundance of caution that
7 we learned that later down the road that a possible
8 suspect took that route.

9 Q And that was the extent of what was revealed through
10 that area canvass?

11 A Yes, sir. Some -- some witnesses remembered hearing
12 some pops but believed them to be fireworks because it was
13 New Year's Eve and they heard pops all night, so we
14 couldn't really rely on any of those witnesses to anything
15 pertinent.

16 Q Okay. Do you remember how many people you spoke to
17 in that time frame?

18 A To include everyone in Apartment 13, possibly eight,
19 ten.

20 Q And these were all neighbors?

21 A Yes, sir.

22 Q Okay. All right. Let's take a few steps forward in
23 your extensive investigation. During the course of your
24 investigation, did you develop a -- I don't like to use
25 the word "list," but did you develop suspects involved or

1 at least were potentially involved in this matter?

2 A Yes, sir.

3 Q Okay. And would you tell us about that?

4 A Yes, sir. Ms. Gambrell, Shelvis Gambrell, contacted
5 me a few days after the incident and gave me the name of a
6 couple individuals that were on scene just prior to the
7 incident who observed a male that they later identified as
8 Jimmy Sullivan at the apartment. They observed him inside
9 the apartment while they were there, then they observed
10 him leave prior to them leaving around 733 hours.

11 Q Okay. And this name of this individual who
12 identified Jimmy Sullivan being there, do you know any
13 more information about her, her interaction at the scene?

14 A Yes, sir.

15 Q I mean, would you go into it? What was the state of
16 the apartment at that time when she was there?

17 A Correct. So they came over to bring a food plate, I
18 believe it was, to the victim and just hang out a few
19 minutes. They said the apartment was in normal
20 conditions, not in disarray at the time that Mr. Sullivan
21 left and the time they left.

22 Q Okay. Did you ever have an opportunity to talk with
23 Mr. Sullivan?

24 A I did. We were also contacted, I believe, maybe a
25 day after that, so a few days after the incident about his

1 location.

2 So we wanted to talk to him. Sent deputies out.
3 They got out with Mr. Sullivan. Mr. Sullivan cooperated
4 completely. Didn't have to, but voluntarily came to the
5 Law Enforcement Center, provided a statement, provided his
6 cell phone for us to download, provided a sample of his
7 DNA, which was all voluntary, and provided -- actually
8 provided his shoes that he was wearing.

9 Q And for his cell phone and his shoes, were those
10 tested?

11 A Yes.

12 Q And when you mean testing, would you explain that too
13 as well?

14 A Did you say cell phone?

15 Q Yeah.

16 A The cell phone was downloaded and reviewed. The only
17 thing pertinent that we saw was a phone call at 7:03 p.m.
18 that night from Jimmy to the victim.

19 Q Okay.

20 A The shoes were later swabbed for DNA. So the results
21 on those were provided by the doctor in charge of the
22 Greenville County forensics DNA sampling. And I was
23 informed by that document that it was inconclusive, that
24 there were several different profiles on the shoes that
25 were mixed causing it basically to render it not

1 conclusive. So there was -- you couldn't tell whose DNA
2 was on his shoes.

3 Q And based on your experience as an investigator,
4 through your murder investigation, was that pretty common?

5 A That's very common. Not quite like you see on TV,
6 but it's very hard to get an actual DNA sample as to where
7 they can come up with a conclusion.

8 Q Okay. Now, you talked about that one phone call from
9 Mr. Sullivan to the victim. Did you find any other phone
10 calls that were pertinent?

11 A On Mr. Sullivan's ---

12 Q On Mr. O'Sullivan's phone which would put him in
13 specific locations.

14 A We did do -- ended up doing call detail records on
15 his phone which show us a general area. They --
16 basically, what they do is show a cell phone tower and
17 give you a cone. And that phone -- the location of that
18 phone at that specific time, what they can say is within
19 that cone. And we learned at 713 hours, that that cone
20 encompassed the location that he said he was at prior to
21 going over there that night which was on Kerns Avenue,
22 which it did not encompass the area of the victim's house.
23 At 733 hours, the victim's house was within that cone.
24 And I believe at 747 hours, it was at the Kerns Avenue
25 location.

1 If I can back up ---

2 Q Not at the victim's.

3 A Correct.

4 If I can back up and correct myself. That was 7:47
5 was after the 7:33. So just to start over because that
6 sounded a little confusing. So the first was at 7:47,
7 which put him not at the location of the victim. The one
8 at 7:33 put him at the location of the victim.

9 Q Are you familiar with how far that is from the
10 victim, Kerns?

11 A It's a couple miles.

12 Q Okay. And did that corroborate with what was relayed
13 to you about -- mesh with Juanita Corner statements to
14 you?

15 A It did.

16 Q Okay. All right. Let's move from Mr. Sullivan. Was
17 any other suspects identified or at least investigated?

18 A Yes.

19 Q Would you tell us about that?

20 A That would be the defendants in this case.

21 Q Okay. We'll get into that in more detail later on.

22 Sorry. Bear with me. I'm making sure I've covered
23 everything on my notes.

24 All right. Let's talk about the defendants in this
25 case. How did your investigation turn to these two

1 individuals?

2 A I was contacted by Ms. Gambrell, Shelvis Gambrell,
3 and also Mr. McKinney. There was a period of time they
4 didn't go back to the apartment. They couldn't bring
5 themselves to go back inside. They did say the apartment
6 was secured and locked the last time they were there, and
7 when they finally did go back, it was locked. They had to
8 use a key. Went inside, and when they did an inventory,
9 they noticed a couple items that were missing due to this
10 incident.

11 Q Tell us about those items.

12 A One item was a watch, the victim's watch. I believe
13 it was an Echo style watch. So I obtained -- didn't get
14 the exact model number, but I obtained a similar watch
15 that matched that description, placed it on some search
16 engines to where we can see if something similar has been
17 pawned, actually found.

18 And then there was a cheese ball container that was
19 used to keep loose change that was missing from the
20 residence. Cedric informed me that this was his and that
21 he used that to put change into, that he had cut a slit in
22 the top and put change down into it over a couple-month
23 period.

24 Q Okay. Did he tell you how much change was in there?

25 A He gave a rough estimate. I believe it was somewhere

1 around \$75 is what he thought.

2 Q Based on that missing information related to you by
3 Ms. Gambrell, what was the next step of your
4 investigation?

5 A At that time -- and I should add, I don't know if I
6 said, but the top was still on scene ---

7 Q Okay.

8 A --- at the Apartment Number 9, which Mr. McKinney
9 brought to me and I had forensically processed for
10 fingerprints with negative results. They couldn't --
11 couldn't obtain any.

12 So after that, I'm familiar with property crimes
13 investigators using this technique where a large sum of
14 change may be stolen in a burglary or an auto breaking, so
15 they will go to local Coinstars where you can dump your
16 change into a machine and get paid cash back out. So I
17 subpoenaed those Coinstar records from the two closest
18 locations that would be believable for someone to take,
19 one of which ---

20 Q I'm going to stop you right there. I don't mean to
21 interrupt you, but we're getting there.

22 For those that are not familiar with Coinstar, will
23 you tell us just a little bit about that to the extent you
24 know?

25 A Yes, sir. They're normally at -- from my experience

1 at grocery stores. And you can take your change to the
2 machine which is inside the store. It's got a bin. You
3 can pour your change inside the bin. It will count it and
4 give it an exact amount. It will normally print out a
5 receipt with that amount. They take -- they take their
6 cut, so they'll take a small percentage of that. But
7 they'll give you a receipt which you then take to someone
8 at the store, an employee who in turn gives you money in
9 return.

10 Q Someone at the grocery store.

11 A Correct. At that location, yes.

12 Q Okay. All right. Sorry to interrupt, but continue
13 on about your subpoenas or contacts.

14 A Yes. So we ended up subpoenaing the two closest
15 locations were the Ingles in Cherrydale which we showed on
16 the map earlier, and a Bi-Lo which is located on
17 Highway 291 near the intersection of Rutherford Road.

18 Q Okay. And how far -- let's talk about the Ingles.
19 How far is that Ingles from the victim Mr. Bruster's
20 apartment?

21 A Right around a mile, maybe a little less.

22 Q Okay. A quick drive.

23 A Yes, sir.

24 Q Now, once you had gotten those records, or at least
25 once you had requested those records from Coinstar, would

1 you tell us what you found from then?

2 A So there were no transactions during the time period
3 at the Bi-Lo. There was a transaction that piqued our
4 interest at the Ingles, and it was on the incident date at
5 821 hours.

6 So at that time I responded out to the Ingles and met
7 with I think she's a district manager of some sort, it's a
8 Barbara Haun, to seek video footage of that transaction.

9 Q Okay. And do you remember what time that was when
10 you met with -- how long after the incident when you met
11 with Ms. Haun in Ingles?

12 A I believe this would have been early February.

13 Q Okay. Well, tell us about that meeting with
14 Ms. Haun.

15 A Met with Ms. Haun, explained to her what -- what I
16 was investigating and what I was seeking. And she was
17 able to provide video footage of that transaction.

18 Q And that's the 8:20 transaction?

19 A Yes, sir.

20 Q And what did you tell her you were investigating?

21 A A homicide.

22 Q Okay. And that footage that she provided you, how
23 long was it; do you remember?

24 A How long footage is it?

25 Q Uh-huh.

1 A It would have been -- I don't remember the exact
2 amount of time, but I wanted at least enough to cover that
3 transaction.

4 Q Okay. On top of that video, did she provide you with
5 anything else?

6 A She provided me with the actual receipt used that
7 night, basically presented by the person who was on -- on
8 video.

9 Q That Coinstar receipt.

10 A Correct.

11 MR. GRESHAM: Okay. Your Honor, this is going to be
12 State's Exhibit Number 19. At this time it's only going
13 to be for identification purposes.

14 THE COURT: This is Exhibit 19 for identification
15 purposes only.

16 MR. GRESHAM: Well, just keep it to 19 right now.

17 THE COURT: If you're going to change it, we need to
18 make sure it's the same throughout.

19 MR. GRESHAM: Not for identification purposes. I
20 want to see what transpires.

21 THE COURT: Okay.

22 BY MR. GRESHAM:

23 Q Would you take a look at that and please let me know
24 what that is.

25 A Yes, sir. This is the front and back which would be

1 a copy of the Coinstar receipt Ms. Haun provided.

2 Q The actual Coinstar receipt.

3 A Yes, sir.

4 Q All right. Would you tell us how you know that is,
5 in fact, that?

6 A Well, I recovered it from her.

7 Q Okay. Well, what do you see on the front of it? Is
8 there a specific validation aspect from it?

9 A There is a time stamp ---

10 Q Okay.

11 A --- for 12/31 of 2017, 8:21 p.m.

12 Q Then after you took that from Ms. Haun, what did you
13 do with it?

14 A I turned this in to our evidence room and requested
15 that latent fingerprints be obtained or attempt to be
16 obtained.

17 Q Okay. And in there, is there an actual receipt?

18 A I believe it had a separate item number.

19 Q Okay. Well, tell us why we have a photocopy of the
20 actual receipt.

21 A During the process of forensics attempting to obtain
22 fingerprints, they use a chemical test which damages the
23 actual receipt.

24 Q And that chemical test was done as part of that
25 testing?

1 A Yes, sir. Yes, sir.

2 MR. GRESHAM: Okay. Actually, at this time, Your
3 Honor, the State moves to enter State's Exhibit Number 19
4 into evidence and request permission to publish it to the
5 jury.

6 MR. GIBSON: Objection. Lack of foundation, Your
7 Honor.

8 MR. GRUBBS: Join.

9 THE COURT: All right. Well, I mean ---

10 MR. GRESHAM: I can elaborate more, but I believe the
11 foundation has been covered on that.

12 THE COURT: That he got it, but, I mean, how about
13 the information on it?

14 BY MR. GRESHAM:

15 Q Mr. Maltby, would you tell us what you see on that
16 receipt itself?

17 A Yes, sir. At the top this says "Coinstar, Ingles
18 Supermarket, 1500 Poinsett Highway, Greenville, South
19 Carolina 29609." And then it has a monetary amount
20 starting with dollars, half dollars, all the way down to
21 pennies with a count, the total being \$71.72. It says
22 "cash value."

23 Q Is there a validation on the rear of that receipt
24 where it says where it was from?

25 A Yes, sir. It says "Ingles Markets corporate charge

1 slip."

2 Q And does that -- that receipt, I know it's a
3 photocopy and you've explained why that is, does that
4 appear to be the condition that it was once you received
5 that actual receipt from Ms. Haun?

6 A Yes, sir, it is.

7 Q And that was from February of 2018?

8 A Yes, sir.

9 Q Okay. No other changes.

10 A No, sir.

11 MR. GIBSON: Your Honor, just to be clear, and I
12 think Mr. Grubbs agrees with me on this, our belief is
13 that that should not be entered as an exhibit for
14 publication to the jury until Ms. Haun testifies as to its
15 authenticity and establishes a proper foundation. It's my
16 understanding Ms. Haun is on their witness list. I mean,
17 certainly he can discuss that as far as, you know, an
18 exhibit for identification purposes. But before it is
19 admitted as an actual exhibit, I believe that Ms. Haun
20 should have to testify.

21 THE COURT: And I agree with you. But, I mean, it's
22 kind of like all the information on it has already been
23 put into the record.

24 MR. GIBSON: Yes, Your Honor. Which is -- but, Your
25 Honor, at this juncture, we would still wish for Ms. Haun

1 to testify prior to it being published.

2 THE COURT: All right. And I'll sustain your
3 objection on that.

4 MR. GRESHAM: That's fine, Your Honor.

5 BY MR. GRESHAM:

6 Q All right. Now, you collected that surveillance
7 video from Ingles from Ms. Haun. Would you tell us what
8 you saw?

9 A Yes, sir. You can see a male individual. We'll
10 start with the outside cameras. The outside cameras only
11 show a portion of the parking lot which is the closest
12 portion to the door that was entered. It doesn't show
13 farther out into the parking lot. But you can see this
14 male walking past several empty parking spaces which I
15 found to be odd. Normally, I -- you know, I think the
16 normal person would park closest to the door.

17 The male walks up, enters the -- enters the entrance.
18 He's wearing a ball cap. You can see a short Afro style
19 haircut poking out the sides of the -- of the hat. I
20 could identify a tattoo right under his left eye.

21 He walks up to the Coinstar machine, dumps the change
22 in, nervously paces around a little while, walks up to a
23 couple different employees, appears to be seeking advice
24 on how the -- how the interaction should occur.

25 MR. GRUBBS: Objection, Your Honor. Speculation.

1 THE COURT: Sustained.

2 THE WITNESS: Walking around, pacing back and forth.
3 Walks up to a couple different employees and ends up what
4 appears to be the exchange of cash, then exits, walks
5 towards the exit. Again, he -- back up. The entire time
6 he's holding a plastic container, appears to be a cheese
7 ball container with specific coloring on it. Walks into
8 the store with it, walks out of the store with it. The
9 entire time I cannot see a lid, so it doesn't have a lid
10 attached to the top. Starts walking out into the parking
11 lot, takes a few steps back towards the door, walks back
12 towards the parking lot without the container and walks
13 out through the -- past the open spaces that don't have
14 any vehicles out into the darkness.

15 I tried to find other -- other video footage to maybe
16 identify possible suspect vehicle. Canvassed that entire
17 area, and was unable to find any footage that assisted.

18 Q Okay. I'm going to show you State's Exhibit Number 2
19 which has already been admitted into evidence. Showing
20 you all again.

21 Take a look at that real quick for us. I want to ask
22 you a few questions after I show it to the jury.

23 Now, is this what you saw on that video?

24 A Yes, sir.

25 Q And is that that man?

1 A Yes, sir.

2 Q All right. And this is the writing that you just
3 referenced on this change jar?

4 A Yes. Yes, sir.

5 Q And that's the -- can you narrate this for us? Is
6 this the entryway?

7 A That is the entrance. You can see a male with blue
8 shoes, dark pants, a gray long-sleeved shirt and a dark
9 ball cap.

10 Q Okay. All right. After reviewing that video, did
11 you identify the man in the video?

12 A Yes, sir.

13 Q And who was it?

14 A The defendant Raymond Martinez.

15 Q How did you learn of his identity?

16 A I previously had encountered Mr. Martinez.

17 Q Okay. And do you see the man in this surveillance
18 video in the courtroom today?

19 A I do.

20 Q Would you please point him out to us.

21 A It's Mr. Martinez sitting at the defendant chair with
22 the glasses on, the short Afro.

23 MR. GRESHAM: Your Honor, would you let the record
24 reflect the defendant has identified Defendant Martinez.

25 THE COURT: So noted.

1 BY MR. GRESHAM:

2 Q All right. After you obtained that surveillance
3 video from Ingles, what did you do? Did you contact
4 anyone? Perhaps maybe Cedric McKinney?

5 A Yes. We -- we interviewed Mr. McKinney again. He
6 was shown this footage, identified that cheese ball
7 container as being the exact make, style, size as the one
8 taken from his residence.

9 Q Okay.

10 A Shelvis Gambrell was also shown this and identified
11 the same.

12 Q And did Cedric know of that man that was seen in the
13 video?

14 A He did not. No, sir.

15 Q So after the man was identified in that video and the
16 cheese ball container was identified, where did your
17 investigation turn next? Where did it intensify?

18 A Well, it intensified on Mr. Martinez and trying to
19 identify any other defendants that were with him that
20 night.

21 Q And did you learn of the identity of other defendants
22 with him that night?

23 A Yes, sir.

24 Q Would you tell us who they are?

25 A Mr. Kirk Porter, goes by KP; Mr. Robert Belcher;

1 Keyla Mansell who goes by Kiki.

2 Q Okay. And do you recall how you learned those names?

3 A I did from information provided from someone housed
4 at the detention center.

5 Q Okay. And did you consider these four individuals at
6 that point in your case suspects?

7 A Yes, sir.

8 Q Main suspects?

9 A Yes, sir.

10 Q And did you interview Keyla, Kiki Mansell as part of
11 your investigation?

12 A I did.

13 Q And did you learn additional information from her?

14 MR. GRUBBS: Objection to hearsay.

15 MR. GIBSON: Objection, Your Honor.

16 THE COURT: Sustained.

17 BY MR. GRESHAM:

18 Q All right. After you interviewed Ms. Mansell, where
19 did your investigation turn next based on information from
20 her?

21 A At that time I turned my attention towards Kirk
22 Porter who was able to come in for an interview.

23 Q Okay. And did you interview Mr. Porter?

24 A Yes, sir.

25 Q And based on information in that, where did it go?

1 A Continued towards the individuals I just named.

2 Q Okay. And did you interview Defendant Martinez's
3 girlfriend as well?

4 A I did.

5 Q And who was that?

6 A Say it right. Francesca.

7 Q This is Mr. Martinez?

8 A Oh, I'm sorry. I'd have to look through my notes. I
9 have a brain freeze on that. (Reviews document.)

10 Q And you can't read from your notes, but when you
11 found it, have it set down and you can tell us.

12 A Yes, sir. (Reviews document) I apologize. A lot of
13 names and numbers to remember in this case.

14 Q I understand. Well, let's put it this way,
15 Mr. Maltby. Through Mr. Martinez's girlfriend, did you
16 investigate her home after that interview?

17 A I did.

18 Q Does that help jog your memory about her name?

19 A I remember the entire circumstance, but the name is
20 still -- I'm still having a hard time with that.

21 Q Was her name Candice Holsey?

22 A Yes. That's it.

23 Q Okay. And then tell us a little bit about why you
24 went to her home as part of your investigation.

25 MR. GRUBBS: Objection, Your Honor. Based on some

1 BY MR. GRESHAM:

2 Q Let's briefly go back to Keyla Mansell. Now, is
3 Keyla Mansell one of the defendants that have already pled
4 guilty?

5 A Yes, sir.

6 Q And did Raymond have a nickname? Mr. Martinez?

7 A Yes, sir. Ratchet.

8 Q All right. Let's move forward just a little bit.
9 Did you have a meeting at some point or an interview with
10 Ms. Sherry McBee?

11 A I did.

12 Q And who was Ms. Sherry McBee?

13 A Ms. Sherry was Robert Belcher's girlfriend at the
14 time of this incident.

15 Q Okay. And would you tell us a little bit about
16 that?

17 A Yes. I met with her at her residence at Crestwood
18 Forest Drive which is directly below Keyla Mansell or
19 Kiki's residence.

20 Q Okay. Can you go a little bit more into it?

21 A I spoke with her about her knowledge of Robert's
22 friendships. She confirmed ---

23 MR. GIBSON: Objection. Hearsay.

24 MR. GRESHAM: All right.

25 THE COURT: Sustained.

1 BY MR. GRESHAM:

2 Q As part of that conversation, interview with
3 Ms. McBee, was a phone call made at that point between --
4 which you were privileged to between she and Defendant
5 Belcher?

6 A Yes, sir.

7 Q Can you tell us about that?

8 A Sherry called Robert Belcher on the phone, started
9 the conversation with basically asking ---

10 MR. GIBSON: Objection. Hearsay. Strike that.
11 Withdrawn.

12 BY MR. GRESHAM:

13 Q Continue.

14 A Basically asking why are the police at my house,
15 general questions like that, in which he answered,
16 basically giving -- during that conversation he provided
17 names of people that he knows, confirmed knowing their
18 identity, some of which to be Ratchet, Raymond Martinez;
19 Kiki is Keyla Mansell; KP, who's Kirk Porter.

20 Q Anyone else?

21 A I think I covered them.

22 Q Okay. And was that phone call between Defendant
23 Belcher and Ms. McBee, was that -- you said you were
24 privileged to it. Did you record it?

25 A I did.

1 Q And how did you record it?

2 A Just on a digital audio recorder.

3 Q Okay. Is that typically something you do ---

4 A Yes, sir.

5 Q --- as part of your investigation?

6 A Yes, sir.

7 Q All right. Did you -- during your meeting with
8 Ms. McBee, did you tell her, at least give your
9 information to her to have Defendant Belcher contact you?

10 A I provided my county cell phone number and asked her
11 to have him contact me.

12 Q Okay. And during that meeting with Ms. McBee, did
13 you obtain Defendant Belcher's cell phone number?

14 A I did.

15 Q And what was that number?

16 A Refer to my supplemental.

17 Q Once you find it, you can refresh your memory, but
18 don't read your report.

19 A (Reviews document) It would be [REDACTED]-4313.

20 Q Okay. And did -- after you obtained that phone
21 number, did you attempt to contact him or were you
22 contacted by him?

23 A No, sir. I was contacted by Mr. Belcher.

24 Q Can you tell us about that?

25 A This was also audio recorded, the same method.

1 I asked him about the names just mentioned. Ratchet,
2 described Ratchet as Raymond Martinez. He denied knowing
3 anyone named Ratchet or named Raymond Martinez.

4 I asked him about knowing Kiki or Keyla Mansell. I
5 even described that lives right above his girlfriend or
6 actually where he was staying at the time. He denied even
7 knowing who she was.

8 I asked him about KP, Kirk Porter. He denied having
9 any knowledge of anyone named -- with that nickname or
10 that actual name.

11 Q And that was just on the heels of him talking to
12 Ms. McBee knowing those people.

13 A Correct. As he had just -- during that conversation
14 it was obvious that he did know those individuals.

15 Q Okay. And how long were those two phone calls apart
16 from one another?

17 A It was within the same afternoon. I'm going to
18 estimate an hour or two.

19 Q And I believe you testified that you said that you
20 requested a meeting with him?

21 A Yes. I asked him if he would come down the next day,
22 the following day to conduct an interview with me.

23 Q Did that meeting ever happen?

24 A It did not. He contacted me back a short time later
25 or actually called me, and I missed a call. I was busy on

1 something else. So I returned a call to him.

2 Q All right. So he called you after that first phone
3 call, same day?

4 A Yes, sir.

5 Q Can you give an approximate time how long between
6 those two calls?

7 A 20, 30 minutes.

8 Q Tell us about that second phone call with
9 Mr. Belcher.

10 A Same thing as the first. Denied knowing any of these
11 individuals. I asked him if he can provide an alibi or
12 tell me where he was on New Year's Eve so I could follow
13 up and investigate that. After a very long awkward pause,
14 he said he smokes weed. And that was his answer to that.

15 Q Of where he was on New Year's Eve.

16 A Correct.

17 Q Did he say anything else?

18 A Pressed him a little bit more. Told him it's kind of
19 a noteworthy day in everyone's everyday life. It's not a
20 random day in September or any other month, that it's an
21 actual holiday of New Year's Eve. And he continued to say
22 that he could not remember where he was or what he did.

23 Q How long was all that?

24 A The conversation?

25 Q Yeah.

1 A A couple minutes.

2 Q Okay. Now, during those phone calls, you said that
3 you never met with him. Was he ever in custody?

4 A No, sir.

5 Q Okay. So he was free to speak with you or not; is
6 that right?

7 A Yes, sir. Absolutely.

8 Q Okay. I'm handing you two discs which are State's
9 Exhibit Numbers 20 and 28. Can you take a look at those?
10 What did I hand you?

11 A These would be the audio recordings that I just
12 referred to.

13 Q Okay. Let's break it down for the jury and for the
14 record. Specifically, what is Exhibit Number 20?

15 A Number 20 would be an interview with Robert Belcher,
16 a phone interview.

17 Q Your interview or the one with -- that's your -- not
18 Ms. McBee's conversation.

19 A Correct. Myself and Robert Belcher would be
20 Exhibit 20.

21 Q Okay.

22 A Exhibit 28, I believe, would be a phone call with
23 Sherry McBee and Robert Belcher that I was listening to
24 and privy to.

25 Q And that you recorded.

1 A Yes.

2 Q And how do you recognize those?

3 A I recognize these. I've listened to them, and just
4 after listening to them, initialed them and dated them,
5 both of them.

6 Q And how many times have you listened to them?

7 A Numerous times.

8 Q And can you confirm who the speakers are?

9 A I can.

10 Q Who are they?

11 A Well, on the first one it would be Sherry McBee. She
12 called who she said was Robert Belcher.

13 MR. GIBSON: Objection. Hearsay.

14 THE COURT: Lay a better foundation.

15 BY MR. GRESHAM:

16 Q Are you familiar with Defendant Belcher's voice and
17 Ms. McBee's voice?

18 A Yes. After that conversation I was.

19 MR. GIBSON: Objection. Lack of foundation, Your
20 Honor. He testified he's never met Mr. Belcher. How
21 could he be familiar with his voice?

22 BY MR. GRESHAM:

23 Q During that phone call that you were privy to with
24 Ms. McBee, that voice that you heard she communicating
25 with, did she identify that voice, Mr. Belcher?

1 MR. GIBSON: Objection. Hearsay.

2 THE COURT: Sustained.

3 MR. GRESHAM: All right.

4 THE WITNESS: She provided me with the phone number.

5 BY MR. GRESHAM:

6 Q And that phone number is the one that you've already
7 testified to?

8 A Yes, sir.

9 Q Okay. And is that the phone number that was called
10 or he called you from?

11 A Yes, sir.

12 Q Okay. And would you say that these two recordings
13 are complete and accurate recordings of what you heard
14 during those two conversations?

15 A Yes, sir.

16 Q And have they been altered any other way other than
17 to comply with the rules of evidence?

18 A No, sir.

19 MR. GRESHAM: Your Honor, the State does move at this
20 time to enter both those exhibits, Number 20 and 28, into
21 evidence.

22 MR. GIBSON: Objection, Your Honor. The witness
23 still has not authenticated the voice.

24 THE COURT: I believe these are matters we need to
25 take up outside the jury.

1 discuss it at this time.

2 THE COURT: I mean, I'm not sure how you get at this
3 point as far as the evidence in.

4 MR. GRESHAM: That's fine, Your Honor. We can move
5 forward. We'll recall him after Ms. McBee.

6 THE COURT: All right. But you've got him.

7 All right. Bring the jury back.

8 (Pause in proceedings.)

9 THE COURT: All right. If the jury's ready, bring
10 them in.

11 Are y'all ready?

12 MR. GRESHAM: Yes, Your Honor.

13 (WHEREUPON, the jury entered the courtroom at 11:10 AM.)

14 THE COURT: All right. Mr. Gresham, you may proceed.

15 MR. GRESHAM: Thank you, Your Honor. May it please
16 the Court.

17 BY MR. GRESHAM:

18 Q Following your telephone conversation with
19 Mr. Belcher, did you obtain surveillance video from
20 Crestwood Forest Apartments from New Year's Eve 2017?

21 A Yes, sir.

22 Q Okay. And why was that done?

23 A That was done because that was the location both
24 where Ms. Kiki Mansell lived, Keyla Mansell, and Sherry
25 McBee and Robert Belcher.

1 Q Okay. And was there a specific time in that video
2 that you went to go request that you were looking for?

3 A Correct. I requested a certain amount of time prior
4 to the incident happening and then a certain amount of
5 time after.

6 Q Do you recall what time frame it was?

7 A I think it was a couple hours prior to and then
8 several hours afterwards.

9 Q Were you able to obtain that footage?

10 A Yes, sir.

11 Q And did you have a chance to review it?

12 A I did.

13 Q And what did you observe in the footage?

14 MR. GIBSON: Objection, Your Honor. This is another
15 piece of evidence that they're not able to authenticate at
16 this time. Lack of foundation. It should not be
17 discussed or published to the jury at this time.

18 THE COURT: What footage are you referring to?

19 MR. GRESHAM: The Crestwood Forest surveillance
20 video. I'm not moving to admit it at this point. Just
21 talking about his investigation.

22 MR. GIBSON: Judge, I don't think he should be able
23 to talk about it until it's been authenticated. I mean,
24 basically, what they're going to do is they're going to
25 publish all the information about it to the jury prior to

1 it even being authenticated and admitted.

2 MR. GRESHAM: We have done that previously earlier,
3 particularly about this image here of him going in the
4 surveillance into Ingles. That's typically how it's done.

5 MR. GIBSON: Your Honor, my -- or cocounsel's failure
6 to properly object to a piece of information prior does
7 not authorize them to continue that practice going
8 forward.

9 MR. GRESHAM: And on top of that, Your Honor, he
10 watched it, personally watched it. He has personal
11 knowledge of the video.

12 THE COURT: I'm going to let him talk about what he
13 saw on the video. So overruled.

14 BY MR. GRESHAM:

15 Q Go ahead, Mr. Maltby, once you get comfortable.

16 A I just want to get the exact times correct.

17 Q And you can look at it in there, and once you find
18 that time, you can close your report.

19 A Yes, sir. (Reviews document.)

20 The video that was obtained from that night at
21 Crestwood Forest started at 7 p.m. and went until
22 8:30 p.m.

23 Q Those are the times that you requested?

24 A Yes, sir.

25 Q All right. Now let's talk about what you saw on the

1 video.

2 A You could see a vehicle identified as a Mercedes
3 sedan four-door pulled up to Apartment Number 10 -- or
4 Building Number 10, I should say. Around 7:04 p.m. you
5 can see some activity. It's not extremely clear so you
6 can't identify anybody because it's from a distance, but
7 you can just kind of see motion to and from the vehicle.

8 Q Okay. And tell me about that Mercedes. What color,
9 can you tell?

10 A It was like gray.

11 Q Okay. And then let's talk about those people that
12 were having activity in and around the vehicle. Did it
13 leave at any point and then return with activity of people
14 around it?

15 A Yes, sir. Like I said, it was parked by Building
16 Number 10. These individuals you could see going in and
17 out of -- from the vehicle into the breezeway of the
18 10 building.

19 Around 7:36 that vehicle parks back in front of that
20 building. You can see -- again, see some activity to and
21 from. You can see an individual that you can't identify
22 go to the trunk area, open it and then close it.

23 Q Did it leave any more after that?

24 A Around 8:15 the vehicle leaves the apartment complex.

25 Q Okay. And were you able to identify the vehicle in

1 that video, that you see in that video?

2 A Yes, sir.

3 Q And what was the vehicle?

4 A Mercedes sedan.

5 Q Do you know the series?

6 A I don't recall.

7 Q Okay. Do you know how you identified that?

8 A I do.

9 Q How?

10 A I spoke with a Francesca Torres [phonetic].

11 Q And who was that?

12 A That would be the girlfriend of Kirk Porter.

13 Q Her name's Troiso?

14 A Troiso, yes, sir. Francesca.

15 Q She's going to testify later. But what resulted
16 after that?

17 A Identified her vehicle, did some research through a
18 system that we have where we can search a vehicle to see
19 if it's ever had any contact, look up prior incidents
20 associated with that vehicle which could mean the person
21 could be a victim of a crime. Any incidents that occur
22 with that vehicle in our county.

23 Q Now, was that vehicle processed later?

24 MR. GRUBBS: Objection, Your Honor. This may be
25 another matter we have to take up outside the presence of

1 THE COURT: Right. He's sustained as far as him
2 identifying any fingerprints.

3 MR. GRUBBS: Thank you, Your Honor.

4 THE COURT: All right. Are you ready for the jury?

5 MR. GRESHAM: Yes, Your Honor.

6 THE COURT: Belcher ready for the jury?

7 MR. GIBSON: I'm sorry. Yes, sir.

8 THE COURT: All right. Martinez ready?

9 MR. GRUBBS: Yes, sir.

10 THE COURT: All right. Bring the jury in.

11 (WHEREUPON, the jury entered the courtroom at 11:30 AM.)

12 THE COURT: All right. Mr. Gresham, you may proceed.

13 MR. GRESHAM: Yes, Your Honor.

14 BY MR. GRESHAM:

15 Q You identified the Mercedes belonging to Ms. Troiso?

16 A I did. Yes, sir.

17 Q Okay. And who is Ms. Troiso?

18 A She was Kirk Porter's girlfriend at the time of this
19 incident.

20 Q Okay. And did you interview Kirk Porter?

21 A I did.

22 Q And when was that conducted?

23 A I believe sometime mid to late February.

24 Q And what resulted from that interview?

25 A He provided several facts, corroborated with other

1 parts of my investigation linking all the defendants named
2 together.

3 Q Okay. And did you obtain Mr. Porter's cell phone
4 number?

5 A I did.

6 Q And what was that number?

7 A (Reviews document) [REDACTED]-9874.

8 Q Thank you, Investigator Maltby.

9 And at some point was it revealed that Coinstar
10 machines had been utilized with Mr. Porter?

11 A Yes, sir.

12 Q Okay. And after interviewing Mr. Porter, did you
13 obtain arrest warrants in this case?

14 A I did.

15 Q And what were those warrants?

16 A For murder, possession of a weapon, commission of a
17 violent crime, burglary in the first degree, conspiracy
18 and petit larceny.

19 Q And who were they for?

20 A For Kirk Porter, Raymond Martinez, Robert Belcher,
21 and Keyla Mansell.

22 Q Okay. And was Mr. Belcher arrested separately from
23 those other three individuals?

24 A Yes.

25 Q And when he was being taken into custody, was

1 anything obtained from his person?

2 A His cell phone.

3 Q Okay. And what was done with that cell phone once it
4 was obtained by law enforcement?

5 A It was downloaded.

6 Q Was it taken to Property and Evidence?

7 A Yes, sir.

8 Q And by download, does that mean searched?

9 A Yes.

10 Q Were phone records obtained?

11 A They were.

12 Q And why was that done?

13 A Phone records were obtained in an effort to try to
14 locate where the phone was, the incident -- on the time of
15 the incident -- at the time of the incident.

16 Q Okay. And you have testified earlier to
17 Mr. Belcher's phone number or what that number was, but
18 did you obtain Keyla Mansell's phone numbers in this
19 investigation?

20 A Yes.

21 Q And what were they?

22 A They were [REDACTED]-7329 and [REDACTED]-0926.

23 Q Okay. And how about Mr. Martinez? Did you obtain
24 his phone number? And Kirk Porter's, for that matter?
25 Actually, you already testified to that one. But

1 Mr. Martinez's?

2 A Yes, sir. That was [REDACTED]-0022.

3 Q And how are these numbers helpful to your
4 investigation?

5 A Well, they can be helpful if there's actual call
6 detail records associated, which is possible to see where
7 that individual or at least where that phone was at
8 certain specific times.

9 Q And that was obtained later ---

10 A Yes.

11 Q --- those call records?

12 All right. One final question. Did Defendant
13 Belcher's phone number have Ms. Mansell's and Mr. Porter's
14 phone number in his contacts?

15 A Yes, it did.

16 MR. GRESHAM: All right. Thank you, Investigator
17 Maltby. Please answer any questions the defense has for
18 you.

19 THE COURT: Cross-examination, Mr. Martinez?

20 MR. GRUBBS: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. GRUBBS:

23 Q Good morning, Investigator Maltby.

24 A Good morning, sir.

25 Q All right. So I'm going to try to speed through this

1 as best I can.

2 Now, you're the lead officer on this case.

3 A Yes, sir.

4 Q And you have certain roles and duties as a lead
5 investigator that may be different from another responding
6 officer.

7 A Correct.

8 Q You said you were on duty when a call came in that
9 night.

10 A I was off, but I was on call.

11 Q Okay. And that was when you were the Criminal
12 Investigations Division on call, the CID.

13 A Yes, sir.

14 Q That's not what you're doing now, though. You're in
15 the drug unit now?

16 A Yes, sir.

17 Q Okay. You're usually not the first one on the scene.

18 A Correct.

19 Q Someone calls you, and then you come in later.

20 A Yes.

21 Q You said you got there about 9:06 or so?

22 A Yes, sir.

23 Q So when you get to the scene, is it fair to say that
24 you start to kind of direct traffic?

25 A Yes.

1 Q Not just literal traffic, but also maybe you need
2 something done over here, you tell an officer to tape an
3 area up or you call for forensics as you said was standard
4 procedure.

5 A Yes.

6 Q Okay. And so when other officers do their reports,
7 as a lead investigator, you read those reports.

8 A Not necessarily.

9 Q Okay. So it's not important to read what other
10 officers have done in your investigation?

11 A In several parts of my investigation, there's a lot
12 going on. So one of the hardest things to do as an
13 investigator or the lead investigator in any crime,
14 especially one with this many witnesses, information, is
15 to prioritize what takes your time. So reading those
16 reports were not my top priority. That would have been
17 something that I would have seen myself. But I would
18 review certain parts of their incident reports a lot,
19 mainly prior to when I got there.

20 Q So you're familiar with the players in this
21 investigation, so to speak.

22 A Yes.

23 Q Because you are the lead investigator.

24 A Yes.

25 Q And because of that, you wrote a report.

1 A I did.

2 Q Several reports even.

3 A Yes.

4 Q You had supplementals to those reports.

5 A Yes, sir.

6 Q And supplemental would just be exactly as it sounds.
7 After you do something different, you write another report
8 summarizing what you did.

9 A Correct.

10 Q And you're trained to write reports in the academy.

11 A Yes.

12 Q You've written hundreds, thousands in your 18-year
13 career?

14 A Yes, sir.

15 Q And it's important to put information in those
16 reports; would you agree?

17 A Important to put information?

18 Q Absolutely.

19 A Correct.

20 Q Not only just any information, but important
21 information about a case.

22 A Correct.

23 Q You want to try to put as much in there as you can.

24 A In some aspects.

25 Q Understanding you can't put everything in a report,

1 but you're going to be relying on that report later.

2 A Correct.

3 Q Because here we are five almost and a half years
4 after an incident, surely your report -- the information
5 in your report is better than your mind; is that fair to
6 say?

7 A Yes.

8 Q And you reviewed those reports before you came in
9 here today.

10 A I reviewed many things to include reports being one
11 of them, also numerous interviews and other documentation
12 that was collected throughout this investigation.

13 Q Okay. So when you get to the scene, you start to
14 gather information.

15 A Yes.

16 Q You start to secure the scene.

17 A The scene was secure prior to my arrival.

18 Q Okay. Then you or another officer under your
19 direction would make notes of anything that's out of
20 place.

21 A Correct.

22 Q Such as a ransacked house, correct?

23 A It could be a mental note, it could be a written
24 note. I mean, we are observing that and noting that
25 somewhere.

1 Q Okay. And usually someone, whether it's forensics or
2 an officer, will take photos.

3 A Correct.

4 Q And they did in this case as we've seen.

5 A Yes.

6 Q You speak to witnesses?

7 A Yes.

8 Q Try to collect evidence?

9 A I didn't collect evidence per se, but it was
10 collected through forensics.

11 Q Sure.

12 You work to identify suspects.

13 A Correct.

14 Q And you work to rule out some other suspects.

15 A Yes.

16 Q Because you don't want to get the wrong guy.

17 A Correct.

18 Q And forensic examination and testing were present
19 this night on December 31, 2017.

20 A Yes.

21 Q I believe you said Roller, Kretschmar and ---

22 A I think Wolfe.

23 Q Wolfe. Okay. So at least three forensic personnel
24 were present on scene.

25 A Yes.

1 Q As we talked about, you got there about 9:06.

2 A Yes.

3 Q And the apartment had been -- I think the term that's
4 been thrown around a lot is "ransacked."

5 A Yes, sir.

6 Q Is that fair to say?

7 A That's fair.

8 Q Okay. Not the back bedroom. The one bedroom was
9 fairly ---

10 A Correct.

11 Q --- normal, for lack of a better term.

12 A Correct.

13 Q The front bedroom was the one that was turned over.

14 A Yes, sir.

15 Q You saw no signs of forced entry, you testified.

16 A Correct.

17 Q And in your 18 years of law-enforcement experience,
18 you've seen times where there's no forced entry because
19 maybe a victim knew the perpetrator?

20 A I've seen times that way, yes.

21 Q You saw blood on the outside welcome mat.

22 A Correct.

23 Q There was blood inside.

24 A Yes.

25 Q You saw bloody footprints.

1 A Yes.

2 Q You saw a GMC Yukon key fob.

3 A Yes.

4 Q That was collected.

5 A Yes.

6 Q There was a beer bottle collected.

7 A Yes.

8 Q You collected some other documents that I think are
9 in Property and Evidence as miscellaneous gambling
10 documents?

11 A Yes, sir.

12 Q You recall that?

13 Would you agree that that's indicative of some
14 possible sports betting or ---

15 MR. GRESHAM: Objection, Your Honor. This is
16 speculation.

17 THE COURT: Sustained.

18 BY MR. GRUBBS:

19 Q So you spoke with Tiffany Gambrell.

20 A I did.

21 Q And you learned after that conversation that her
22 sister Shelvis began calling Mr. Bruster.

23 A Yes, sir.

24 Q And that call started around 7:48 p.m.

25 A Correct.

1 Q And she started calling him because she was unable to
2 get ahold of him.

3 A Yes.

4 Q And at some point Cedric McKinney called. Or I'm
5 sorry. Maybe not called, but told to go over there.

6 A Correct. He wasn't called, but somebody that Shelvis
7 had called asked if he would go over there, yes.

8 Q And then shortly after that, there was some screaming
9 because a body was discovered.

10 A Correct.

11 Q You or other officers got a list of names of everyone
12 that was in the apartment.

13 A Yes.

14 Q And there were numerous people inside the residence
15 when Deputy Clamp arrived; is that fair to say?

16 A Inside Number 9?

17 Q Yes.

18 A Yes, sir.

19 Q So these phone calls started 7:46, 7:48, and the
20 calls were going straight to voicemail; do you recall
21 that?

22 A Yes.

23 Q Shelvis had called twice, attempted to call twice;
24 does that sound familiar?

25 A Sounds right.

1 Q And then that's when she called Tiffany?

2 A Yes.

3 Q Who then told Cedric to go over to the house.

4 A Correct.

5 Q As I think you testified earlier, there were many
6 people that were spoken to because you want to try and
7 talk to everyone who is present.

8 A Yes, sir.

9 Q You spoke with a Marcel Powell.

10 A Yes, sir. Sounds familiar.

11 Q Okay. You found some other things in the apartment
12 like digital scales, didn't you?

13 A Yes.

14 Q Found marijuana?

15 A A small amount, yes, sir.

16 Q In your investigation, as it sort of continued on,
17 indicated that Mr. Bruster was also selling powder
18 cocaine?

19 A Yes, sir.

20 Q In fact, Mr. Bruster had been convicted of
21 trafficking cocaine?

22 A I do not know the answer to that.

23 Q So you spoke with two women who were there just
24 before Mr. Bruster was killed; is that correct?

25 A Were there meaning ---

1 Q There at Number 9.

2 A Yes.

3 Q You spoke with Juanita Corner?

4 A Yes, sir.

5 Q And Elizabeth Parker.

6 A Correct.

7 Q And based on those conversations, I think your report
8 states that they were there just before the murder or some
9 point early on just -- sorry. Let me back up. They were
10 there, of course, while he was still alive.

11 A Correct.

12 Q They got there around 7:30, according to your report?

13 A Yes.

14 Q They said there was a suspicious man in the
15 apartment, didn't they?

16 A They did.

17 Q And that man ended up being Jimmy Sullivan.

18 A Correct.

19 Q "Suspicious" is the term they used.

20 A Correct.

21 Q They saw him leave.

22 A Yes.

23 Q They didn't see where he went after that.

24 A Did not.

25 Q In fact, your report states that that suspicious

1 person was looking around as if to see if there was anyone
2 else in the apartment. Do you recall your report saying
3 that?

4 A That was from their statement, yes, sir.

5 Q And then Juanita and Elizabeth left about 7:35; do
6 you recall that?

7 A I was thinking 7:33, but that general few minutes.

8 Q Sure, sure. Close enough within a two-minute span.

9 A Yes, sir. Yes, sir.

10 Q I think we can agree pretty close on that.

11 So we have 7:33, 7:35 approximately when Juanita and
12 Elizabeth leave the apartment, right?

13 A Yes.

14 Q We have Shelvis Gambrell who begins calling
15 Mr. Bruster around 7:46, 7:48, correct?

16 A Yes.

17 Q Can't reach him.

18 So do you think it's fair to say that the time of
19 death is sometime between 7:35 and 7:46?

20 MR. GRESHAM: Objection, Your Honor. He's not a
21 medical doctor.

22 THE COURT: Sustained.

23 BY MR. GRUBBS:

24 Q Let me back up. Rather than using time of death,
25 Investigator Maltby, there was someone who saw Mr. Bruster

1 alive at 7:35, correct?

2 A Yes, correct.

3 Q And at 7:46 no one can get ahold of him.

4 A Cheryl couldn't get ahold of him.

5 Q And a short time after that, Cedric McKinney comes
6 over.

7 A To Number 9?

8 Q To Number 9.

9 A Yes, sir.

10 Q And he's dead when he gets there.

11 A That's correct.

12 Q Okay. You went back in the daytime, as you said.

13 A Yes.

14 Q Look for other evidence maybe that you missed.

15 A Correct.

16 MR. GRESHAM: Objection, Your Honor. He's not
17 actually asking questions. I would ask that he actually
18 ask questions of him. They're just statements.

19 THE COURT: I think they're appropriate, so
20 overruled.

21 BY MR. GRUBBS:

22 Q For instance, you might want to look for shell
23 casings in a firearm murder.

24 A Correct.

25 Q Didn't find any shell casings.

1 A Did not.

2 Q The apartment was dusted for fingerprints.

3 A Yes.

4 Q Nothing positive came from that.

5 A Correct.

6 Q Took a lot of DNA swabs.

7 A Yes.

8 Q Nothing positive came from any of that.

9 A No, sir.

10 Q Let's go back to Jimmy Sullivan. We talked about him
11 a little bit, and then you were asked about it also on
12 direct examination. He was one of your first suspects you
13 started to develop, right?

14 A Correct.

15 Q Because he was there moments before the murder, as
16 you put in your report.

17 A Yes.

18 Q He looked suspicious per the witnesses.

19 A Yes.

20 Q You later learned that he was there to buy drugs.

21 A Correct.

22 Q He was there to buy powder cocaine.

23 A Yes.

24 Q In fact, he said he routinely buys powder cocaine
25 from Mr. Bruster.

1 A Yes.

2 Q He got a ride there on that night from a guy named
3 Shorty; do you recall that?

4 A Yes. Actually name of Carl Westbrooks.

5 Q Right. That was my next question. He ended up being
6 Carl Westbrooks.

7 You interviewed Jimmy Sullivan, as you said.

8 A I did.

9 Q You also interviewed Carl Westbrooks.

10 A I did.

11 Q Now, when you spoke to Carl Westbrooks, he originally
12 denied giving Jimmy Sullivan a ride to that apartment,
13 didn't he?

14 A During the initial questioning, he did.

15 Q And then only later did he come back and admit that
16 he lied to you.

17 A That's correct. And he gave a reason for that.

18 Q And Mr. Westbrooks consented to a search of his
19 vehicle, didn't he?

20 A He did.

21 Q And that was a Chrysler Town and Country.

22 A Yes, sir.

23 Q And forensics went out and actually did do some
24 forensic testing on that vehicle, didn't they?

25 A Yes, sir. It was towed to the forensics bay, and

1 testing was done, yes.

2 Q Okay. And, in fact, there was some positive reaction
3 to the presence of blood in the passenger's side
4 floorboard, wasn't there?

5 A That's correct.

6 Q Now, the State asked you on direct about some DNA
7 found on Jimmy Sullivan; do you recall that?

8 A DNA found on Jimmy Sullivan?

9 Q On the bottom of his shoe. Do you recall being asked
10 about that?

11 A Yes. Yes, sir.

12 Q It wasn't just DNA that was on Mr. Sullivan's shoe,
13 was it? It was actually blood on his shoe, correct?

14 A There was blood on the shoe.

15 Q But that's the blood that you said was inconclusive.

16 A Correct.

17 Q Because it had multiple profiles.

18 A The blood on his shoe was inconclusive to blood in
19 the floorboard of the passenger's seat of the van was
20 conclusive.

21 Q It was conclusive?

22 A It could be ruled out that of the victim.

23 MR. GRUBBS: One moment Your Honor.

24 BY MR. GRUBBS:

25 Q All right. So with regards to the blood on the

1 bottom of Jimmy Sullivan's shoe, that was inconclusive as
2 we just heard. So you can't rule out at that point that
3 it came from the victim?

4 A That's correct. It was several profiles that had
5 mixed causing it not to be possible to confirm or deny the
6 source.

7 Q Have you had the opportunity in your law-enforcement
8 career to interact with different DNA labs that could
9 actually extract out those different profiles?

10 A I have not.

11 Q Okay. Just to go back to your comment that the blood
12 on the floorboard was ruled out, if I handed you a DNA lab
13 report, would that help refresh your recollection?

14 MR. GRESHAM: Objection, Your Honor. He's not
15 qualified to decipher that report.

16 MR. GRUBBS: Judge, it clearly says ---

17 THE COURT: He's objected to it.

18 MR. GRUBBS: Sure. I think that he's already
19 testified that it was ---

20 THE COURT: That's based on his knowledge. I'm going
21 to sustain the objection.

22 BY MR. GRUBBS:

23 Q So you looked through Mr. Bruster's phone.

24 A Yes, sir.

25 Q Okay. Identified a guy named Carlos?

1 A Yes.

2 Q Carlos was Mr. Bruster's drug dealer.

3 A According to Cedric McKinney, he believed that that
4 would be correct.

5 Q Okay. You also had the opportunity to speak with a
6 gentleman named Joshua Young?

7 A Correct.

8 Q Who had described that Mr. Bruster had "flexed"
9 people before.

10 A That's true.

11 Q And "flex" is a term ---

12 MR. GRESHAM: Objection, Your Honor. This is all
13 hearsay.

14 MR. GRUBBS: Judge, I'm asking now about the term
15 "flexing."

16 THE COURT: Okay. If you know what flexing is.

17 BY MR. GRUBBS:

18 Q So the term "flexing," and correct me if I'm wrong,
19 you being in a drug unit would know that that is the
20 process of selling fake drugs.

21 A Correct.

22 Q All right. So let's talk a little bit about this
23 cheese ball container that's been referenced several
24 times. There were two things that at least you were made
25 aware of that were missing from that apartment, right?

1 A Yes.

2 Q The cheese ball container?

3 A Correct.

4 Q And the wristwatch.

5 A Yes, sir.

6 Q And to be clear, the wristwatch was never found.

7 A Never found.

8 Q Never recovered.

9 A Never recovered.

10 Q No evidence at all that Raymond Martinez was ever in
11 possession of any kind of wristwatch.

12 A The watch was never recovered.

13 Q And you testified that that lid that has previously
14 been entered into evidence was tested for fingerprints.

15 A Yes, sir.

16 Q With negative results.

17 A Correct.

18 Q And the Ingles video that we've -- well, the video's
19 been referenced and the photo that's been entered into
20 evidence that you identified Mr. Raymond Martinez as
21 entering into Ingles.

22 A Yes, sir.

23 Q He walks in around 8:21?

24 A The transaction was around 8:21.

25 Q Okay. So maybe a little bit before? Sometime around

1 there?

2 A Yes, sir.

3 Q Okay. Raymond Martinez is about 5'9"; does that
4 sound right?

5 A I don't know his exact height.

6 Q Okay. And you said it was about a mile, mile and a
7 half away from Crestwood to the Ingles.

8 A Roughly, yes, sir.

9 Q Now let's talk a little bit about Kirk Porter,
10 because Kirk Porter was sort of the glue that brought this
11 all together for you, right?

12 A I'm not sure I'd use that term.

13 Q Well, he made all the connections; is that fair to
14 say?

15 A He corroborated connections that were already made.

16 Q Because you interviewed him.

17 A I did.

18 Q And when you interviewed him, you were at the Law
19 Enforcement Center.

20 A Yes, sir.

21 Q At various times you had other officers kind of
22 coming in and out.

23 A That's true.

24 Q And you're trained to interview, right?

25 A Yes, sir.

1 Q In fact, you said at the beginning of your direct
2 testimony that you had received some extra training for
3 homicide?

4 A Yes, sir.

5 Q And some of that training actually involved interview
6 techniques.

7 A Correct.

8 Q You're familiar with the Reid interrogation
9 technique.

10 A I'm not.

11 Q You're not familiar with that.

12 A No, sir.

13 Q Okay. Well, generally about interrogation, you want
14 to engage with that suspect, right?

15 A We have to talk to them to interview them.

16 Q That's right. Try to get them comfortable so they'll
17 tell you more information; is that fair to say something
18 you might do?

19 A It would be nice if they were comfortable, to be
20 honest.

21 Q And you're trained to pay attention to what a suspect
22 says, obviously.

23 A Yes. Somewhat.

24 Q And also nonverbal communication, I think you'd
25 probably agree that you were trained on some of that too,

1 weren't you?

2 A Yes, sir.

3 Q Because nonverbal clues can say a lot about a person;
4 would you agree with that?

5 A It could, correct.

6 Q In fact, nonverbal clues can sometimes be indicators
7 this person is lying or being deceptive.

8 A There are times with that that can be true.

9 Q Maybe if they were to be leaning back, retreating
10 from an investigator, would you agree that that might
11 sometimes indicate deception?

12 A I wouldn't agree to that.

13 Q You wouldn't agree to that.

14 A No, sir.

15 Q What about slouching? Would you agree with that?

16 A No, sir.

17 Q Failure to maintain eye contact.

18 A What's your question?

19 Q I'm asking you if failure to maintain eye contact
20 might be an indicator of deception to you.

21 A That's one of many that could possibly.

22 Q And Kirk Porter didn't want to keep eye contact with
23 you, did he?

24 A That's not something I picked up on or noticed during
25 the interview.

1 Q Well, in fact, you told him twice during that
2 interview ---

3 MR. GRESHAM: Objection, Your Honor. This has not
4 come out in direct. He is going to testify later, but
5 it's not -- this is improper.

6 MR. GRUBBS: This is his investigation.

7 MR. GRESHAM: Out-of-court statement as well, Your
8 Honor.

9 MR. GRUBBS: Judge, this is his investigation, his
10 interrogation. The State brought up the interview during
11 direct examination. I think I'm entitled to a full and
12 complete cross-examination.

13 THE COURT: Overruled.

14 BY MR. GRUBBS:

15 Q So you actually told him, "Look me in the eye,"
16 didn't you?

17 A At the beginning of the interview, I did tell him
18 that, told him to sit up and look me in the eye.

19 Q You said, "You're a man, aren't you"?

20 A I don't recall, but that's very possible.

21 Q Okay. When you were asking him questions, he didn't
22 always respond right away, did he?

23 A I don't know if right away, how to define right away
24 in an interview.

25 Q Were their pauses in between his answers?

1 A There were pauses. But I -- again, I didn't -- I
2 didn't note -- note that to be unusual or untruthful.

3 Q Sometimes long pauses in between answers, right?

4 A Sometimes.

5 Q Now, first thing that you learned when you were
6 questioning Kirk Porter is that he was at his girlfriend's
7 all night on New Year's Eve.

8 MR. GRESHAM: Objection, Your Honor. This is hearsay
9 as well.

10 THE COURT: Sustained.

11 BY MR. GRUBBS:

12 Q How long did this interrogation last?

13 A I'd have to estimate. There was a lot of downtime
14 due to some procedural things such as photo lineups and
15 such. I'm going to estimate an hour, possibly a little
16 more.

17 Q Okay. Do you recall how far into the interview you
18 were before he started to give you any substantive
19 information?

20 A Pretty quick, in the grand scheme of interviews.

21 Q You testified earlier that you had evidence from
22 another source that Mr. Porter had been to Coinstar
23 machines before.

24 A Correct.

25 Q Now, Mr. Porter didn't tell you the full truth in

1 that interview, did he?

2 MR. GRESHAM: Objection, Your Honor. This is
3 speculation.

4 MR. GRUBBS: Judge, I think that there's some very
5 clear instances here where I think if I'm allowed to go
6 into it a little bit we'll be able ---

7 THE COURT: You can ask what he did. But, I mean,
8 the statement itself has not been introduced, so I'm not
9 going to let you go into what his testimony or what his
10 statement is.

11 MR. GRUBBS: Right, Judge. I'm just asking him,
12 based on his investigation, to be able to confirm that
13 there were some facts that he may have learned that
14 contradicted Kirk Porter's statements.

15 THE COURT: Okay. No. I'm going to sustain the
16 objection.

17 BY MR. GRUBBS:

18 Q So let's talk about the Crestwood video a little bit,
19 because you testified as to some time stamps.

20 A Yes, sir.

21 Q Okay. And I want to make sure that I'm very clear on
22 that because you spent a lot of time in your report
23 notating these time stamps; would you agree with that?

24 A The time in the report was notating the time stamps
25 because they were incorrect. If you look at the video, if

1 I could explain that further.

2 Q Sure.

3 A So anytime we get video, you learn pretty quick as an
4 investigator that you can't rely on that time because
5 people forget about daylight savings time, people don't
6 know how to work it. So what you do is you look at the
7 actual time of something, meaning you would look at the
8 real-time video. If this is recording us right now, I
9 know it's a certain time so I can calculate how off it is.
10 And that's why I spent that amount of time notating that
11 as the time mark in the video and how that corroborated
12 with the actual time meaning a.m. and p.m. So yes.

13 Q Because as you've referenced in your direct
14 examination, you were saying most of these time stamps
15 happened in the 7 p.m. to 8:15, 8:30 or so range; is that
16 fair?

17 A Yes.

18 Q Okay. So based on what's in your report, the first
19 time that you see what you say is the silver-gray Mercedes
20 was about 7:04, 7:05; do you recall that?

21 A At 7:04 the vehicle is seen leaving the complex.

22 Q Okay. So it leaves at 7:04 and then comes back at
23 7:36.

24 A Correct.

25 Q Okay. And then you said that somebody put something

1 in a trunk.

2 A You could see some movement and the trunk opened.

3 Q You can't identify anyone on this video, correct?

4 A No, sir.

5 Q The video is in black-and-white?

6 A Yes. I believe it is.

7 Q It's kind of far away?

8 A It is.

9 Q Kind of grainy?

10 A Yes, sir.

11 There's actually two videos. One is on the main
12 drive coming in. Two cameras, I should say.

13 Q Just to help us out and to help out my questions with
14 you, Investigator Maltby, I'm just talking about the one
15 that's viewing Building 10.

16 A Yes, sir.

17 Q Okay. So then that vehicle that you say is the
18 Mercedes leaves again at 7:39?

19 A Correct.

20 Q And then it comes back at 7:53.

21 A I believe that time coming back would be 8:00, 8:01.

22 Q So it's not 7:53?

23 A I believe that time to be -- so it was 53 minutes --
24 at the 53:42 Mark that was displayed on the video.

25 Q And the video started at zero, I believe you

1 testified.

2 A You'd have to do -- you'd have to do math, because
3 the way -- that's why I wrote my supplement this way. It
4 was around the 36:20 mark would be 9:36, which is when it
5 came back prior to it leaving at 9:39. So it would be
6 36:20 mark on the video. You'd have -- so that would --
7 at the 53:42 mark is when the vehicle came back, which I'm
8 saying I believe is 8:01.

9 Q Okay. I'm a little confused. So let's try to back
10 up. Your report says the video begins at 1900 hours,
11 correct?

12 A Yes.

13 Q And that's 7:00.

14 A (Reviews document) Correct. Video begins at 7:00,
15 1900 hours.

16 Q And then it ends at 2030 hours.

17 A Correct.

18 Q And that's 8:30.

19 A Yes, sir.

20 Q Your report says that around 4:43 mark, which is 1904
21 hours, a person is walking from the Number 10 breezeway
22 getting into the vehicle, correct?

23 A Yes, sir.

24 Q And then that vehicle leaves.

25 A Yes.

1 Q And then that same vehicle comes back around the
2 36:20 mark, approximately 1936 hours.

3 A That's correct.

4 Q Okay. And then your report states that a vehicle
5 that appears to be the same vehicle pulls up and parks in
6 front of Building 10.

7 A Correct.

8 Q And that it appears like someone exited and put
9 something in the trunk. We talked about that, right?

10 A Yes, sir.

11 Q And then the 39:42 mark, 1939 hours, vehicle exits
12 the complex.

13 A Yes.

14 Q And then around the 53:42 mark, a vehicle that
15 appears to be the same vehicle, again, parks in front of
16 Number 10.

17 A That's correct.

18 Q So is the 53:42 not 7:53 based on the report that
19 you've documented so far?

20 A That's correct. That's my error.

21 Q Okay. So it came back at 7:53.

22 A Yes.

23 Q Okay. Thank you.

24 And then it left again around 8:15?

25 A Yes, sir.

1 Q 2015 hours.

2 A Correct.

3 Q Okay. So as far as forensics go, Investigator
4 Maltby, throughout the course of your full investigation,
5 you didn't collect any forensics that matched to Raymond
6 Martinez inside that apartment, did you?

7 A That's correct.

8 Q Because there's no DNA, right, that matches Raymond
9 Martinez?

10 A Correct.

11 Q There's no eyewitnesses that would say Raymond
12 Martinez was there at Number 9, right?

13 A It depends on how you want to classify Kirk Porter.

14 Q Well, we'll talk about Kirk Porter again in a second.
15 No ballistics information or evidence that you
16 collected link to Raymond Martinez to any part of this
17 crime.

18 A Correct. Linked nobody.

19 Q Okay. So I believe you testified that Kirk Porter
20 has -- he was arrested and charged with all the same
21 things, right?

22 A Yes, sir.

23 Q Do you know what he pled guilty to?

24 A It was testified earlier to as manslaughter, I
25 believe.

1 Q Okay. But that's not murder, right?

2 A It's manslaughter, so no.

3 Q The church that Kirk Porter told you he drove to with
4 allegedly Mr. Martinez and Mr. Belcher, what's the name of
5 that church again? Northside, was it?

6 A That sounds correct.

7 Q Okay. You said you're very familiar with that area.

8 A Myself?

9 Q Yes.

10 A Very familiar with Poinsett Highway, somewhat
11 familiar with that exact neighborhood.

12 Q Okay. And did you happen to measure how far it was
13 from the church to Rasor Court Apartments?

14 A Not exact measurements. I can estimate.

15 Q If I told you it was about a quarter mile, would you
16 think that that's ---

17 A I would think a little closer, but that's not too far
18 off.

19 Q And from Crestwood to Rasor Drive, about two, two and
20 a half miles, would you say?

21 A That sounds somewhat accurate.

22 Q Now, you testified, I believe, that Kirk Porter --
23 let me strike that.

24 The picture that we've looked at with -- in the
25 Ingles, you identified the shoes that Raymond Martinez was

1 wearing as blue and white.

2 A Correct.

3 Q And he was wearing black pants?

4 A Yes.

5 Q Gray shirt?

6 A Yes.

7 Q Hat?

8 A Uh-huh.

9 Q Is that a yes?

10 A Yes.

11 Q He was not wearing gray and white Nikes, right?

12 A Correct. Not. He was not.

13 Q He was not wearing all black, correct?

14 A At that time he was not.

15 Q Did you ever learn that -- well, let me back up.

16 Throughout your investigation, did you ever try to figure
17 out whose idea this all was?

18 A I did.

19 Q What did you find out?

20 A Kirk Porter stated that it was Kiki Mansell, Keyla
21 Mansell's idea, and that she had -- knowing that that
22 would be what they call a good lick, a good robbery.

23 Q Did anything in your investigation turn up anything
24 about drug deals between Kiki and Mr. Bruster?

25 A It did not. The only thing that I can say is that it

1 -- I did notice a phone call from Kiki or Keyla to the
2 victim earlier that month in December.

3 Q So your investigation are you saying did not turn up
4 that Keyla Mansell had bought drugs from Mr. Bruster
5 before?

6 A We never corroborated that fact.

7 Q Did your investigation come up with that information?

8 A I believe a statement was given that was never
9 corroborated and was actually another individual denied
10 that she had ever done that. So I believe one person
11 alluded to that fact, but I couldn't confirm or deny it.

12 MR. GRUBBS: Court's indulgence, Your Honor.

13 BY MR. GRUBBS:

14 Q Investigator Maltby, I'm going to try to wrap it up
15 here. So just to kind of go over a couple things to
16 reiterate them, you testified you can't rule out that the
17 blood on the bottom of Jimmy Sullivan's shoe belonged to
18 Mr. Bruster.

19 A I'm sorry? I can't rule it out?

20 Q That's what you testified to.

21 A Yes, sir. That's correct.

22 Q Okay. There's nothing in your investigation that
23 would rule out that Jimmy Sullivan wasn't somehow
24 connected to Kirk Porter or Keyla Mansell.

25 A I believe in the totality ---

1 Q Investigator Maltby, I'm not asking what you believe.
2 I'm asking does any part of your investigation rule that
3 out?

4 A Yes.

5 Q Which part?

6 A Through the many interviews of people who were with
7 Jimmy just prior to this incident. The interviews
8 consisted of one female that was at an address on Kerns
9 Avenue. They were hanging out, enjoying New Year's Eve.
10 This person asked Mr. Sullivan, Jimmy, if he could go
11 purchase her some cocaine which tells me that he wasn't
12 sitting around planning a robbery. He was merely enjoying
13 the night. And when asked to -- because he knew where he
14 could find cocaine, took this female's \$30 and got a ride
15 from Carl Westbrooks, drove to the location where he was
16 seen by two females that he alluded to in his statement
17 which was corroborated by those two females who were at
18 the victim's residence around 9:33 -- I'm sorry -- 7:33,
19 and he was seen leaving that location. And the victim was
20 not deceased and victim's apartment was not ransacked. So
21 putting all those interviews and circumstances together
22 leads me to believe that he could not be involved in this
23 homicide.

24 Q But Keyla Mansell knew Jimmy Sullivan, right?

25 A Allegedly.

1 Q There's no forensic evidence that places Martinez at
2 the scene.

3 A Correct. No forensic evidence placing anyone at the
4 scene, any of the suspects.

5 Q There's no firearms or ballistics that put him at the
6 scene.

7 MR. GRESHAM: Objection, Your Honor. He's already
8 asked these questions.

9 THE COURT: Overruled.

10 THE WITNESS: Correct. No firearms or ballistics
11 that ties anyone to this scene.

12 BY MR. GRUBBS:

13 Q No fingerprint evidence that was obtained inside the
14 apartment that would link Raymond Martinez to being there
15 at the scene.

16 A That's correct. No fingerprint evidence that would
17 tie anybody suspect to the scene.

18 Q No DNA evidence that would link Raymond Martinez to
19 being present at the scene.

20 A That's correct.

21 Q In fact, a lot of what you learned about this came
22 from your interviews from Kirk Porter.

23 A It was a portion of it, correct.

24 Q You can't identify the people coming and going in
25 that Crestwood video.

1 A Correct.

2 Q So the Crestwood car got back about 7:53, we've
3 established.

4 A Yes, sir.

5 Q Left at 8:15.

6 A Yes, sir.

7 Q So it was there for about 23 minutes back at the
8 Crestwood Apartments.

9 A Correct.

10 MR. GRUBBS: That's all I have for now, Judge.

11 THE COURT: Cross-examination on behalf of
12 Mr. Belcher.

13 MR. GIBSON: Your Honor, just to notify the Court, I
14 think I'm going to be probably maybe 20 to 30 minutes. I
15 know that you had said that you wanted to try to do lunch
16 at noon.

17 THE COURT: We'll go ahead. Yes, we'll proceed.

18 MR. GIBSON: Say again, Your Honor?

19 THE COURT: Proceed.

20 MR. GIBSON: Proceed.

21 CROSS EXAMINATION

22 BY MR. GIBSON:

23 Q Hey, Mr. Maltby. How are you doing?

24 A Good, sir. How are you?

25 Q Doing good. Thanks.

1 All right. So it's been repeatedly confirmed that
2 you are the lead investigator on this case; is that
3 correct?

4 A Correct.

5 Q And as lead investigator, basically, all aspects of
6 this investigation come through you, correct?

7 A It's pretty loose terminology. But I don't know
8 about "comes through me," but I am -- I am ---

9 Q You were made aware of it.

10 A I'm sorry?

11 Q You were made aware of it, given reports on it.

12 A Correct.

13 Q To the extent there's information out there, you
14 would be familiar with it.

15 A Correct.

16 Q Or at least you should be, correct?

17 A Depends on the validity or the -- how it fits into
18 the investigation.

19 Q So you're saying you made a decision to charge them
20 without necessarily knowing all the information that might
21 be out there regarding this investigation?

22 MR. GRESHAM: Objection, Your Honor. That's a
23 mischaracterization of what he's already said.

24 THE COURT: Sustained.

25 MR. GIBSON: That's exactly what he just said.

1 THE COURT: That is sustained.

2 BY MR. GIBSON:

3 Q But just to be clear, there is a possibility that
4 there's information out there regarding this matter that
5 you were not aware of.

6 A That would be true with any investigation.

7 Q And there's a possibility there was information that
8 was obtained by law enforcement personnel that you were
9 not aware of.

10 A I don't believe that's the case.

11 Q Okay. So again, it's your belief that all the
12 information that was obtained by law enforcement has been
13 submitted to you and reviewed by you.

14 A That's my belief.

15 Q Okay. All right. Now, in reviewing that
16 information, isn't it, in fact, true that there is no
17 forensic evidence whatsoever which links Mr. Belcher to
18 this crime?

19 A That's correct.

20 Q There are no fingerprints.

21 A Correct.

22 Q There's no DNA.

23 A No DNA that links anyone to the crime, correct.

24 Q There's no blood evidence that links him to it?

25 A No blood evidence that links anyone to the crime.

1 Q There is -- there were a number of -- there were at
2 least two stolen items that you guys identified.

3 A Correct.

4 Q Neither one of those items have been linked to him in
5 any way whatsoever, have they?

6 A Again, that's a pretty vague term, linked to him in
7 any way.

8 Q Did you find the cheese ball jar on him?

9 A I did not.

10 Q Do you have a picture of him with a cheese ball jar?

11 A Well, when you say "any way," I'd like to expound on
12 that.

13 Q I'm asking the question now.

14 A Okay.

15 Q Did you find a cheese ball jar on him?

16 A Did I find a cheese ball container?

17 Q Yeah. Did you find a cheese ball container in Robert
18 Belcher's possession, custody or control?

19 A Not on his person.

20 Q What did you find?

21 A I have statements that say he was in the vehicle with
22 it, and that's why I changed the -- when you say something
23 such broad as "all" and "any," I don't have a picture ---

24 Q Let me ask you this. You viewed the video from the
25 Ingles, correct?

1 A Yes.

2 Q And there were other -- in that Ingles, there are a
3 number of different other places around there, correct,
4 which have a video camera, correct?

5 A There were none.

6 Q You didn't check the Zaxby's across the street, check
7 their video?

8 A I checked -- I checked the entire complex over there.

9 Q So you don't have any video that shows that
10 Mr. Belcher was in any car whatsoever, correct?

11 A I do not have any video of anybody in that car.

12 Q You don't have any pictures of Mr. Belcher in any
13 car, correct?

14 A I do not have any pictures of ---

15 Q You don't have any pictures of Mr. Belcher inside the
16 Ingles, correct?

17 THE COURT: For the court reporter, you've got to let
18 him finish before you ask your next question.

19 MR. GIBSON: Yes, Your Honor. Just trying to move
20 this along.

21 THE COURT: I know. But you've got to wait till he
22 finishes before you ask the next question.

23 BY MR. GIBSON:

24 Q You don't have any fingerprint evidence, correct,
25 that ties Mr. Belcher to this crime?

1 A I have no fingerprint evidence tying anybody to this
2 crime.

3 Q Did you find a murder weapon in this particular case?

4 A I did not.

5 Q The Citizen Echo watch, did you ever recover that?

6 A We did not.

7 Q And, again, just to clarify my question -- or my
8 earlier question to you -- strike that. Withdrawn.

9 As the lead investigator in this case, did you at one
10 point become aware of a statement and of a notarized
11 affidavit by Kirk Porter recanting his testimony or
12 recanting the statements that he made to you regarding
13 Robert Belcher?

14 A Yes.

15 Q And that statement, have you reviewed it? Have you
16 seen it?

17 A I have not.

18 Q You have not seen it at all.

19 A No, sir.

20 Q So let me get this clear. You're the lead
21 investigator on the case, you get word that there is ---

22 MR. GRESHAM: Objection, Your Honor. May we
23 approach?

24 THE COURT: Yes.

25 (WHEREUPON, a bench conference was held off the record.)

1 BY MR. GIBSON:

2 Q Now, Jimmy Sullivan, you ruled him out as a suspect
3 in this. And initially, what you testified to was that
4 you said that there were phone records which showed him to
5 be two miles away at 7:48; is that correct? Do you
6 remember that testimony?

7 A I think I -- I don't know the exact distance. That
8 was an estimate. But yes.

9 Q All right. And you said that, based upon your
10 timeline or at least the questions that were asked by
11 Mr. Grubbs, that there were two females with Mr. Bruster
12 at around 7:35, correct?

13 A I think one of the females said 7:33.

14 Q 7:33. Did she tell you what time she left?

15 A I think it was right around in that time is what she
16 said.

17 Q Like what time? 7:35? 7:40?

18 A I don't have that exact time.

19 Q Could it be as early as 7:35?

20 A Again, I don't -- I don't have -- she didn't have an
21 exact time of when she left.

22 Q Okay. And she was -- these females that were with
23 Mr. Bruster at that time, they're the individuals who saw
24 Jimmy Sullivan, identified him as a suspicious individual
25 in Mr. Bruster's apartment, correct?

1 A Correct.

2 Q Did they tell you where Mr. Sullivan went after he
3 left the apartment?

4 A They couldn't see that. They didn't know.

5 Q So it's possible that Mr. Sullivan stayed there. As
6 soon as they left ---

7 MR. GRESHAM: Objection, Your Honor. This is
8 speculation.

9 MR. GIBSON: I'm just asking possibilities based upon
10 his ---

11 THE COURT: I'm going to let you go into it a little
12 bit.

13 MR. GIBSON: I may proceed, Your Honor?

14 THE COURT: Yes.

15 BY MR. GIBSON:

16 Q So it's possible that, at 7:35 after these
17 individuals left, Mr. Sullivan went back into this
18 apartment, committed this crime, and then had roughly ten
19 minutes to make it two miles away; isn't that right?

20 A You're asking me plausibility?

21 Q No. I'm asking you possibility.

22 A So my opinion?

23 Q No. I don't want your opinion. I'm asking is it
24 possible. Based upon your investigation, did you identify
25 anything in your investigation which would have prohibited

1 that particular circumstance from occurring?

2 A Not that exact circumstance, no.

3 Q Thank you.

4 Now, you said that you were trained in interrogation
5 techniques as part of your position as a homicide
6 detective.

7 A Yes.

8 Q Where did you receive that training?

9 A Well, starting off with the academy. Back when I was
10 a rookie police officer, you get a small amount. And then
11 some was covered for the two-week homicide class put on by
12 the Louisville -- University of Louisville, also one or
13 two other maybe eight-hour classes throughout my career.

14 Q In those techniques, do they name the techniques that
15 you learned?

16 A Probably.

17 Q Do you recall what those names were?

18 A I don't.

19 Q So it's possible that the techniques that you learned
20 are, in fact, the Reid interrogation technique, correct?

21 A That -- no. I don't remember learning that.

22 Q You don't remember.

23 So are you aware that there have been numerous
24 complaints within the community that the Reid technique
25 results in false confessions?

1 A I don't know what the Reid ---

2 MR. GRESHAM: Objection, Your Honor.

3 THE COURT: Sustained.

4 BY MR. GIBSON:

5 Q Let's talk about your interrogation of Kirk Porter.
6 And I'm not going to ask you what he said to you, but I
7 want to ask you about what you said to him.

8 Now, initially, when he sits there and talks to you,
9 he basically tells you he has no information, correct?

10 MR. GRESHAM: Objection, Your Honor. This is ---

11 THE COURT: Sustained. You just said you weren't
12 going to talk about what he said.

13 MR. GIBSON: You're right, Judge. Withdrawn.

14 BY MR. GIBSON:

15 Q But you told him at some point, you said you got --
16 I'm not going to say frustrated, but at some point you
17 said, "Kirk, you need to get your head right." Do you
18 remember saying that?

19 A That sounds correct.

20 Q And you said that ---

21 MR. GRESHAM: Objection, Your Honor. This is not in
22 evidence yet.

23 MR. GIBSON: Your Honor, these are statements that he
24 made. I'm not -- I'm not asking ---

25 MR. GRESHAM: This is all hearsay, Your Honor. This

1 is not in evidence. The jury should not be hearing this.

2 MR. GIBSON: Your Honor, I am not asking him about
3 these statements to prove the ---

4 THE COURT: The statements he made, I'll let him go
5 in a little bit into this and then move on.

6 BY MR. GIBSON:

7 Q And you said, "I don't want the one -- I only want
8 the one who pulled the trigger," correct?

9 A I'd like for -- I'd like for the context of that
10 statement meaning.

11 Q But you say that -- you are certainly allowed to give
12 that on recross with -- when Mr. Gresham comes back up,
13 but for the purposes of my question, did you say that?

14 A I believe so.

15 Q And then you said, "I'm going to give you an out."
16 Do you remember saying that?

17 A Possibly.

18 Q And then you said something to the effect that maybe
19 you weren't the one shooting, but you were one of the ones
20 that was in the car, correct?

21 A It's very possible.

22 Q And then you told him the hammer's about to drop. Do
23 you remember saying that?

24 A Yes.

25 Q And then you and your cohort, I believe Mr. Picone,

1 basically told him he needed to get ahead of this thing,
2 correct?

3 MR. GRESHAM: Objection, Your Honor.

4 THE COURT: Yeah. I'm going to sustain this because
5 this -- you know, this has gone further than what you
6 indicated you were doing. I'm not going to let -- any
7 further on this statement because the statement hasn't
8 come in. And go to another topic.

9 MR. GIBSON: Thank you very much, Your Honor.

10 BY MR. GIBSON:

11 Q Now, as part of your investigation, Cedric McKinney
12 lied to you, correct? He told you that Mr. Bruster did
13 not sell drugs.

14 MR. GRESHAM: Objection, Your Honor. This is also
15 not in testimony -- or in evidence.

16 MR. GIBSON: In fact, this is, Your Honor, in
17 testimony, in evidence, Judge. Cedric McKinney testified
18 to this, and he was asked about this as part of
19 Mr. Grubbs's cross-examination as well. So he has
20 absolutely testified to this.

21 THE COURT: Go ahead.

22 MR. GRESHAM: Sorry, Your Honor.

23 He has not testified to this. Investigator Maltby
24 has not testified to this. This has not come out in his
25 direct, and he is tied to what has been brought out on his

1 direct.

2 THE COURT: But it's also part of his investigation.
3 I'll let him go into it.

4 BY MR. GIBSON:

5 Q Cedric McKinney lied to you, did he not?

6 A About his friend selling drugs?

7 Q Yes.

8 A Yes, sir.

9 Q And Carl Westbrooks lied to you as well, did he not?

10 A His first statement was a lie, yes, sir.

11 Q Now, I want to be clear about this timeline as far as
12 this car is concerned. The car that you identified as the
13 Mercedes, and presumably the vehicle that Kirk Porter was
14 in, at 7:00 it was at the Crestwood Apartments, correct?

15 A At 7:04 it left.

16 Q At 7:00 it was at Crestwood.

17 A Yes.

18 Q And it did not leave until 7:04.

19 A Correct.

20 Q And then it did not return -- it returned at 7:36.

21 A The video started at 7:00, so I cannot say when it
22 arrived. But it did leave at 7:04.

23 Q Okay. And then it returned around 7:30 something.

24 A 7:36.

25 Q 7:36.

1 And then when did it go back out after that?

2 A 7:39.

3 Q 7:39. And then it returned at 7:53.

4 A Yes.

5 Q Did you do anything to determine how long it takes to
6 get from Crestwood Apartments to Rasor Drive, to the
7 incident of the murder in this particular case?

8 A I drove it, and I drive it on a normal basis and I'm
9 familiar with that area.

10 Q How long did that take? How long does it take?

11 A I don't have the exact time. I just know it's
12 possible.

13 Q You know it's possible to do what? To get there?

14 A The question you just asked me, it is possible ---

15 Q To get there ---

16 A --- during this timeframe.

17 Q What I asked you was do you know how long it takes to
18 drive from Crestwood Apartments to the apartment that was
19 resided in by Mr. Bruster?

20 A I don't have that exact time.

21 Q Do you know how far that is?

22 A I don't have that exact distance.

23 Q Do you have an estimate of that distance or that
24 time?

25 A I would estimate two miles. I mean, there's a lot of

1 variables and factors involved there. Like I just
2 mentioned, I do think it's possible within that timeframe.
3 I cannot give you an exact time that I estimate.

4 Q So you said you drove this route?

5 A Yes. I have driven the route.

6 Q Which streets did you take?

7 A Come out of Crestwood Forest Drive Apartments, turned
8 right up to State Park Road, another right so you don't
9 have to wait on a light down to Cherrydale area. It's
10 called State Park there as well where there's an
11 intersection, making another right -- another right on
12 Poinsett Highway. And then I believe a left -- I'd have
13 to look at a map, but it's right near a gem mine, and then
14 just about a block or so off of Poinsett Highway.

15 MR. GIBSON: Just a second, Your Honor.

16 Thank you, Mr. Maltby.

17 THE WITNESS: Thank you, sir.

18 THE COURT: Redirect?

19 MR. GRESHAM: Your Honor, do you want to proceed into
20 it now or do it after lunch?

21 THE COURT: Yeah. Let's go ahead.

22 Is everybody okay over here? Yeah.

23 REDIRECT EXAMINATION

24 BY MR. GRESHAM:

25 Q Through your investigation, I believe you said this

1 was Juanita Corner, you found that -- or when Mr. Sullivan
2 left that apartment, Mr. Bruster was still alive; is that
3 right? That's been corroborated?

4 A Correct, yes.

5 Q Okay. Would you say it is common to find no DNA of
6 defendants or anything like that at a crime scene? Is
7 that common?

8 A It's very common. It's probably -- yes, sir. It's
9 common.

10 Q You've experienced that with your murder cases?

11 A Yes.

12 Q And do people leave behind fingerprints when they're
13 wearing gloves?

14 A No, sir.

15 Q And did you base these arrest warrants that you
16 obtained in this case on the totality of the circumstances
17 and the information that you discovered?

18 A Yes, sir.

19 Q Okay. And have you ever driven in Greenville County
20 on New Year's Eve?

21 A Yes, sir.

22 Q Would you say the roads are pretty empty?

23 A Worked many New Year's Eves, unfortunately. And,
24 yes, it's eerily empty.

25 Q Not much traffic.

1 A Correct.

2 Q Easy to get around.

3 A Yes, sir.

4 Q Ever driven that area on New Year's Eve where the
5 apartment is, Poinsett Highway?

6 A Yes, sir. I mean, I've worked that -- like I said,
7 that area as a deputy answering calls.

8 Q So you can get within locations in that area pretty
9 quick.

10 A Yes, sir.

11 Q All right. Did you ever coerce Mr. Porter?

12 A Absolutely not.

13 Q Threaten him?

14 A No, sir.

15 Q Promise him anything?

16 A No, sir.

17 MR. GRESHAM: Just one second.

18 No further questions.

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

20 MR. GRUBBS: Your Honor, may I have just one brief
21 recross question?

22 THE COURT: No. No. You may step down.

23 MR. GRUBBS: No. That's the death no. I'm probably
24 going to ask for more.

25 THE COURT: No. It's no. The answer was no.

1 about maybe starting at 9:00 in the morning. Does anybody
2 have a problem with starting at 9:00? Okay. That's where
3 I'm headed right now. It's not a final decision, but I'll
4 let you know at the end here.

5 All right. State may call your next witness.

6 MR. GRESHAM: Thank you, Your Honor. May it please
7 the Court. We call Barbara Haun to the stand.

8 Ms. Haun, if you'll go forward and be sworn.

9 THE CLERK: If you'll please place your left hand on
10 the Bible and raise your right hand.

11 WHEREUPON,

12 BARBARA HAUN

13 After having been duly sworn, testified as follows:

14 THE CLERK: Thank you. Please take a seat and state
15 your name for the record.

16 THE WITNESS: Thank you. My name is Barbara Haun.

17 DIRECT EXAMINATION

18 BY MR. GRESHAM:

19 Q Good afternoon, Ms. Haun.

20 I know this -- since this incident you've experienced
21 some health problems. Without -- I don't want to
22 embarrass you. Would you please tell us a little bit
23 about that.

24 A A couple years ago I got an autoimmune disease. And
25 it does make me stutter, and it also -- sometimes you'll

1 see me pause. And it's just so that I can take a second
2 so I can get it out what I want to say.

3 Q Yes, ma'am. Take your time. I appreciate you
4 telling me that.

5 Now, Ms. Haun, are you employed?

6 A No.

7 Q Okay. Where were you employed?

8 A I was employed by Ingles Markets.

9 Q And I assume are you retired?

10 A Yes.

11 Q And how long have you been retired?

12 A I haven't worked for about a year and a half.

13 Q Okay. Now, what kind of work did you do for Ingles?

14 A I -- I was loss prevention. I worked for the loss
15 prevention department, and I ran the camera systems.

16 Q Okay. And during that employment with Ingles, did
17 you work -- where did you work?

18 A I -- I had 53 stores that I was over, in charge of,
19 and I did all the camera work and installation for all
20 200 stores.

21 Q Okay. And how long, again, did you say that you
22 worked for Ingles?

23 A 25 years.

24 Q And was Ingles at Cherrydale one of those 54 stores?

25 A Yes.

1 Q And with your responsibility as loss prevention, what
2 were your duties? I know you said you set up cameras, but
3 what did -- can you go a little bit further into that for
4 us? What did your duties entail as part of that?

5 A If they had -- if -- we worked very close with law
6 enforcement. We worked with the food stamp people. If
7 they called and they requested video, we would find it for
8 them and give them a copy of it. I also took all calls on
9 if a system was down or if they were having a problem with
10 a system, they had to call it in to us. We wouldn't know
11 unless they called us. So they call it into us, and then
12 I would either send one of our techs out or we would go
13 through a company.

14 Q And what were those problems that you would encounter
15 with those systems?

16 A The systems could completely fail, they could glitch
17 at times which would reset their times, they could -- a
18 camera could go out and they would want it repaired.
19 There'd be many different reasons why we would go to the
20 store.

21 Q Okay. And could you work on those cameras? I know
22 you said you went to the stores themselves, but did you
23 work on those cameras remotely from where you were?

24 A I could view the cameras remotely.

25 Q The footage.

1 A The footage.

2 And I could see if cameras were working.

3 Q And how often do you estimate that you would have
4 issues with cameras?

5 A Not -- you know, if you look at one store at a time,
6 not a lot.

7 Q Okay. Now let's go back to Ingles surveillance
8 systems, just the surveillance systems themselves in 2017.
9 What kind of systems did Ingles use during that time?

10 A We had -- we used an ADT Intellex system.

11 Q So you said ADT. Do they manufacture that system?

12 A ADT does.

13 Q ADT does?

14 A Uh-huh.

15 Q Okay. And is that -- that's the source -- if you did
16 not work on it, that's who you called to help do the
17 repairs?

18 A Correct, yes.

19 Q But you yourself did the installations or you had a
20 team?

21 A I had a team.

22 Q Okay. Was that considered a top-tier system,
23 surveillance system at the time?

24 A Yes.

25 Q And was the surveillance equipment across those many

1 stores of Ingles, was it pretty much uniform? Or did one
2 store use one system? Or did they all use Intellex?

3 A 90 percent used Intellex.

4 Q Okay. And what did the Cherrydale store use during
5 2017, 2018? What system?

6 A Intellex.

7 Q And who installed that system?

8 A At that time ADT installed that system.

9 Q Did they maintain it as well?

10 A Only if we called them.

11 Q Okay. Now, do these surveillance systems and
12 footage, do they have timestamps?

13 A Yes.

14 Q Would you explain that a little bit?

15 A It's wrote directly to a hard drive. So if you're
16 recording video on it, it records the time and the date of
17 when that video happened.

18 Q Okay.

19 A And saves it to the hard drive.

20 Q And why is that feature needed?

21 A So that you cannot manipulate the video.

22 Q So no one can alter it?

23 A No.

24 Q And -- but did the timestamps -- I know you said you
25 had glitches in the system. Did those timestamps

1 themselves, I know you said you can't alter them, but do
2 they have glitches that perhaps ---

3 A Yes.

4 Q --- don't align?

5 A Yes.

6 Q Can you explain that, how that occurs?

7 A Like I said, the glitch can happen. So if we have a
8 power surge or if the unit gets turned off by -- somebody
9 turns it off and turns it back on, it could actually reset
10 itself to a different time. That's when the manager
11 should call us and tell us my time's off, can somebody
12 come down and fix it. Because we would have to go to the
13 store to fix it.

14 Q But that's not humanly done, humanly caused?

15 A No.

16 Q Okay. And would you consider those to be minor
17 issues that were easily remedied or fixed -- fixable?

18 A Yes, yes. That's something we would not turn in to
19 ADT. We would do ourselves.

20 Q Okay. And did you know the Ingles on Poinsett to
21 experience such an issue?

22 A Yes.

23 Q And how do you know that?

24 A When I went down to retain the video, it was off on
25 time.

1 Q Okay. And did that -- did you find that when
2 Investigator Maltby requested videos from you?

3 A Yes.

4 Q Okay. And do you recall how much off the true actual
5 time that video was?

6 A Approximately five hours.

7 Q Okay. So not much?

8 A No.

9 Q And you could -- how could you determine that?

10 A The way that I would always do it was I would see
11 what time the store manager clocked in in the morning, and
12 then I would find him clocking in. So I knew what time he
13 was supposed to clock in as far as what the time clock
14 said, and I'd find what time he came in on the camera
15 system, and then would know the difference, whether it was
16 30 minutes or an hour or five hours in this case, and I
17 would know when, you know, how far ahead or behind I'd
18 have to search that video for. And then once I got that
19 video, I would, again, check it with who was checking out
20 before and who was checking out after so I could make sure
21 that I had the correct transaction.

22 Q Okay. And you don't know the reason why there was a
23 glitch in the system with that one.

24 A No.

25 Q Was that issue later rectified?

1 A Yes.

2 Q Is it fair to say that despite that, the events that
3 you see in the video, they were true and accurate to the
4 time that you equated it to be?

5 A Yes, yes.

6 Q Okay. Now, you talked a little bit about how the
7 videos are stored. Could you go a little bit more into
8 that, how they were -- once they were actually depicted,
9 where was the footage actually stored within Ingles? Or
10 was it stored in some server?

11 A It was stored on a hard drive at the store.

12 Q Okay. And how long are they typically stored.

13 A Anywhere from four to six weeks.

14 Q All right. What happens to it after that period?

15 A Then it overwrites itself. So it'll just drop a day
16 at a time.

17 Q Okay. And I believe you testified, but please
18 correct me if I'm wrong, you could access that video from
19 your store in Black Mountain?

20 A Yes.

21 Q All right. Let's shift gears. Let's discuss the
22 footage of the Ingles on Poinsett. What was -- or what is
23 -- I should say is the Ingles store number?

24 A Store 69.

25 Q And that's the one in Cherrydale.

1 A Correct.

2 Q And does that store number, does that appear on
3 receipts?

4 A Yes.

5 Q And that's generated through your system?

6 A Correct.

7 Q And does that Store 69, does it have a Coinstar kiosk
8 located inside?

9 A Yes, it does.

10 Q And where is that situated in the store?

11 A It's on the front end. It's -- if you're walking in
12 the door, it's to the right of the office if you're
13 looking at the office.

14 Q Now, this has briefly been touched upon in this
15 trial, but do you know what a Coinstar kiosk is?

16 A Yes.

17 Q Will you tell us?

18 A It's where customers can bring in their change, they
19 put it into the machine, the machine counts out how much
20 change is there, they get a ticket that prints off, they
21 take that ticket to the office, the people in the office,
22 or a cashier at a register will cash that ticket out and
23 give the customer the cash for it.

24 Q So Ingles redeems the value that's printed out on
25 that receipt?

1 A Correct.

2 Q They give the customer that amount of money?

3 A Correct.

4 Q Okay. And does the surveillance videos which you
5 said that are located inside the Ingles, do they point at
6 that Coinstar kiosk?

7 A You can see it on -- on the video.

8 Q Okay.

9 A It's a green machine.

10 Q Okay. And do the cameras themselves, I know they're
11 probably situated across many parts of the store, but do
12 they focus at the front of the store like on entryways?

13 A Yes.

14 Q All right. And were all those cameras functioning on
15 New Year's Eve?

16 A Yes.

17 Q And at some point do you recall Investigator Maltby
18 or law enforcement contacting you about that footage from
19 that New Year's Eve?

20 A Yes.

21 Q Did they request a copy of that surveillance video?

22 A Yes.

23 Q And did you learn from them during those requests to
24 you what type of investigation it was for?

25 A Yes.

1 Q What did they tell you?

2 A They said it was a murder trial -- murder
3 investigation.

4 Q And after they made that request, did you personally
5 go and try to pull that video footage?

6 A Yes.

7 Q Okay. And did you observe it? Did you get to review
8 it?

9 A Yes.

10 Q Did you observe anything in the footage that drew
11 your attention?

12 A I pulled what he requested. And he requested -- he
13 told me that it would -- they were looking for somebody
14 that would walk in the store, they would have a jar that
15 kept like cheese balls in, a big jar, and they'd be using
16 that to dump the change into the machine.

17 Q Okay. And you downloaded that footage after that.

18 A Correct.

19 Q Okay. And did you see that container in the video?

20 A Yes.

21 Q And did you provide that disc with the surveillance
22 video to Investigator Maltby?

23 A I did.

24 MR. GRESHAM: All right. May I approach, Your Honor?

25 THE COURT: You may.

1 BY MR. GRESHAM:

2 Q Ms. Haun, I'm showing you what is State's Exhibit
3 Number 29. Are you familiar with what I have just shown
4 you?

5 A Yes.

6 Q And what is it?

7 A It is a copy of the video that I gave to the
8 detective.

9 Q And how do you know it?

10 A It has my initials on it and my writing on it.

11 Q Okay. And would you say that CD that you have
12 there fairly and accurately depicts what you just
13 testified to on the nights -- or night of New Year's Eve
14 2017?

15 A Yes.

16 Q Does the video footage that you have seen in that
17 appear to be altered in any way other than to comply with
18 the rules of evidence?

19 A No.

20 MR. GRESHAM: All right. Your Honor, at this time
21 the State moves to enter State's Exhibit Number 29 and
22 requests permission to publish it.

23 THE COURT: Any objection from Belcher?

24 MR. GIBSON: No objection, Your Honor.

25 THE COURT: Any objection from Martinez?

1 MS. DIAZ: No objection, Your Honor.

2 THE COURT: All right. In without objection.

3 (WHEREUPON, State's Exhibit Number 29 was admitted into
4 evidence.)

5 BY MR. GRESHAM:

6 Q Ms. Haun, I'm going to play this for you.

7 A Okay.

8 Q Now, Ms. Haun, I might stop this video along the way
9 to let you narrate what we're seeing.

10 A Okay.

11 Q Kind of narrate the location within the store.

12 THE COURT: What was this exhibit number again?

13 MR. GRESHAM: This is 29, Your Honor.

14 (Pause in proceedings.)

15 MR. GRESHAM: It's not playing, Your Honor.

16 THE COURT: I mean, your ---

17 MR. GRESHAM: The computer screen, Your Honor.

18 But ---

19 THE COURT: The screen's on over there.

20 MR. GRESHAM: Technological difficulties.

21 Judge Gravely, could I ask you, if you wouldn't mind,
22 to reset the system, perhaps? I don't know why it's not
23 appearing.

24 THE COURT: Is that what your screen looks like
25 before the video starts?

1 MR. GRESHAM: No. It does not, Your Honor. There's
2 a lot of icons on our screen.

3 THE COURT: All right. We'll shut it down and start
4 over.

5 (Pause in proceedings.)

6 MR. GRESHAM: That is not our screen, Judge.

7 THE COURT: Is there anything else running on your
8 laptop?

9 MR. GRESHAM: No. No, Your Honor.

10 Is there -- typically, I've never done this before,
11 but is there a way up there it can be played?

12 THE COURT: Hu-uh. Yeah. I was wondering why there
13 wasn't any icons on the machine.

14 MR. GRESHAM: There's a special software that has to
15 be run on it too for surveillance purposes.

16 (Pause in proceedings.)

17 THE COURT: I know it's awful small, but can you run
18 it on that?

19 MR. GRESHAM: It's pretty small, Your Honor, but we
20 can try.

21 THE COURT: Do y'all want to take a break and get IT
22 until we get IT in here? Sometimes that takes a while.

23 MR. GRESHAM: That would be great, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, let's
25 see if we can get this glitch -- this happens. But take a

1 short break. We'll bring you back in as soon as we get
2 this fixed or come up with Plan B.

3 All right. At this time just go back, and don't
4 discuss the case.

5 (WHEREUPON, the jury exits the courtroom at 2:04 PM; a
6 recess is taken due to technological issues.)

7 THE COURT: All right. Is the State ready to bring
8 the jury back in?

9 MS. GARY: Yes, sir.

10 MR. GRESHAM: We are, Your Honor.

11 THE COURT: Is the defense ready? Belcher?
12 Martinez?

13 MR. GIBSON: Yes, sir, we are.

14 MR. GRUBBS: Yes, Your Honor.

15 (WHEREUPON, the jury entered the courtroom at 2:10 PM.)

16 THE COURT: All right. Ladies and gentlemen, we did
17 get it fixed. And I would point out that sometimes it is
18 my fault, but in this case it was not. I am not
19 responsible.

20 All right. Yes, Mr. Gresham.

21 BY MR. GRESHAM:

22 Q All right. Ms. Haun, would you please tell us what
23 you're seeing first off before I play?

24 A The entrance to our store.

25 Q The entrance to the store. Do you know which

1 particular entrance it was from just viewing it there?

2 A Yeah. It's one by the video department or would have
3 been the video department.

4 Q All right. I'm going to hit "play."

5 (WHEREUPON, State's Exhibit Number 29, a video, was played
6 in open court.)

7 BY MR. GRESHAM:

8 Q Is this what piqued your attention to this?

9 A Yes, uh-huh.

10 Q Is that the plastic jug you were referencing?

11 A Yes.

12 Q All right. Before I hit "play" on this, would you
13 narrate what we see here?

14 A That's our office looking out onto the front end.
15 You can see the U-scan, everything, the green machine
16 there on the corner.

17 Q If you feel comfortable, you can get up and kind of
18 point around.

19 A The green machine that sits right here (indicating)
20 is a Coinstar.

21 Q Okay. And then all this closest to us or closest to
22 me, that's the front of the store?

23 A This (indicating) is all the front of the store, and
24 then this (indicating) is the office area.

25 Q All right. And now the entrance that you just saw

1 him walk through.

2 A It was right over here (indicating).

3 Q Okay. So you just make a -- you make an immediate
4 right.

5 A Correct.

6 Q All right.

7 (WHEREUPON, State's Exhibit Number 29, a video, continued
8 to play in open court.)

9 THE WITNESS: So you can see someone at the Coinstar
10 machine now.

11 MR. GRESHAM: All right.

12 (WHEREUPON, State's Exhibit Number 29, a video, continued
13 to play in open court.)

14 BY MR. GRESHAM:

15 Q And what time is this, can you tell?

16 A The camera time says 1:22.

17 Q And that's the time difference that you discussed?

18 A Yes.

19 (WHEREUPON, State's Exhibit Number 29, a video, continued
20 to play in open court.)

21 BY MR. GRESHAM:

22 Q Are they still at the Coinstar now?

23 A Yes.

24 (WHEREUPON, State's Exhibit Number 29, a video, continued
25 to play in open court.)

1 BY MR. GRESHAM:

2 Q How long have they been there? Can we tell?

3 A It's 1:23 now.

4 Q Three minutes.

5 (WHEREUPON, State's Exhibit Number 29, a video, continued
6 to play in open court.)

7 BY MR. GRESHAM:

8 Q Are they still at the Coinstar?

9 A Yes.

10 (WHEREUPON, State's Exhibit Number 29, a video, continued
11 to play in open court.)

12 BY MR. GRESHAM:

13 Q And have they moved away from the Coinstar?

14 A Yes.

15 Q And that's the customer service area ---

16 A Yes.

17 Q --- he's gone to?

18 A She's waiting on another customer right now.

19 (WHEREUPON, State's Exhibit Number 29, a video, continued
20 to play in open court.)

21 BY MR. GRESHAM:

22 Q Now, who did he just approach there? Do you know
23 what area that -- of the store was?

24 A That's a U-scan register, sir.

25 Q The self-scan?

1 A Self-scan.

2 Q Okay.

3 A Sometimes we'll cash them at self-scan, some of the
4 stores.

5 Q Okay. That was my question, so thank you for
6 answering.

7 (WHEREUPON, State's Exhibit Number 29, a video, continued
8 to play in open court.)

9 THE WITNESS: I also checked this transaction to make
10 sure before I checked the next transaction on the time.

11 BY MR. GRESHAM:

12 Q For the person she's helping now.

13 A Correct.

14 Q Do you recall what time that was?

15 A No, I don't.

16 Q Okay.

17 (WHEREUPON, State's Exhibit Number 29, a video, continued
18 to play in open court.)

19 THE WITNESS: What we look for is I'd pull up a
20 transaction, look to see, and it looked like she was
21 possibly cashing a check or something. So I'd look to see
22 how much money she was pulling out of the register and
23 then I can make sure that that's the right time.

24 BY MR. GRESHAM:

25 Q And you know what time -- I know you just said that

1 you forgot the time, but you can do the math where you
2 said there was a glitch in the system. Can you
3 approximate, do that math in your head to know what time
4 this is?

5 A It would be 8:26 p.m.

6 Q All right. And this was -- what day would this --
7 that would be the ---

8 A This is on the first, on New Year's Day.

9 Q This is. But you said it was 8:20, so it would be
10 New Year's Eve?

11 A New Year's Eve.

12 (WHEREUPON, State's Exhibit Number 29, a video, continued
13 to play in open court.)

14 BY MR. GRESHAM:

15 Q Okay. Now it appears they've left.

16 A That one's left. And now she's going to cash out the
17 -- she should be doing the cash for the Coinstar
18 transaction. She gave change to the U-scan person, and
19 now she took the Coinstar ticket. She's validating the
20 Coinstar ticket. You saw her put it up underneath the --
21 where the receipts come out.

22 Q All right. I'm going to stop you there since you've
23 now brought that up. The validation, how is that done?

24 A It slides into that -- where the printer is like if
25 you were doing a check or something, and then it validates

1 the back of that ticket.

2 Q When you validate it, what's part of that validation?
3 What does it say on the ticket?

4 A It'll tell you the store number, the amount that it's
5 done on, the time and then the date.

6 Q Okay. And then once that's been validated, what do
7 you do with the receipt?

8 A We -- that's kept with our paperwork at night, then
9 it's sent to corporate office.

10 Q Okay. Was that a secure area where it's kept?

11 A Yes.

12 (WHEREUPON, State's Exhibit Number 29, a video, continued
13 to play in open court.)

14 BY MR. GRESHAM:

15 Q All right. Now I'm going to stop it here. It looks
16 like -- tell us what you -- it looks like he's done.

17 A The transaction is complete. She's giving the money
18 to the customer and the customer's leaving the store -- or
19 has taken -- is headed back towards where he came from.

20 Q Okay.

21 (WHEREUPON, State's Exhibit Number 29, a video, continued
22 to play in open court.)

23 BY MR. GRESHAM:

24 Q And what time does it look like he has now left the
25 picture, headed towards the entrance?

1 A On the cameras it says 1:28, but it would be 8:20,
2 probably about 8:28.

3 Q All right. I'm going to jump to the next video.

4 (WHEREUPON, State's Exhibit Number 29, a video, continued
5 to play in open court.)

6 THE WITNESS: And then you can see the jar underneath
7 his arm as he exits the store.

8 BY MR. GRESHAM:

9 Q Okay. All right. I've got one more video for you.
10 This one's kind of challenging to see, but there it
11 goes.

12 (WHEREUPON, State's Exhibit Number 29, a video, continued
13 to play in open court.)

14 BY MR. GRESHAM:

15 Q Now, is this the front of the store?

16 A Yes.

17 (WHEREUPON, State's Exhibit Number 29, a video, continued
18 to play in open court.)

19 BY MR. GRESHAM:

20 Q And are those empty parking spaces that you see in
21 front of the store?

22 A Uh-huh.

23 Q And Poinsett Highway, where is it associated?

24 A It'd be straight ahead.

25 Q Okay.

1 (WHEREUPON, State's Exhibit Number 29, a video, continued
2 to play in open court.)

3 THE WITNESS: There he's exiting. He turns around,
4 he walks back.

5 BY MR. GRESHAM:

6 Q Do you know what he's doing then?

7 A He'll come back out and he won't have the thing. He
8 -- he puts a container into the trash can.

9 Q Okay. Ms. Barbara, I am giving you what is State's
10 Exhibit Number 18 and 19. Would you please open those up,
11 tell me what you see. And are you familiar with those?
12 Sorry. I should have told you. Might have to open the
13 one with scissors. I don't know if that will help you. I
14 can do it.

15 A Thank you.

16 MR. GRESHAM: Just for the Court's aware, there is an
17 Ingles receipt -- envelope, I should say.

18 BY MR. GRESHAM:

19 Q All right, Ms. Barbara.

20 A This is -- this looks like the Coinstar receipt.

21 Q Okay. And how are you familiar with it?

22 A I know the size. I mean, there's nothing on the
23 front.

24 Q All right.

25 A And on the back of it you can see Store 69 and -- and

1 the amount.

2 Q All right. And this is State's Exhibit Number 18.

3 Is that the actual receipt?

4 A Yes. This is what -- what was brought to the office.

5 Q Okay. To Officer Maltby.

6 A Uh-huh.

7 Q Okay. Now would you mind taking a look at that?

8 A (Reviews document.)

9 Q And that for the record is State's Exhibit Number 19.

10 A Right. This is the receipt from the Coinstar which
11 gives the address to the store, the amount, what date and
12 -- and time.

13 Q Okay. And do you see the validation mark on there?

14 A Yes.

15 Q And that's what it looked like when you saw it?

16 A Yes.

17 Q Does the receipt appear to be altered in any way?

18 A No.

19 MR. GRESHAM: Your Honor, at this time the State
20 moves to enter State's Exhibit Number 18 and 19 into
21 evidence and requests permission to publish to the jury.

22 THE COURT: Objection from Belcher?

23 MR. GIBSON: No objection, Your Honor.

24 THE COURT: Martinez?

25 MS. DIAZ: No objection, Your Honor.

1 THE COURT: All right.

2 (WHEREUPON, State's Exhibit Numbers 18 and 19 were
3 admitted into evidence.)

4 BY MR. GRESHAM:

5 Q I'll take all that back from you, Ms. Haun.

6 Now, this is the actual receipt you were talking
7 about?

8 A Yes.

9 Q And is that the validation mark that you were talking
10 about that the person at the front desk ---

11 A Correct. The time, the register was 20 because that
12 was done on the front end.

13 Q And what does that time say on that receipt?

14 A 8:27 p.m.

15 Q Okay. Is there a date on this one, at least on the
16 back for the validation purpose?

17 A No. There's not a date. But it ---

18 Q Take your time.

19 A Before the oh-eight twenty-seven, you'll see 17 on
20 there. That's the year. But it did not pick up the whole
21 thing.

22 Q Yes, ma'am.

23 All right. This is State's Exhibit Number, I
24 believe, 18 -- 19. Excuse me. I'm going to hold it so it
25 doesn't have that wrinkle. Now, is that the front of that

1 receipt?

2 A Yes. That's the front of the receipt that prints off
3 the Coinstar machine.

4 Q Okay. And do you see a date on there? I'm going to
5 move this up just a tad.

6 A On the bottom.

7 Q What does it say?

8 A 12/31/17.

9 Q And what time?

10 A 8:21 p.m.

11 Q Okay. And then can you tell on this receipt how much
12 was actually cashed in that Coinstar?

13 A 71.72 -- well, the actual was 81.41, but there's a
14 fee that they take out, which was 9.69. So the customer
15 received 71.72.

16 Q Okay. And the fee that you just mentioned, that's
17 Coinstar takes?

18 A Yes.

19 MR. GRESHAM: Ms. Haun, I don't believe I have any
20 more questions for you. Please answer anything defense
21 has for you.

22 THE COURT: Cross-examination from Belcher?

23 MR. GIBSON: Nothing, Your Honor.

24 THE COURT: Martinez?

25 MS. DIAZ: Nothing, Your Honor.

1 THE COURT: All right. Thank you, Ms. Haun. You may
2 step down.

3 MR. GRESHAM: Your Honor, at this time the State
4 calls this next witness, and it's Barbara Riser.

5 Ms. Riser, if you'll go forward and be sworn.

6 THE CLERK: If you'll please place your left hand on
7 the Bible and raise your right hand.

8 WHEREUPON,

9 BARBARA RISER

10 After having been duly sworn, testified as follows:

11 THE CLERK: Thank you. Please take a seat and state
12 your name for the record.

13 THE WITNESS: Barbara Riser.

14 DIRECT EXAMINATION

15 BY MR. GRESHAM:

16 Q Good afternoon, Ms. Riser.

17 Ms. Riser, where are you employed?

18 A At Crestwood Forest Apartments.

19 Q And who owns Crestwood Forest?

20 A Westminster Company.

21 Q Are they a local company?

22 A They are not.

23 Q Do you know where they're located out of?

24 A They're located in Greensboro, North Carolina.

25 Q All right. And what is your position, I should say,

1 with Crestwood Forest but Westminster Company?

2 A Site property manager.

3 Q All right. And how long have you been site property
4 manager?

5 A At Crestwood Forest, since 2015. 2015. I'm sorry.
6 So 7 1/2 years.

7 Q And how long have you been in property management?

8 A 37 years.

9 Q Wow. Now, where is Crestwood Forest located? Is it
10 within Greenville County?

11 A It is.

12 Q Now let's talk about Crestwood Forest's surveillance
13 system, if you wouldn't mind. Are you familiar with the
14 surveillance system at Crestwood?

15 A Yes, I am.

16 Q All right. And does Crestwood's surveillance system
17 include mounted cameras?

18 A It does.

19 Q Do you know how many?

20 A There are 16 cameras.

21 Q All right. And where are those cameras positioned or
22 focused?

23 A They're positioned throughout the property on
24 different buildings to encompass every building on the
25 property.

1 Q So would you say like breezeways? entryways?

2 A Not the breezeways. More like the parking lots and
3 the building. You can see not completely into the
4 breezeway, but you see that there's a breezeway in a
5 building.

6 Q Okay. And were those cameras installed and
7 functioning on New Year's Eve 2017?

8 A Yes.

9 Q How do you know?

10 A Because there is surveillance 24/7, and they are
11 serviced. And when they're not functioning, the company
12 comes out to repair.

13 Q Okay. And where is the actual footage of those
14 cameras? Where are they stored? Where is the footage
15 stored?

16 A That's stored on a DVR in the administrative office.

17 Q And is that area within the offices secure?

18 A It is, yes.

19 Q And how long is the -- how long is the surveillance
20 footage saved on the DVR?

21 A 45 days.

22 Q All right. I know you just mentioned a minute ago
23 that these cameras were serviced. How many times have
24 they been serviced in your time at Crestwood?

25 A It's normally three to five times a year, or it can

1 be as needed. If -- if they need to be cleaned, the lens
2 need to be cleaned if the picture become blurry and things
3 of that nature.

4 Q Okay. All right. Let's go back to New Year's Eve of
5 2017. Do you recall in February of 2018 law enforcement
6 contacting you about obtaining surveillance from New
7 Year's Eve at Crestwood Forest?

8 A I do.

9 Q All right. And did they come by the office to pick
10 up that footage?

11 A Yes. They came by the office and retrieved the
12 footage.

13 Q Did you learn what type of investigation it was for?

14 A Not at that time. Just that it was a criminal
15 investigation and they felt that Crestwood would somehow
16 be able to assist them.

17 Q Of the footage that they requested, was there a
18 particular time frame that they requested of the New
19 Year's Eve?

20 A They did. I do not recall the exact time, but they
21 did say it was between a certain time. And they were able
22 to survey the cameras themselves for the footage.

23 Q Would you at least say that time was in the evening?

24 A I believe it was.

25 Q Okay. And did you give that surveillance footage to

1 law enforcement?

2 A Well, actually, yes. They were -- they were able to
3 collect the footage themselves.

4 Q Ms. Riser, I'm showing you what is State's Exhibit
5 Number 30. Would you please tell us what that is and how
6 do you know it is.

7 A It's a CD of the footage that was requested by police
8 on October 19, 2022.

9 Q Okay. And how do you know it's that?

10 A Because my initials are on it, and you allowed me to
11 look at it before I put my initials on it. So yes.

12 Q Now, in that video, the area within Crestwood, is
13 there a particular building that it focuses on?

14 A That was for Building 10.

15 MR. GRESHAM: Okay. Your Honor, at this time the
16 State moves to enter State's Number 30 into evidence and
17 request to publish to the jury.

18 THE COURT: Any objection?

19 MR. GIBSON: No objection, Your Honor.

20 THE COURT: Any objection from Martinez?

21 MS. DIAZ: No objection, Your Honor.

22 THE COURT: All right. In without objection.

23 (WHEREUPON, State's Exhibit Number 30 was admitted into
24 evidence.)

25 MR. GRESHAM: Thank you, Your Honor.

1 BY MR. GRESHAM:

2 Q I'm going to play this for you, Ms. Riser.

3 All right. Before this gets going, Ms. Riser, would
4 you please narrate kind of what we see on the screen for
5 us. What building is that in the rear?

6 A May I look this way?

7 Q Yes, ma'am. You can get up if you like and point.

8 A Okay. That would be Building ---

9 Q This one right here (indicating). You can tell us
10 that one.

11 A That looks to be Building 10.

12 Q This is Building 10 or this one (indicating)?

13 A Okay. That's 12. I'm sorry. That's Building 12,
14 that's Building 10. And then the one that's right in the
15 corner is 9 (indicating throughout).

16 Q And that's the one where the video camera is actually
17 on?

18 A Yes. On 9, and it goes that way.

19 Q This (indicating) is 10.

20 A That's 10.

21 Q And 12.

22 A That's 12.

23 Q All right.

24 (WHEREUPON, State's Exhibit Number 30, a video, is played
25 in open court.)

1 BY MR. GRESHAM:

2 Q Now, Ms. Barbara I might get you to kind of narrate
3 what you see going on with that particular vehicle up
4 there, if you wouldn't mind.

5 A It just looks like a vehicle sitting there because of
6 the lights.

7 Q It will be -- once it gets going, if you wouldn't
8 mind just to show where cars are traveling.

9 (WHEREUPON, State's Exhibit Number 30, a video, continued
10 to play in open court.)

11 MR. GRESHAM: Your Honor, I'm going to move it a
12 little bit forward so we don't have to wait.

13 (WHEREUPON, State's Exhibit Number 30, a video, continued
14 to play in open court.)

15 THE WITNESS: There seems to be some movement there
16 like someone's walking out of the breezeway.

17 BY MR. GRESHAM:

18 Q Okay. And did you say -- when you say "movement,"
19 was it a person?

20 A Yes.

21 Q And where are they walking?

22 A Walking towards the car.

23 Q Okay. And that's the car with the headlights on?

24 A Yes.

25 Q All right.

1 (WHEREUPON, State's Exhibit Number 30, a video, continued
2 to play in open court.)

3 THE WITNESS: And now the car is pulling out from
4 Building 10 through the parking lot.

5 BY MR. GRESHAM:

6 Q Okay. Now, which way is that car headed? I'm not --
7 frankly, I'm not familiar with the Crestwood Forest setup.
8 If you'd tell us what road that's going towards.

9 A It's going towards the main road, and once it gets to
10 the main road, it's either going to the left or to the
11 right, to the left meaning it would be leaving probably
12 out of the property, to the right is a dead-end.

13 Q Okay. I'm advancing it a little bit.

14 (WHEREUPON, State's Exhibit Number 30, a video, continued
15 to play in open court.)

16 BY MR. GRESHAM:

17 Q You don't see that car back at that point?

18 A I do not.

19 (WHEREUPON, State's Exhibit Number 30, a video, continued
20 to play in open court.)

21 THE WITNESS: It's entering. The car is entering the
22 parking lot again.

23 BY MR. GRESHAM:

24 Q Okay. Now, does that appear to be the same car? Can
25 you tell?

1 A I really couldn't tell.

2 Q All right. And that's ---

3 A It's kind of parking in the same area.

4 Q This is 36 minutes into the video; is that correct?

5 A Yes. 36 minutes.

6 Q And, again, that's Building 10?

7 A Yes.

8 (WHEREUPON, State's Exhibit Number 30, a video, continued
9 to play in open court.)

10 THE WITNESS: It looks as if the door is opening. I
11 would say the driver's side.

12 (WHEREUPON, State's Exhibit Number 30, a video, continued
13 to play in open court.)

14 THE WITNESS: Okay. So that vehicle seems to have
15 just turned around and stopped.

16 BY MR. GRESHAM:

17 Q Yes, ma'am.

18 Now, is that a -- does that appear to be a trunk
19 coming open right there?

20 A There's some movement there, yeah, what seems to be a
21 person standing inside it -- of that first car that drove
22 in. And the door is open again because the lights are
23 coming on.

24 (WHEREUPON, State's Exhibit Number 30, a video, continued
25 to play in open court.)

1 THE WITNESS: Yeah. And then that was closed.

2 (WHEREUPON, State's Exhibit Number 30, a video, continued
3 to play in open court.)

4 MR. GRESHAM:

5 Q Is that movement there?

6 A Yeah. It looked like it's opening again and someone
7 is standing behind the car.

8 (WHEREUPON, State's Exhibit Number 30, a video, continued
9 to play in open court.)

10 THE WITNESS: And now the car is backing out.

11 (WHEREUPON, State's Exhibit Number 30, a video, continued
12 to play in open court.)

13 BY MR. GRESHAM:

14 Q I'm going to fast-forward it a little bit more.

15 (WHEREUPON, State's Exhibit Number 30, a video, continued
16 to play in open court.)

17 BY MR. GRESHAM:

18 Q Is it back at Apartment 10?

19 A Yes. It's back at Building 10.

20 Q And how many minutes into the video is that?

21 A 53.

22 Q All right.

23 (WHEREUPON, State's Exhibit Number 30, a video, continued
24 to play in open court.)

25 THE WITNESS: There's a lot of movement there.

1 BY MR. GRESHAM:

2 Q I'm going to back it up just a tad.

3 (WHEREUPON, State's Exhibit Number 30, a video, continued
4 to play in open court.)

5 BY MR. GRESHAM:

6 Q Is that someone exiting the vehicle?

7 A Yes.

8 (WHEREUPON, State's Exhibit Number 30, a video, continued
9 to play in open court.)

10 THE WITNESS: And there's some movement there. It
11 seems to be a couple people coming out of the breezeway
12 and someone going into the breezeway.

13 BY MR. GRESHAM:

14 Q Does that appear to be the same car that pulled in
15 previously?

16 A It appears to be, yes.

17 Q And that's headed back out towards the entranceway
18 again?

19 A Yes. Back out the parking lot.

20 Q And this time, this is 1:15 into the video?

21 A Yes.

22 Q All right.

23 THE COURT: How much of this one are you going to
24 show?

25 MR. GRESHAM: Just the car, Your Honor.

1 THE COURT: Okay.

2 (WHEREUPON, State's Exhibit Number 30, a video, continued
3 to play in open court.)

4 THE COURT: Just letting y'all know we're stopping at
5 3:00.

6 (WHEREUPON, State's Exhibit Number 30, a video, continued
7 to play in open court.)

8 BY MR. GRESHAM:

9 Q Is this the front of the entrance, Ms. Riser?

10 A That is the main road in and out of Crestwood.

11 Q And now, you just talked a little bit about there
12 being a dead end to this street up here (indicating). And
13 when you pull out here (indicating), which side is the
14 dead end and which one's the street?

15 A When you pull out this way, you're going to Crestwood
16 Drive, so -- which would put you on State Park Road. The
17 other way is the dead end.

18 Q Okay. Crestwood Drive, where does that lead to?
19 What's the main road?

20 A State Park Road.

21 Q That's State Park Road. What's another nearby
22 adjacent road? That's the main road?

23 A That's the main road, but North Pleasantburg leads
24 from State Park Road.

25 MR. GRESHAM: Your Honor, I don't have any further

1 WHEREUPON,

2 SHERRY McBEE

3 After having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please take a seat and state
5 your name for the record.

6 THE WITNESS: My name is Sherry McBee.

7 DIRECT EXAMINATION

8 BY MS. GARY:

9 Q Ms. McBee if you would, just make sure you use that
10 microphone for me, okay?

11 A Okay.

12 Q Can you say your name one more time?

13 A Sherry McBee.

14 Q Okay. Ms. McBee, how old are you?

15 A 36.

16 Q Where are you from originally?

17 A Greer, South Carolina.

18 Q Okay. Do you currently live in Greenville?

19 A Yes.

20 Q And where do you work, ma'am?

21 A Spectrum.

22 Q Is that Charter Spectrum?

23 A Yes.

24 Q Okay. Do you currently live at Crestwood Forest?

25 A Yes, ma'am.

1 Q Okay. Specifically, what apartment do you live in?

2 A 10-█.

3 Q And what building is that in?

4 A 10 Building.

5 Q Building 10 at Crestwood?

6 A Yes.

7 Q How long have you lived there, ma'am?

8 A Seven years.

9 Q Okay. Are you familiar with a Keyla Mansell?

10 A Yes.

11 Q How do you know her?

12 A She lives above me.

13 Q She lives above you?

14 A Well, she did, yeah.

15 Q Okay. And is that in Building 10?

16 A Yes.

17 Q Did she live above you in Building 10 in 2017?

18 A Yes.

19 Q Okay. Ms. McBee, do you know Robert Belcher?

20 A Yes.

21 Q How do you know him?

22 A He's supposed to be my boyfriend.

23 Q What do you mean by that?

24 A We initially started like being a couple and then
25 just broke up.

1 Q Okay. Do you know when y'all started being a couple?
2 Let me ask you this. Were you a couple in December of
3 2017?

4 A Right.

5 Q Okay. Ms. McBee, do you see Robert Belcher in the
6 courtroom today?

7 A Yes.

8 Q Could you point to him and describe to us what he's
9 wearing?

10 A Black suit, blue shirt.

11 Q Can you point him out for us?

12 A Right here (indicating).

13 MS. GARY: For the record, Judge, she is pointing to
14 defendant Robert Belcher seated at counsel table.

15 THE COURT: All right. So noted.

16 BY MS. GARY:

17 Q Ms. McBee, in December of 2017, did Robert Belcher
18 live with you?

19 A Yes.

20 Q And that was at your home in Crestwood Forest?

21 A Yes.

22 Q Okay. Did you ever know him to stay upstairs with
23 Keyla Mansell?

24 A Yeah. A couple times.

25 Q Okay. Who did he hang out with?

1 A Ratchet.

2 Q Do you know Ratchet's real name?

3 A Raymond -- Raymond or something like that.

4 Q Okay. Do you remember anyone else he hung out with?

5 A What's the little boy name? I don't know nicknames.

6 B-Man or something like that.

7 Q Okay. Necessarily, if he lived with her, did he hang
8 out with Keyla Mansell?

9 A Yeah. They were together.

10 Q Do you know her to have a nickname?

11 A Kiki.

12 Q Okay. Did you ever see Mr. Belcher with a Kirk
13 Porter or KP?

14 A Yeah.

15 Q Okay. Ms. McBee, do you remember New Year's Eve
16 2017?

17 A Yes.

18 Q Do you know where you were?

19 A At home.

20 Q Okay. Who was at home with you?

21 A Just me and my kids.

22 Q Was Mr. Belcher there during the day?

23 A Not during the day.

24 Q Or during the evening?

25 A Not during the evening.

1 Q Okay. Do you remember about what time he came back
2 to your house?

3 A I remember the ball drop. I remember seeing that.
4 And just thinking about me being alone I think like 12:30,
5 12:25, something like that he knocked on the door. I'm
6 not really sure.

7 Q Okay. So he came home after the ball drop?

8 A Yeah.

9 Q So after midnight?

10 A Yes.

11 Q Okay. What do you remember about when he came home?

12 A Just strange, acting strange.

13 Q Mr. Belcher was acting strangely?

14 A Yeah.

15 Q Okay. Can you be a little more specific; do you
16 remember?

17 A I remember he got a phone call and he was like don't
18 talk on the phone. I remember how he was just real
19 emotional, like really, really emotional. I can't explain
20 it. Like he was really emotional, like it was just a
21 strange energy was coming off of him.

22 Q Is that out of the norm for him?

23 A No. Not -- yeah. I mean, that was out of the norm,
24 yes.

25 Q Okay. You said he got a phone call?

1 A Yes.

2 Q Do you know who called him?

3 A No.

4 Q Okay. What did you hear Mr. Belcher say?

5 A Just don't call my phone ---

6 Q Don't call my phone?

7 A -- like something like that. Like don't call my
8 phone. Stop calling me or something.

9 Q Okay. Did you hear him ask about a fatality?

10 A No.

11 Q Okay.

12 A I'm not really sure. I mean, that's a while ago.
13 I'm not -- I can't remember that conversation like that.

14 Q Okay. Ms. McBee, did you find out that someone had
15 been murdered that evening?

16 A Not -- not -- like once I got on Facebook the next
17 morning.

18 Q Sure. Okay. Tell us about that.

19 A Well, okay. I'm really spiritual and everything like
20 that, so I tell you like he was acting strange. And then
21 when I asked him -- when I got up the next morning, I
22 asked him did he know the guy. I turned my phone around.
23 And when I turned my phone around, it was like he was
24 stuck, like he couldn't -- no. He wasn't breathing. He
25 wasn't blinking. He was just stuck.

1 Q This is Mr. Belcher you're describing?

2 A Yeah.

3 Q Okay. And you showed him a picture of what on your
4 phone?

5 A Of Twin.

6 Q And who was Twin?

7 A We called him Twin. What we're here for.

8 Q Correct.

9 A Yes.

10 Q But what was on your phone?

11 A It was a picture of him people were sharing across
12 social media like something had happened to him. He had
13 passed away.

14 Q And Mr. Belcher had that reaction you described when
15 you showed him that ---

16 A Yeah. Like he was completely like -- like no life
17 into him or anything.

18 Q Okay. Did you know the victim in this case?

19 A I had seen him around, like friends of my family,
20 like my dad. Like I know them.

21 Q Okay. Do you know his name?

22 A I always called him Twin.

23 Q Okay. At some point, Ms. McBee, a few days after New
24 Year's Eve, did you kick Mr. Belcher out of your home?

25 A Yes, yes. But I'm not really sure what day.

1 Q Okay.

2 A It was in January or something.

3 Q It was in January?

4 A Yeah.

5 Q Okay. Do you remember having another conversation
6 with Mr. Belcher about Twin?

7 A Yeah.

8 Q Tell us about that.

9 A I remember, like I was saying, me and him had like a
10 spiritual connection with each other. It was like that
11 type of connection. I remember telling him basically like
12 -- like I know you something -- I know you did something
13 strange, like because when he would grab me when that
14 night happened, it felt like he was grieving, like someone
15 had passed away. And I seen like his -- like his
16 apparition in my house, like I real-life seen it. And it
17 was just a weird energy that was there.

18 And I remember him, he grabbed me, and he was just
19 crying one day on the edge of my bed. And he was like I
20 did something bad. And he just kept rocking back and
21 forth. I did something bad. I did something bad. I
22 didn't ask him a question because I was trying to get as
23 far away as I can, the energy was that deep, like intense.
24 And then that's when I put him out.

25 Q Okay.

1 A Well, all of them out.

2 Q Who do you mean by all of them?

3 A Like it was like Ratchet, which is whoever he is, and
4 the B-ro [phonetic], his other friend.

5 Q Okay. They were no longer welcome in your home at
6 that point?

7 A No.

8 Q Okay. In that conversation where you said
9 Mr. Belcher was crying and rocking, do you remember him
10 asking about if he hurt someone you love? Do you remember
11 that?

12 A Yeah.

13 Q Tell us about that. What did he say?

14 A He asked me if he -- if he killed someone I know,
15 would I tell on him or something like that -- or something
16 like that. And I was like what are you talking about? I
17 panicked. Like I really panicked. Like, what are you
18 talking about? Who are you talking about? Things like
19 that. But he just -- all he -- that's all he said to me.

20 Q Okay. So y'all were dating; is that right?

21 A Yes.

22 Q Did you have his phone number?

23 A Yes.

24 Q Do you remember what his phone number was in December
25 of 2017?

1 A I remember it was like a ■■■, ■■■, something like
2 that.

3 Q Okay. Would ■■■-4313 sound right?

4 A Yes, yes.

5 Q Okay. Do you remember police coming to your home in
6 maybe February of 2018?

7 A Yes.

8 Q Okay. Did you have a conversation with them?

9 A Yes.

10 Q Did you tell him what you told us today ---

11 A Most definitely.

12 Q --- about what happened that New Year's Eve?

13 A Yes.

14 Q Okay. Did you call Robert while police were at your
15 house?

16 A Yes.

17 Q Did you call him on that ■■■ number?

18 A Yes.

19 Q Did he answer?

20 A Yes, ma'am.

21 Q Do you remember asking him about Ratchet, Kiki and
22 some other folks?

23 A Yeah.

24 Q Okay. Did he acknowledge to you that he knew
25 Ratchet?

1 A On the phone he denies -- I'm not really -- I
2 remember him just telling I don't know them people. What
3 are you talking about? Something like that repeatedly.

4 Q Did you ask him questions about Kiki?

5 A Yes.

6 Q Okay. Before I show you this, let's talk one more
7 question about New Year's Eve in 2017. You said you were
8 at home at Crestwood Forest?

9 A Uh-huh.

10 Q And that's Building 10?

11 A Yes.

12 Q Did you go outside your apartment at all?

13 A No.

14 Q Okay. Do you remember seeing a silver Mercedes
15 anywhere?

16 A I mean, I seen it in my apartment around with him all
17 the time.

18 Q Okay. Ms. McBee, I'm going to show you State's
19 Exhibit 28. And without telling the jury what it is, and
20 you're welcome to open it, just tell me if you recognize
21 that.

22 A Yes.

23 Q What is that?

24 A A recording of a phone call that we had.

25 Q Okay. That's the phone call between you and

1 Mr. Belcher.

2 A Yes.

3 Q Would that be the phone call that happened at your
4 home while police were there?

5 A Yes.

6 Q Okay. Have you listened to this?

7 A Yes.

8 Q Was it a fair and accurate recording?

9 A Yes.

10 Q Okay. Did you hear your own voice?

11 A Yes.

12 Q Did you hear the voice you know to be Robert
13 Belcher?

14 A Yes.

15 Q And, again, that's the man that you dated.

16 A Right.

17 Q Who's lived in your home.

18 A Yes.

19 Q And, again, you did recognize his voice on that video
20 -- excuse me -- recording?

21 A Yes.

22 MS. GARY: Okay. Your Honor, at this time we would
23 seek to introduce State's Exhibit 28.

24 THE COURT: All right. Any objection?

25 MR. GIBSON: No objection, Your Honor.

1 THE COURT: Any objection from Martinez?

2 MR. GRUBBS: No objection.

3 THE COURT: All right.

4 (WHEREUPON, State's Exhibit Number 28 was admitted into
5 evidence.)

6 BY MS. GARY:

7 Q And, Ms. McBee, I'm also going to show you State's
8 Exhibit 20. And do the same thing there and just look at
9 that and see if you recognize that.

10 A Yes.

11 Q And what is that?

12 A This is the conversation with the detective.

13 Q Okay. Is that a disc?

14 A Yes.

15 Q Okay. And what is on that disc?

16 A A conversation with me and Rob with the detective.

17 Q Is this the conversation between Investigator Maltby
18 and Mr. Belcher?

19 A Yes.

20 Q Have you listened to this?

21 A Yes.

22 Q Were you able to recognize the voices on that
23 recording?

24 A Yes.

25 Q Did you hear Investigator Maltby?

1 A Yes.

2 Q Who else did you hear?

3 A Rob, Robert.

4 Q Robert.

5 A Uh-huh.

6 Q I'm sorry. If you can just use that microphone so
7 everybody can hear you.

8 A Robert.

9 Q Okay. And, again, that would be Robert Belcher.

10 A Yes.

11 Q The man you've dated in the past.

12 A Yes, ma'am.

13 Q Who's lived in your home.

14 Did you call him Rob?

15 A Yeah.

16 Q That's his nickname?

17 A Yes.

18 MS. GARY: Okay. Thank you, ma'am.

19 THE COURT: This is exhibit what?

20 MS. GARY: This is State's 20, Judge. At this time
21 we seek to move it into evidence.

22 THE COURT: Any objection?

23 MR. GIBSON: No objection, Your Honor.

24 THE COURT: Any objection from Martinez?

25 MR. GRUBBS: No objection.

1 (WHEREUPON, State's Exhibit Number 20 was admitted into
2 evidence.)

3 THE COURT: All right. The way the morning's going,
4 it probably won't work. Just letting you know. Hopefully
5 it will.

6 MS. GARY: All right. Your Honor, at this time I'm
7 going to publish State's Exhibit 28.

8 (WHEREUPON, State's Exhibit 28, an audio recording, was
9 played in open court.)

10 MS. GARY: And, Your Honor, now we'll publish State's
11 Exhibit 20.

12 (WHEREUPON, State's Exhibit 20, an audio recording, was
13 played in open court.)

14 MS. GARY: Ms. McBee, those are all of my questions.
15 If you would, answer any questions the defense attorneys
16 have, okay?

17 THE WITNESS: All right.

18 THE COURT: Cross-examination.

19 MR. GIBSON: Thank you, Your Honor.

20 CROSS EXAMINATION

21 BY MR. GIBSON:

22 Q Ms. McBee, do you think your memory is better about
23 these events today or better -- or was it better five
24 years ago when these things happened?

25 A That's a set-up question. Of course it'll be better

1 back then. But I remember it vividly because I remember
2 the energy that came behind it.

3 Q So a lot of this stuff that you're saying is because
4 of the energy and stuff that you felt under the
5 circumstance?

6 A I mean, yeah.

7 Q And that apparitions that you saw ---

8 A And behavior and stuff like that.

9 THE COURT: All right. One of y'all can only talk at
10 a time ---

11 THE WITNESS: I'm sorry.

12 THE COURT: --- for the court reporter. So make
13 sure ---

14 THE WITNESS: Go ahead.

15 BY MR. GIBSON:

16 Q So a lot of what you're saying you're certain because
17 you saw -- because you remember the energy and you
18 remember the apparitions that you saw and those types of
19 things.

20 A Behavior of him.

21 Q All right. Now, you remember -- what did you do to
22 prep for your testimony?

23 A What do you mean? Listen to my recordings ---

24 Q You listened to your recordings?

25 A --- that I -- yeah.

1 Q You listened to the recording of the interview that
2 you had with Mr. Maltby?

3 A With the detectives, yes.

4 Q The entire thing?

5 A Yeah. Some of it, yes.

6 Q So did you listen to all 45 minutes of it?

7 A Not the whole 45.

8 Q Okay. Are you aware that a number of things that you
9 say today you did not say in that 45-minute interview?

10 A Like?

11 Q Like, for instance, you say that -- let's start with
12 sort of the simple stuff first. You say today that he
13 came in at 12:45.

14 A Something like that. I'm not -- I'm not clocking the
15 time. I remember it being later after the ball dropped or
16 something like that.

17 Q So it was after the ball dropped.

18 A Yes.

19 Q But during the interview, the 45-minute interview ---

20 MS. GARY: Your Honor, objection. He's not
21 improperly impeaching this witness. She needs to be told
22 what she said ---

23 THE WITNESS: Yeah. What did I say?

24 THE COURT: Hold on just a minute. All right.

25 MS. GARY: --- and given the opportunity to provide

1 that before he testifies for her.

2 MR. GIBSON: I'm getting ready to tell her exactly
3 what she said.

4 THE COURT: All right. Well, go ahead.

5 MS. GARY: And, Judge, he needs to ask her what she
6 said. He cannot tell her what she said.

7 THE COURT: Right, right.

8 MR. GIBSON: She's already been asked and she's
9 already testified as to what she said.

10 THE COURT: Well, but you need to present her with
11 what she said.

12 MR. GIBSON: I'm sorry. Say again, Your Honor?

13 THE COURT: You need to present her with what she
14 said.

15 BY MR. GIBSON:

16 Q Okay. Isn't it, in fact, true, though, that you told
17 Investigator Maltby when he came and talked to you that he
18 had come home at 10 p.m.?

19 A I don't know. Someone was outside. I remember
20 saying 10 p.m. thinking I heard his voice outside, but I
21 never went outside.

22 Q You never went outside?

23 A Yeah. I never went outside. I heard someone outside
24 that sound like Rob around like 10:00. There's a lot of
25 people, a lot of -- a lot of things was going on in that

1 apartment. Like I remember saying about 10:00, I remember
2 Rob came or something like that, was outside. Not vivid
3 like remember that five years ago.

4 Q Well, what exactly do you recall telling him about
5 when Robert came home?

6 A I know for -- I remember hearing someone outside at
7 like 10:00 something.

8 Q Uh-huh.

9 A I'm not really sure if it was him or not.

10 Q Uh-huh.

11 A And then at midnight after the ball dropped, later on
12 that night, maybe like 12:25, 12:30, something like that,
13 I seen him come to the door. He knocked on the door.

14 Q Okay.

15 A I'm sure it was like 12:30 or something like that. I
16 don't know.

17 Q So when I tell you that, when you had that interview
18 with Mr. Maltby, that you actually said that he came home
19 at 10 p.m., which is wrong, your recollection then or your
20 recollection now?

21 A I heard -- my recollection then, because that's when
22 I remember hearing his voice outside.

23 Q So you told investigator Maltby that he actually came
24 in the door at 10 p.m.?

25 A Uh-huh. I'm not sure.

1 Q You're not sure?

2 A I'm not sure. That was like five years ago. I
3 remember hearing his voice. That's all I can remember.

4 Q Do you remember who he was with when he came home?

5 A I'm not sure who he was with. He just came through
6 the door.

7 Q Isn't it, in fact, true that you told Investigator
8 Maltby that he was with B-Man when he came home?

9 A Yeah. He's always with B-Man. B-Man lives with him.

10 Q So B-Man came in the door with him.

11 A I remember Rob. That's all I can remember is seeing
12 Rob's white shirt.

13 Q And then B-Man came in with him?

14 A I can't remember seeing B-Man around him.

15 Q Okay. And do you remember whether or not you saw
16 Mr. Martinez that night?

17 A On New Year's? The only one that came to my
18 apartment was Rob. That's it.

19 Q Okay. And you don't remember telling Investigator
20 Maltby that he was with B-Man at the time?

21 A They were with him all day. Even I left -- they left
22 that morning, he left with his friends.

23 Q And that's B-Man?

24 A Yeah.

25 Q And B-Man is not Raymond Martinez.

1 A No.

2 Q And B-Man is not Kirk Porter?

3 A They were all -- they were all together.

4 Q B-Man is not Kirk Porter.

5 A No. They're not -- that's not the same person.

6 Q And B -- and B-Man is not ---

7 THE COURT: Wait until she answers the question.

8 THE WITNESS: Yeah. That's not the same person.

9 BY MR. GIBSON:

10 Q And B-Man is not Keyla Mansell.

11 A No.

12 Q So -- and according to you, he was with B-Man
13 throughout the entire day, and he returned with B-Man that
14 night.

15 A I don't know if he was with B-Man throughout the
16 entire day. He left with his friends. So what they went
17 to go do, I have no idea. If they separated, I do not
18 know. He left with his friends.

19 Q Do you remember telling Investigator Maltby that you
20 did not see Mr. Martinez with Mr. Belcher when Mr. Belcher
21 came home?

22 A Yeah. The only person that walked through my door
23 was Rob.

24 Q Okay. And do you remember telling Investigator
25 Maltby that when he came home, though, you saw him and he

1 was with B-Man?

2 A That -- of New Year's?

3 Q Yes. New Year's Eve.

4 A That they -- after the ball dropped, the only person
5 that came to my door was Rob. He left that morning with
6 B-Man. I'm just trying -- you're trying to trip me up
7 with these questions.

8 Q No, ma'am. I'm just trying to ask you what you said.

9 A Okay. Morning he left with B-Man and his friends.
10 When he came through my door after 12:00, he was by
11 himself. That's the only person that came in my house was
12 Rob.

13 Q And today your testimony is that he did not come in
14 until 12:25, after the ball dropped.

15 A Uh-huh. I remember he -- he came to the door after
16 12:00. I remember him -- it sounded like him outside
17 around 10:00. I never went to go look because I was
18 cleaning up my house. But it sounded like Rob, if I'm not
19 mistaken. So activity was in the 10 Building. So who
20 knew who was outside. But someone sounded like Rob or
21 something like that.

22 Q But five years ago you told Mr. Maltby that he
23 actually came inside the house at 10 p.m.?

24 A My little brother stayed there as well and all that,
25 so I don't know who all ran in the house. I was in the

1 back. I might have assumed it was Rob. I don't know.

2 Understand what I'm saying?

3 Q Okay.

4 A I was in the back of my house. And my little brother
5 would be there with me sometimes as well, so I'm not
6 really sure if it was Rob or my little brother. I just
7 told you I heard people outside.

8 Q Well, I thought you just said -- didn't you also just
9 testify the only people who were in your house were you
10 and your kids?

11 A Yes. But my little brother still comes to my house.
12 It doesn't matter. Yeah, my children live there.

13 Q Do you remember telling Investigator Maltby that Rob
14 came in the door, and you were shocked to see him because
15 you did not expect to see him?

16 A After New Year's, yes, because I didn't know where he
17 was at and all that. Right.

18 Q So -- and you don't remember telling Investigator
19 Maltby ---

20 A Can I hear it, the whole thing if that's the case?
21 Because you're asking me things like five years ago.
22 You're going like in vivid detail of something that
23 probably like five years ago.

24 Q Well, if you need to hear ---

25 A Yeah.

1 Q --- the entire interview to refresh your
2 recollection.

3 A I mean, because you asked me questions obviously that
4 is -- I didn't get to hear the whole entire thing. So can
5 I hear what you're trying to say that I said?

6 MR. GIBSON: Your Honor, we would need to break and
7 she'd have to listen to the entire recording.

8 THE WITNESS: So like your questions is like -- yeah.

9 THE COURT: All right. It's my understanding that
10 the portion that was played was one that was consented to
11 to meet the rules of evidence and some was redacted. So I
12 think that we will have to take a break and have this
13 outside your presence.

14 So ladies and gentlemen, at this time, go back to
15 your jury room and don't discuss the case. We'll bring
16 you back out in just a few minutes. Hold on. Yeah. Go
17 ahead.

18 (WHEREUPON, the jury exits the courtroom at 10:49 AM.)

19 THE COURT: Counsel, y'all approach.

20 (WHEREUPON, a bench conference was held off the record.)

21 THE COURT: Okay, Ms. McBee. All right. You've
22 already started your testimony, so you can't talk to
23 anyone about that, about your testimony. What we're going
24 to make arrangements for is for you to review the entire
25 testimony. We're going to put you in a conference room.

1 that was previously on the stand.

2 So at this time, you can call your next witness.

3 MS. GARY: Thank you, Your Honor. May it please the
4 Court. The State calls Investigator David Picone.

5 Investigator, if you would, please come forward and
6 be sworn.

7 THE CLERK: Place your left hand on the Bible and
8 raise your right hand.

9 WHEREUPON,

10 DAVID PICONE

11 After having been duly sworn, testified as follows:

12 THE CLERK: Thank you. Please take a seat and state
13 your name for the record.

14 THE WITNESS: David Picone.

15 DIRECT EXAMINATION

16 BY MS. GARY:

17 Q Good morning, Mr. Picone. How are you?

18 A Good. How are you?

19 Q I'm well.

20 Tell the jury where you work, sir.

21 A Well, back when this investigation was going on, I
22 was assigned to the Homicide Unit. Since then I'm now a
23 Sergeant within the Criminal Investigative Division. And
24 I'm currently over armed robbery and missing persons.

25 Q Do you work for the Greenville County Sheriff's

1 Office?

2 A I do.

3 Q Did you work for the Greenville County Sheriff's
4 Office in early 2018?

5 A Yes.

6 Q And that would encompass your involvement in this
7 case?

8 A Yes.

9 Q Okay. You said you were a member of the Homicide
10 Unit?

11 A I was.

12 Q Tell us about your duties as a member of the Homicide
13 Unit.

14 A I was there for almost five years. My job was to
15 investigate all sorts of deaths, homicides, natural
16 deaths, overdoses, even gunshot victims that don't die.

17 Q And part of that unit, did you assist other
18 investigators in their casework?

19 A All the time.

20 Q Okay. Did you participate in the investigation of
21 this case?

22 A I did.

23 Q Do you recall interviewing or participating in part
24 of an interview with Kirk Porter?

25 A Yes.

1 Q Do you remember when that was?

2 A I believe it was in February of 2008. I don't know
3 the exact date, but I think 2008, February.

4 Q Okay. If I told you February 28, 2018, does that
5 sound right?

6 A Excuse me. Yeah. 2018. I apologize. Yes.

7 Q And do you remember where that interview would have
8 occurred?

9 A Yeah. It would occur -- we have an interview room
10 within the CID office. That's where we conduct most of
11 our interviews.

12 Q And that's your Criminal Investigations Division
13 office?

14 A Yes.

15 Q Where is that located?

16 A It's at 4 McGee Street which is the main law
17 enforcement building coming off 385.

18 Q Okay. Do y'all have the capabilities to record those
19 interviews?

20 A Yes. They're audio and video recorded.

21 Q Did that happen in this case?

22 A Yes.

23 Q Okay. Do you remember who else from your unit or
24 from the sheriff's office was involved in that interview?

25 A Lieutenant -- Lieutenant Maltby who was Investigator

1 Maltby at the time was the lead investigator. Myself, I
2 briefly helped him with the interview. And then there's
3 another investigator that you might see, Investigator Jake
4 Walters at the time.

5 Q Okay. Specifically, what were you asked to do as
6 part of that interview?

7 A I presented six-person photographic lineups to Kirk
8 Porter.

9 Q Okay. Is that something y'all often do in your
10 investigations?

11 A Yes.

12 Q Tell the jury, how do you go about preparing those
13 lineups?

14 A So it's an array of six photographs usually. I like
15 to present them in color because that's what most people
16 see. They are photographs that are generated through a
17 sheriff's office database.

18 So basically, you would plug in the person's name
19 you're looking for, find a photograph, and then you click
20 on it, and then you would ask for similar characteristics
21 or similar photographs. And then an array of photographs
22 will show up, and then you kind of drag those over. And
23 you do the best you can to make everybody similar in the
24 looks, things like that. And then you'll have six people
25 on there, usually three on the top, three on the bottom.

1 They'll be numbered 1, 2, 3, 4, 5, 6. And then when you
2 present the lineup to the person, there's no names
3 associated with it and you go from there.

4 Q So the person who's receiving that lineup sees only
5 faces?

6 A Yes.

7 Q Okay. Investigator Picone, generally speaking, when
8 you present a lineup to an individual, do you say anything
9 to them?

10 A No. I usually -- most of the time I usually have
11 them facing down. Sometimes I forget. I'll just hand
12 them the lineup and say if you recognize somebody in this,
13 can you point him out to me? Tell me the number and how
14 you know them.

15 Q Did you follow that process in this case ---

16 A Yes.

17 Q --- with Mr. Porter?

18 A Yes.

19 Q Do you recall how many separate lineups you presented
20 to him?

21 A I believe it was three separate lineups.

22 Q Okay. Did you indicate to him that he should or
23 should not choose a particular person ---

24 A No.

25 Q --- for either -- any of those lineups?

1 A I did not.

2 Q Did you tell him who to choose?

3 A No.

4 Q Did you tell him whose faces were in those lineups?

5 A I did not.

6 Q Did you in any way suggest that he should do anything
7 or not do anything with those lineups?

8 A I just told him if he identified somebody to let me
9 know.

10 Q Okay. And did Mr. Porter identify people for you?

11 A Yes. All three lineups that were presented he
12 identified the persons we believed to be who we were
13 looking for.

14 Q Okay. And when someone does identify a person in a
15 photo lineup, what do you do next?

16 A There's a -- it's called a photographic -- or excuse
17 me -- affidavit of photographic identification. So in
18 essence, basically, another form of -- well, first of all,
19 they identify them in the photo lineup. We have them
20 circle the picture, date it, and -- yeah. Circle, date
21 and sign it. And then we'll do the photographic lineup
22 affidavit. Basically, it just says on today's date, you
23 were presented six photographs, and you picked out
24 Photograph Number 1 as being the person who -- and then
25 you'll put, you know, as I know was this person or

1 whatever happened. And then they'll sign it and date it,
2 and then I'll sign it as a witness.

3 Q Did you do that with each of the lineups in this
4 case?

5 A Each one, yes.

6 Q With Mr. Porter?

7 A I did.

8 Q Was it your understanding that Mr. Porter knew the
9 folks he identified previously?

10 A I believe so.

11 Q Okay. Did you show him a lineup that contained
12 Robert Belcher?

13 A Yes.

14 Q Did you show him a lineup that contained Raymond
15 Martinez?

16 A Yes.

17 Q Did you show him a lineup that contained Keyla
18 Mansell?

19 A Yes.

20 Q And did he identify people to you that he knew to be
21 those folks?

22 A Yes.

23 Q Okay. Did you also show Mr. Porter a still shot from
24 a surveillance video?

25 A I did.

1 Q Did you suggest to him in any way that he should or
2 should not identify that person?

3 A No. I -- I believe I just said do you recognize
4 who's in this photo.

5 Q Okay. Was he able to identify that person to you?

6 A Yes.

7 Q Okay. And you mentioned that this process is
8 recorded; is that right?

9 A Yes.

10 Q All right. I'm going to show you State's Exhibits 31
11 and 32, 33 and 34, 35 and 36 and just ask you if you
12 recognize those.

13 A (Reviews exhibits) Yes.

14 Q And as to State's 31 and 32, what are those?

15 A 31 is -- excuse me. 31 is the actual six-person
16 photo lineup that ---

17 Q Don't show it to them. Just tell us what it is.
18 That's fine.

19 A --- that's circled and signed and dated.

20 Q That was done in your presence?

21 A Yes.

22 Q Okay. And what is 32?

23 A 32 is the affidavit verifying that you positively --
24 or that you're saying that the photograph you circled is
25 correct.

1 Q And is your signature on State's Exhibit 32?

2 A Yes.

3 Q Okay. Tell us about 33 and 34.

4 A It's the same thing. 33 is the six-person photo
5 lineup that I showed, and Kirk Porter signed that
6 verifying that he identified the photograph.

7 Q Is your signature on State's 34?

8 A Yes. Mine and his.

9 Q Okay. And what about 35 and 36?

10 A Same thing. It's another six-person photograph that
11 I showed him. He circled the picture he believed to be
12 the person, and he signed the affidavit as well as me
13 saying that he identified that.

14 Q Okay. And also State's 47. And just tell us if you
15 know what that is.

16 A It's a still photograph I presented to him, asked him
17 if he knew who that was. And he stated he did, signed and
18 dated it.

19 Q Does that look familiar to you?

20 A Yes.

21 Q And have any of these exhibits been altered at all?

22 A No.

23 Q They appear to be fair and accurate.

24 A Yes.

25 Q All right. Let me take all that back from you.

1 And Investigator Picone, did that conclude your
2 involvement in this portion of this -- or rather in this
3 investigation at all?

4 A Yes.

5 MS. GARY: Okay. I believe those are all of my
6 questions. Answer any questions from the defense, okay?
7 Thank you.

8 THE COURT: On behalf of Defendant Belcher?

9 MR. GIBSON: No questions, Your Honor.

10 THE COURT: On behalf of Defendant Martinez?

11 MR. GRUBBS: Just a few brief questions, Your Honor.

12 CROSS EXAMINATION

13 BY MR. GRUBBS:

14 Q Investigator Picone, you did say that you were
15 present in the interview with Mr. Porter, correct?

16 A I think for portions of it.

17 Q Okay. While you were in that interview, you
18 interjected some commentary; would you agree with that?

19 A Most likely.

20 Q Okay. Do you remember if most of that happened
21 before the photo lineups?

22 A What are you referring to?

23 Q For example, at what point in the interview did you
24 conduct the photo lineups that you just described?

25 A I'm assuming after he -- the interview went on and

1 people were identified.

2 Q Is it fair to say that was probably towards the end?

3 A Yeah.

4 Q Okay. So any commentary you may have made in
5 assisting Investigator Maltby with the interview would
6 have been before the lineups.

7 A Yeah.

8 Q Okay. Do you recall at one point making comments
9 Mr. Porter ---

10 MS. GARY: Objection, Your Honor. That's calling for
11 hearsay, out-of-court statement.

12 MR. GRUBBS: Judge, I'm asking if he made a statement
13 that's going to be a prior statement, and he can either
14 agree with making the statement or not.

15 THE COURT: Statement he made or the other party?

16 MR. GRUBBS: It's a statement that he made.

17 THE COURT: Okay. So that is appropriate.

18 BY MR. GRUBBS:

19 Q Investigator Picone, do you recall making a statement
20 to Mr. Porter, "You want to be the one on the better end
21 of this"?

22 A I don't remember that. Though, I might have said
23 that, but I don't remember.

24 Q Would it refresh your recollection if I were to show
25 you the portion of the interview where you did say that?

1 A Yes. Absolutely.

2 Q I promise I cleaned these headphones before we came
3 up here.

4 (WHEREUPON, a video was shown to the witness.)

5 THE WITNESS: That's correct.

6 BY MR. GRUBBS:

7 Q So you did make that statement?

8 A I did, yep.

9 MR. GRUBBS: Nothing further, Judge.

10 THE COURT: All right. Redirect?

11 MS. GARY: No, sir.

12 THE COURT: You may step down.

13 THE WITNESS: Thank you, sir.

14 MS. GARY: Would you like us to see how they're
15 progressing?

16 (Pause in proceedings.)

17 MS. GARY: Your Honor, he said there are 20 minutes
18 remaining in their review.

19 THE COURT: Counsel, do y'all want to approach for a
20 second?

21 MS. GARY: Yes, sir.

22 (WHEREUPON, a bench conference was held off the record.)

23 THE COURT: All right. I made an executive decision.
24 The lady that's reviewing the -- she still has a little
25 bit more to go. And I don't want to rush her and I don't

1 -- I think it may be odd to actually call another witness
2 right now. So what I'm going to suggest, what I've
3 decided is that we go ahead and break for lunch. That
4 will allow her to finish up. She can come back first
5 thing after lunch, continue her testimony, because the
6 next witness is going to be rather lengthy anyway.

7 So if I give you all till 1:00? I mean, that's a
8 little bit more than an hour. Do you think that will be
9 sufficient for everybody? All right. So we're going to
10 go ahead and do that.

11 Don't discuss the case. Don't do any type of
12 research. Do not pay attention to media, social media or
13 regular media. And if anybody contacts you other than
14 somebody from the clerk's office, please let the bailiffs
15 know. Otherwise, y'all have a good lunch, and I'll see
16 you back when you -- at 1:00. And who knows. Hopefully
17 we'll have you in here at 1:00.

18 (WHEREUPON, the jury exits the courtroom at 11:49 AM.)

19 THE COURT: All right. Anything from the State?

20 MS. GARY: No, sir. We will simply leave Ms. McBee
21 in the bailiff's hands, and we will ---

22 THE COURT: What's she got it on, slow-motion?

23 MS. GARY: By my math we should have been further in,
24 Judge. I'm not really sure.

25 THE COURT: All right. Okay. Anything else on

1 behalf of Mr. Belcher?

2 MR. GIBSON: No, sir, Your Honor.

3 THE COURT: And Mr. Martinez?

4 MR. GRUBBS: No, Your Honor.

5 THE COURT: All right. See y'all back in here at
6 1:00.

7 (WHEREUPON, a recess is taken at 11:50 AM; proceedings
8 reconvened at 1:02 PM.)

9 THE COURT: I'm almost scared to ask, but does the
10 State have anything for me?

11 MS. GARY: I have nothing, Judge.

12 THE COURT: All right.

13 MS. GARY: It appears that the viewing has been
14 successful. We got our computer back.

15 THE COURT: Okay. Anything on behalf of Defendant
16 Belcher?

17 MR. GIBSON: No, Your Honor.

18 THE COURT: And Martinez?

19 MR. GRUBBS: No, Your Honor.

20 THE COURT: All right. Well, the jury is ready to
21 go. It's my understanding you're going to have Ms. McBee.

22 MS. GARY: Would you like her back on the stand,
23 Judge?

24 THE COURT: No. We can call her back. We can call
25 her back when you ---

1 MS. GARY: Okay.

2 THE COURT: That's fine.

3 MS. GARY: Technically, it's still Mr. Gibson's
4 witness, but I will call her back in.

5 THE COURT: I can request that she come back in.

6 MS. GARY: Whatever you'd like to do.

7 THE COURT: All right. Bring the jury in.

8 (WHEREUPON, the jury entered the courtroom at 1:04 PM.)

9 THE COURT: All right. I hope everybody had a good
10 short lunch. And now at this time we're going to call
11 Ms. McBee back to the stand. If you can have Ms. Sherry
12 McBee return to the stand, please.

13 Ms. McBee if you'll come back on the stand. And I
14 would remind you that you were previously placed under
15 oath, and that will apply now.

16 All right. You may proceed with your
17 cross-examination.

18 MR. GIBSON: Thank you, Your Honor.

19 CROSS EXAMINATION (CONTINUED)

20 BY MR. GIBSON:

21 Q All right. So, Ms. McBee, what have you been doing
22 for the past, say, hour and a half or so?

23 A I listened to my recording and went to lunch.

24 Q All right. So just to confirm, you listened to the
25 recording of the entire interview that you had with

1 Investigator Maltby back in 2018, correct?

2 A Yes.

3 Q Do you feel as though your recollection of those
4 events are sufficiently refreshed?

5 A Uh-huh.

6 Q All right. And you can now give me testimony
7 regarding those things.

8 A Most definitely.

9 Q All right. So let's go back to we were talking, I
10 think, about what time Robert got home.

11 A On New Year's?

12 Q On New Year's Eve.

13 A Okay.

14 Q Yes.

15 Now, you said earlier, earlier that he got home
16 around 12:35. But that's not what you told Investigator
17 Maltby back in 2018, is it?

18 A Yes. Can I clear it up?

19 Q Yes. Please do.

20 A So when he asked me about the 10 p.m., we was
21 actually speaking about a case pertaining to a shooting
22 that happened in Crestwood where a guy was shot about a
23 cell phone. It had something to do with that. (Cross
24 talk.)

25 MR. GIBSON: Objection. Please stop.

1 MS. GARY: Your Honor, he can't object to his own
2 question.

3 MR. GIBSON: Your Honor, she is -- Your Honor, may we
4 approach?

5 (WHEREUPON, a bench conference was held off the record.)

6 BY MR. GIBSON:

7 Q Did you tell Agent Maltby that on New Year's Eve in
8 2017 that you went to sleep before the ball dropped and
9 didn't wake up till 4 a.m.?

10 A I fell asleep after Rob came.

11 Q Did you tell Agent Maltby that you went to sleep
12 before the ball dropped and didn't wake up until 4 a.m.?

13 A Yeah. I woke up around 4 a.m., yeah.

14 Q And went to sleep before the ball dropped.

15 A Yes. I woke up to a knock to my door. It was Rob.

16 Q Okay. And did you not tell Agent Maltby that you
17 opened the door for Robert Belcher to come into the
18 apartment?

19 A Yes.

20 Q Did you not also tell Agent Maltby that when you
21 opened the door, you saw him with B-Man?

22 A I saw B-Man behind him going up the steps.

23 Q And when you say "going up the steps," is that going
24 up the steps to your apartment?

25 A No. It was to the apartment upstairs.

1 Q And did you not tell Agent Maltby that there was no
2 one else with him at that time?

3 A I didn't know B-Man. They were -- he were behind
4 him. How did I know they were together?

5 Q It's a yes or no question. Did you not -- did you
6 tell Agent Maltby that no one other than B-Man was with
7 Robert Belcher at that time?

8 A That's who I seen, yes.

9 Q Agent Maltby asked you at some point or early in your
10 interview who Robert hung around; do you remember that
11 question?

12 A Uh-huh.

13 Q Did you not tell Agent Maltby in response to that
14 question that he hung around with B-Man and Nuke?

15 A Yeah.

16 Q Did you also not tell then -- did you also tell --
17 did you also tell Agent Maltby that you knew Raymond
18 Martinez, but that you did not know if Raymond Martinez
19 and Robert Belcher were friends?

20 A I didn't know his real name at the time.

21 Q Well, let's use the street name. Isn't it, in fact,
22 true that Agent Maltby asked you if you knew Ratchet?

23 A Yes.

24 Q And you answered that in the affirmative, correct?

25 A Yes.

1 Q And isn't it, in fact, true that he then asked you
2 was Ratchet and Robert friends?

3 A They were around each other, yes.

4 Q Yes or no, did he ask you that question?

5 A Yes, yes.

6 Q And did you not answer him and tell him I don't know
7 if they're friends?

8 A Yeah. Who knows if they're friends or not?

9 Q Is that yes or no? Please limit your answers ---

10 MS. GARY: Your Honor, can she answer the question?

11 THE COURT: She can explain her answer.

12 THE WITNESS: Yeah. Who knows if they're friends? I
13 see them with each other. I don't necessarily know what a
14 friend is considering them two, but they were definitely
15 around him. I fed him food. He slept on my couch. I
16 seen him a couple of times, Ratchet, Raymond, whoever he
17 go by.

18 BY MR. GIBSON:

19 Q Now let's talk about you said that you knew earlier
20 in your testimony today that you knew Jermaine Bruster.

21 A Yes. Go by Twin.

22 Q Isn't it, in fact, true that you told Agent Maltby
23 that you didn't know him, you just knew of him?

24 A Of him, like family friend. Of him around my family,
25 yes. Like we don't -- we ain't -- have no gangs together,

1 but I know of him because of the area and my dad.

2 Q Didn't you also tell Agent Maltby that your
3 relationship with Robert was such that he would not talk
4 to you?

5 A Right.

6 Q And didn't you also tell Agent Maltby that your
7 relationship with Robert was such that if he had been
8 involved in something serious, he would not have told you
9 about it?

10 A No. He act strange.

11 Q Did you not tell Agent Maltby ---

12 A Yes. I said that.

13 Q --- that if he had been involved in something
14 serious, he would not tell you about it?

15 A Yeah. He wouldn't.

16 Q And in your interview, your review of the 48 minutes
17 of that interview, did you ever hear yourself say anything
18 about Robert telling you that he did something bad?

19 A Yeah. He sat on my bed. We woke up at 4:00 in the
20 morning. He was sitting ---

21 Q Object. I'm sorry.

22 A --- there rocking. Yes.

23 MS. GARY: Your Honor, he can't object to his own
24 question.

25 MR. GIBSON: I'm sorry. I didn't mean to object.

1 THE COURT: You cannot object to her.

2 BY MR. GIBSON:

3 Q So he told you that ---

4 A 4 a.m. or something like that when he woke up crying
5 on the side of my bed, he was rocking. He did something
6 bad. He was crying.

7 Q Did you tell Agent Maltby that?

8 A Yeah. I remember telling somebody that. I've been
9 questioned a lot by a lot of people.

10 Q Did you tell Agent Maltby that when he interviewed
11 you for 48 minutes back in 2018?

12 A He was lying on my bed. I didn't hear that in the
13 recording. But I woke up. I didn't hear about me saying
14 about crying.

15 Q What did you hear on the recording regarding what
16 you're talking about now?

17 A That he was there, we woke up, saw -- saw his picture
18 and all that. I heard it.

19 Q All right. And that was on the recording?

20 A Uh-huh.

21 Q That you just listened to?

22 A Uh-huh.

23 Q And if agent -- withdrawn.

24 Who else was present during that interview?

25 A Like two other cops. One -- like one of them was

1 like a high school classmate or something that graduate a
2 couple years before me.

3 Q Do you know the names of the other individuals?

4 A No.

5 Q You said you ended up kicking Robert out of your
6 house, correct?

7 A Uh-huh.

8 Q And when you were asked about it, you told Robert --
9 you told Agent Maltby -- Investigator Maltby that the main
10 reason was because he did not pay bills; do you remember
11 saying that?

12 A Right. That was a definite main reason.

13 Q And you said, "If you don't pay bills, you can't live
14 here."

15 A Right.

16 Q And you also thought that he was sleeping around with
17 your best friend, didn't you?

18 A Definitely was.

19 Q So back at the end of the relationship, you didn't
20 really care for Robert very much, did you?

21 A Didn't care at all. I was focusing working.

22 Q Did you not also tell Agent Maltby that as soon as
23 Robert came in, he went -- he came in and went to sleep on
24 the couch?

25 A Uh-huh.

1 Q Where did you sleep?

2 A I paced the floor until he started moving, waking up.
3 And I kind of like dozed off a little bit, and that's when
4 I woke up at 4:00. He was crying.

5 Q So you slept on the couch as well?

6 A No. I went to my room. Like I stayed away from him.

7 Q During that interview with Agent Maltby, at some
8 point you talked to Robert on the phone, did you not?

9 A Yes.

10 Q And you asked him -- and I'm going to quote, excuse
11 the language, "Who the fuck is Twin?"

12 A Uh-huh.

13 Q Do you remember saying that?

14 A Uh-huh.

15 Q And he said back to you, "Who the fuck is Twin?"

16 A Right.

17 Q You remember him saying that?

18 A Yes.

19 Q And then you said, "I don't know."

20 A Yes.

21 Q You remember saying that.

22 And during that conversation, you asked him
23 repeatedly about this incident, this murder.

24 A Uh-huh.

25 Q And you repeatedly denied that he was involved.

1 MS. GARY: I object. That is not a portion of this
2 conversation that's in evidence.

3 MR. GIBSON: I'm sorry. Say again?

4 MS. GARY: That is not a portion of that conversation
5 that's in evidence.

6 MR. GIBSON: I'm not sure if that -- how that
7 restricts.

8 MS. GARY: Because that would be hearsay.

9 THE COURT: Sustained.

10 MS. GARY: Thank you.

11 BY MR. GIBSON:

12 Q Did you have a spiritual adviser say that Robert was
13 a baby gator?

14 A Uh-huh, yes.

15 Q Yes?

16 A Yes.

17 Q And that also was one of the reasons why you kicked
18 him out of the house?

19 A Most definitely. He's blood thirsty.

20 Q Because he was a baby gator.

21 A It's a spiritual term.

22 Q And this is your spiritual adviser.

23 A Yep.

24 Q You said you've been interviewed about this case a
25 number of times. Tell me about that. How many times have

1 you been interviewed?

2 A I've been asked a couple questions about a couple
3 cases pertaining with them.

4 Q About this particular case.

5 A This in particular ---

6 MR. GRUBBS: Objection, Your Honor. Your Honor,
7 objection.

8 MR. GIBSON: Unresponsive, Your Honor.

9 THE COURT: Right. Ask that it be stricken.

10 THE WITNESS: What was the question?

11 BY MR. GIBSON:

12 Q About this particular case.

13 A Yes.

14 Q You -- the situation involving Jermaine Bruster.

15 A Yes.

16 Q How many times have you been interviewed about this
17 particular situation?

18 A They came the first day for a couple -- like an hour.
19 They came again. Probably like three times I've been
20 questioned about this.

21 Q Okay. Three times.

22 All right. And you said they came in 2017 -- I mean
23 2018 the first time.

24 A 2018, yes.

25 Q And that was Mr. Maltby?

1 A Uh-huh. It was the three, and then I had one came by
2 hissself, and then I see Mr. Maltby again.

3 Q And he came to your place?

4 A Yes.

5 Q And he interviewed you about this situation?

6 A Well, he met up with me to serve me. That's what I
7 mean talking about it. That was it.

8 Q So the third time he came just to serve you with a
9 subpoena?

10 A Yeah.

11 Q But the second time another investigator came and
12 talked to you about this?

13 A Yeah. That same week. They came a couple days
14 later, and someone spoke with me about this, asked me
15 again have I spoke with Robert.

16 Q Okay.

17 A That was it.

18 Q So let me get it straight. So the three interviews
19 you had were you had one interview with Officer Maltby --
20 Investigator Maltby that lasted for 48 minutes and the one
21 you just reviewed.

22 A With the three people that came the first time.

23 Q Yes. That interview.

24 A Yeah.

25 Q Then you had another interview with another

1 individual who just came to ask if you had ---

2 A That asked me questions. That's it.

3 Q I'm sorry. Say again?

4 A Just to ask questions. That's it.

5 Q What questions did they ask you about this particular
6 incident?

7 A Have I spoke with Robert. That was basically it.
8 Have I spoke with him, do I know his whereabouts or
9 anything like that.

10 Q And then the third incident was when Officer --
11 Inspector -- his title has changed, so I'm trying to keep
12 this straight -- Investigator Maltby came to serve you
13 with a subpoena for this.

14 A Uh-huh, yes.

15 Q Did he ask you any questions?

16 A No. Just served me the paper, told me where to be.

17 MR. GIBSON: Okay. Thank you, Ms. McBee.

18 THE WITNESS: You're welcome.

19 THE COURT: Cross-examination, Martinez?

20 MR. GRUBBS: No questions, Your Honor.

21 THE COURT: All right. Any redirect?

22 MS. GARY: No, sir.

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

24 All right. Ladies and gentlemen, this is a promise.

25 This will be a brief matter I need to take up with the

1 THE WITNESS: Kirk Porter.

2 DIRECT EXAMINATION

3 BY MS. GARY:

4 Q Mr. Porter, if you would, just make sure you use that
5 microphone for me. Everybody has to hear you, okay?

6 Mr. Porter, how old are you?

7 A 29.

8 Q Where are you from, sir?

9 A Upstate New York.

10 Q Have you lived in Greenville for a period of time?

11 A Yes, ma'am.

12 Q When did you come to Greenville?

13 A Around 2008.

14 Q Okay. Did you go to school in Greenville County?

15 A Yes, ma'am.

16 Q It might be obvious, Mr. Porter, but where are you
17 currently living?

18 A Greenville County Detention Center.

19 Q Okay. Is that as a result of your having been
20 convicted of a charge that relates to this case?

21 A Yes.

22 Q Okay. Mr. Porter, let's talk about your criminal
23 history. Were you convicted of burglary in the third
24 degree in 2011?

25 A Yes.

1 Q Were you also that same year convicted of disturbing
2 schools?

3 A Yes.

4 Q Were you convicted of burglary in the second degree
5 in 2013, also of conspiracy?

6 A Yes.

7 Q And, Mr. Porter, were you charged with murder, armed
8 robbery, burglary in the first degree, conspiracy, petit
9 larceny and possession of a weapon during the commission
10 of a violent crime for your actions in this case?

11 A Yes.

12 Q Did you ultimately plead guilty as it relates to this
13 case?

14 A Yes.

15 Q And did you plead guilty to voluntary manslaughter?

16 A Yes.

17 Q All right. Was that a reduced charge from murder?

18 A Yes.

19 Q Did I also dismiss other charges that relate to this
20 and to other completely unrelated incidents when you pled
21 guilty? Or did the State?

22 A Yes.

23 Q Mr. Porter, do you know Raymond Martinez?

24 A Yes.

25 Q How long have you known him?

1 A Since 2011, '12, something like that.

2 Q Do you know him to go by a nickname?

3 A Yes.

4 Q What's that?

5 A Ratchet.

6 Q Do you see Mr. Martinez in the courtroom today?

7 A (Nonverbal response.)

8 Q Where is he? Can you point to him as well as you're
9 able to?

10 A I don't -- I don't see him.

11 Q All right. Can you stand up for me? Can you sit
12 back down?

13 A Yeah.

14 Q I just want to make sure we can hear your answer.
15 Did your answer change, sir?

16 A Yes.

17 Q You do see him in the courtroom.

18 A Yes. I can see him.

19 Q And where is he seated?

20 A To the far right.

21 Q On your right. Is he at a table with attorneys?

22 A Yes.

23 Q And what's he wearing, sir?

24 A A white shirt, tie, glasses.

25 MS. GARY: And, Your Honor, let the record reflect

1 he's pointing at the defendant Raymond Martinez.

2 BY MS. GARY:

3 Q Mr. Porter, do you know Robert Belcher?

4 A Yes.

5 Q How long have you known him?

6 A Since 2017.

7 Q Did you use a nickname with him?

8 A Yes.

9 Q What's that?

10 A Rob.

11 Q Okay. Do you see Robert Belcher in the courtroom?

12 A Yes.

13 Q As best as you're able, sir, could you point him out
14 to us?

15 A (Indicating.)

16 Q Okay. Where is he seated?

17 A Right there in front of me.

18 Q At counsel table. And what's he wearing, sir?

19 A A black suit.

20 MS. GARY: Okay. And, again, let the record reflect
21 he's identified the defendant Robert Belcher.

22 BY MS. GARY:

23 Q Mr. Porter, do you know Keyla Mansell?

24 A Yes.

25 Q How long have you known her?

1 A Since 2010, '9-ish, I think.

2 Q Did you know her to use a nickname?

3 A Yes.

4 Q What's that.

5 A Kiki.

6 Q Kiki?

7 A (Nonverbal answer.)

8 Q Okay. Where did Kiki live in December of 2017?

9 A At Crestwood Apartments.

10 Q Do you know which apartment?

11 A I mean, I know which apartment but not what number.

12 Q Not the number?

13 A Yes.

14 Q Do you know what building it was in?

15 A The 10 building.

16 Q The 10 building. Okay.

17 Is that Crestwood Forest Apartments here in
18 Greenville?

19 A Yes.

20 Q And, sir, the majority of our conversations, of
21 course, will be about December 2017. Do you recall where
22 you lived then?

23 A I want to say Woodruff Road, but I'm not sure --
24 quite sure.

25 Q Have you ever lived at Alice Street?

1 A I stayed there.

2 Q Or stayed there?

3 A Yeah, yeah.

4 Q Okay. Are you familiar with [REDACTED] Alice Street.

5 A Yes.

6 Q What kind of residence is that?

7 A Trailers.

8 Q It's a trailer?

9 A Yeah.

10 Q Is that somewhere you stayed before?

11 A Yes.

12 Q Okay. Do you know Candice Holsey, Mr. Porter?

13 A Yes.

14 Q How do you know her?

15 A Through Martinez.

16 Q Through Raymond Martinez?

17 A Yes.

18 Q Did Ms. Holsey also live on Alice Street or stay on
19 Alice Street at some point?

20 A Yes.

21 Q What was the connection between Ms. Holsey and
22 Mr. Martinez?

23 A They were dating.

24 Q Were they dating when you knew them?

25 A Yes.

1 Q Mr. Porter, in December 2017, did you have a
2 girlfriend?

3 A Yes.

4 Q Who's that?

5 A Francesca Troiso.

6 Q Are y'all still together?

7 A No.

8 Q In December 2017 did you have a car?

9 A Yes.

10 Q What kind of car did you have?

11 A Silver Mercedes.

12 Q Whose car was it?

13 A It was my car but it was in her name.

14 Q Whose name?

15 A Francesca's.

16 Q Your girlfriend's name?

17 A Yes.

18 Q Okay. And it was a silver Mercedes?

19 A Yes.

20 Q Was it an SUV? a sedan?

21 A Sedan.

22 Q Okay. And you routinely drove that car?

23 A Yes.

24 Q All right. Mr. Porter, I'm going to show you State's
25 Exhibits 38 and 39. And without telling us what they are,

1 sir, just tell me if you recognize what's in both of
2 those. Do you recognize that?

3 A Yes.

4 Q Okay. What's in those photos?

5 A Cars. A car.

6 Q Cars. Okay. What type of car do you see?

7 A A Mercedes.

8 Q A silver Mercedes?

9 A Yes.

10 Q Do you recognize that to be the car that you were
11 driving in December of 2017?

12 A Yes.

13 Q Okay. And that's reflected in both photos?

14 A Yes.

15 Q And those appear to be accurate to you?

16 A Yes.

17 MS. GARY: Okay. Thank you.

18 Your Honor, at this time we would seek to introduce
19 State's 38 and 39.

20 THE COURT: All right. Any objection from Belcher?

21 MR. GIBSON: No objection, Your Honor.

22 THE COURT: Martinez?

23 MR. GRUBBS: No, Your Honor.

24 THE COURT: All right. In without objection.

25 ///

1 (WHEREUPON, State's Exhibit Numbers 38 and 39 were
2 admitted into evidence.)

3 BY MS. GARY:

4 Q Mr. Martinez, there's -- Mr. Porter, excuse me --
5 there's a screen on your stand if you're able to see it.
6 This is State's 38. Mr. Porter, if you would, tell the
7 jury what we're seeing here.

8 A A car. The Mercedes.

9 Q That's the Mercedes you were familiar with?

10 A Yes.

11 Q That you were driving December of 2017.

12 A Yes.

13 Q Okay. And what's in State's Exhibit 39?

14 A The same thing.

15 Q Okay. Mr. Porter, in December -- or on New Year's
16 Eve of 2017, did this license plate appear on that car?

17 A Yes.

18 Q It did. Did that car ever have a paper tag?

19 A Yes.

20 Q Okay. Where did this license plate come from; do you
21 know?

22 A Candice Holsey.

23 Q Okay. Was that license plate registered to this car?

24 A No.

25 Q You got it from Candice?

1 A Yes.

2 Q All right. Mr. Porter, let's talk about the night of
3 New Year's Eve 2017. Were you driving that car that day?

4 A Yes.

5 Q Okay. Who were you with that day?

6 A Me, Kiki, Rob and Ray.

7 Q So it would be you, Keyla Mansell ---

8 A Yeah.

9 Q --- Robert Belcher and Raymond Martinez?

10 A Yes.

11 Q Okay. Do you sometimes call Mr. Martinez, Ray?

12 A Yes. Sometimes, yeah.

13 Q Okay. Do you recall where the four of you were?

14 A Yes. At Kiki's apartment.

15 Q Okay. And tell us again where that is.

16 A In Crestwood.

17 Q And that's Building 10?

18 A Yes.

19 Q Okay. Do you know the lady who lived under Kiki?

20 A Yes.

21 Q Do you remember her name?

22 A I think Sherry, something like that.

23 Q Okay. Was she Rob's girl?

24 A Yes.

25 Q Okay. Did you ever go in Sherry's house?

1 A Yes.

2 Q At some point while the four of y'all were at Keyla
3 Mansell's apartment, did Keyla tell you all she knew
4 someone that you could rob?

5 MR. GRUBBS: Objection. Leading.

6 THE COURT: Sustained.

7 BY MS. GARY:

8 Q Did Keyla at some point suggest y'all go somewhere
9 else other than her apartment?

10 MR. GRUBBS: Objection. Leading.

11 MS. GARY: That's a yes or no question, Judge.

12 THE COURT: Rephrase the question.

13 BY MS. GARY:

14 Q Did y'all leave Keyla's apartment?

15 A Yes.

16 Q Okay. Why did you leave Keyla's apartment?

17 A To go -- because she said she knew a lick.

18 Q Keyla said she knew a lick?

19 A Yeah.

20 Q Tell us what a lick is.

21 A When you rob somebody.

22 Q Okay. A lick is a robbery?

23 A Yeah.

24 Q And Keyla told you she knew a robbery?

25 A Yeah.

1 Q Okay. What did she tell you about this person?

2 A They might have some cocaine and money, stuff like
3 that.

4 Q Okay. When you left Keyla's house, who was in the
5 car?

6 A Me, Kiki, Rob and Ray.

7 Q So you, Keyla Mansell, Robert Belcher, Raymond
8 Martinez ---

9 A Yes.

10 Q --- got into your car.

11 A Yes.

12 Q The silver Mercedes.

13 A Yes.

14 Q Okay. Were you driving?

15 A Yeah.

16 Q Okay. Did you ever let anybody drive your car?

17 A No.

18 Q When you left Crestwood, was it your understanding --
19 what was your understanding of where you were going?

20 A To this person that she knew, I guess.

21 Q Okay. What was the plan?

22 A To rob him.

23 Q Okay. What were you supposed to do in this plan?

24 A Drive the car.

25 Q Okay. Did you do that?

1 A Yeah.

2 Q What was Keyla supposed to do in this plan?

3 A Sit in the car.

4 Q She stayed in the car with you?

5 A Yes.

6 Q Okay. What was Robert Belcher supposed to do in your
7 plan?

8 A Get out of the car.

9 Q And go where?

10 A And go rob somebody.

11 Q Okay. And what was Raymond Martinez's role in this
12 plan?

13 A The same thing.

14 Q As who?

15 A As Rob.

16 Q So tell us what that was.

17 A To get out -- get out of the car.

18 Q And go rob somebody?

19 A Yes.

20 Q Okay. Did anybody in that car have a gun?

21 A Yes.

22 Q Who?

23 A Ray and Rob.

24 Q Raymond Martinez and Robert Belcher?

25 Do you recall where you went, sir?

1 A Up the street to this church off of Poinsett.

2 Q I'm sorry. I need you to use that microphone. You
3 went where?

4 A Off of Poinsett.

5 Q To what type of location?

6 A The church.

7 Q A church.

8 A Yeah.

9 Q Okay. I'm going to show you State's Exhibit 37 and
10 just ask you if you recognize that, sir.

11 A Yes.

12 Q And what's depicted in that photo?

13 A The church.

14 Q And, again, use that microphone for me.

15 A The church that's at the end of the road.

16 Q Okay. Does this appear to be an accurate
17 representation of the church at that road, as you said?

18 A Yes.

19 MS. GARY: Okay. Your Honor, at this time we would
20 seek to introduce State's Exhibit 37 into evidence.

21 THE COURT: Any objection from Belcher?

22 MR. GIBSON: No, Your Honor.

23 THE COURT: And Martinez?

24 MR. GRUBBS: No, Your Honor.

25 THE COURT: All right. In without objection.

1 (WHEREUPON, State's Exhibit Number 37 was admitted into
2 evidence.)

3 BY MS. GARY:

4 Q Mr. Porter, looking at State's Exhibit 37, tell this
5 jury -- you said that this is the church where you parked?

6 A Yes, ma'am.

7 Q Okay. Do you know the location of where this person
8 lived who y'all were supposed to rob?

9 A Somewhere down that road.

10 Q Somewhere down the road from the church?

11 A Yes.

12 Q Is that why you parked at the church?

13 A Yes.

14 Q Okay. Tell us what happened after you parked at the
15 church.

16 A We sat there for some time. I'm not sure how long.
17 They got out of the car.

18 Q Who got out of the car?

19 A Ray and Rob.

20 Q Okay. Did Keyla stay with you?

21 A Yes.

22 Q You were still in your car?

23 A Yes.

24 Q Okay. Which direction in this photo -- if you need
25 to turn and reference the one -- the large one behind you,

1 you can. In this photo do you recall where you parked?

2 A Somewhere in the parking lot. It's not on the
3 picture, though.

4 Q Is the parking lot in the rear back here
5 (indicating)?

6 A Yeah. I think so.

7 Q Okay. Do you know which direction Raymond and Robert
8 walked?

9 A Somewhere down the road of the church. I'm not sure
10 which way.

11 Q Okay. What time of night was this?

12 A I can't remember.

13 Q Was it the morning?

14 A No. Sometime in like the evening, I guess.

15 Q Okay. Was it dark?

16 A Yes.

17 Q Mr. Porter, what happened after you lost site of
18 Raymond and Robert? What did you do?

19 A Me and Keyla sat in the car. Not sure how long.

20 Q Okay. At some point did Raymond Martinez and Robert
21 Belcher come back to your car?

22 A I drove up the street some, and I ended up picking
23 them up.

24 Q Okay. Do you recall where you picked them up?

25 A Somewhere like down the road. I'm not sure what the

1 address is.

2 Q All right. Mr. Porter, I'm going to show you State's
3 Exhibit 1, ask if you recognize this, sir.

4 A Yeah.

5 Q Tell us how you recognize that.

6 A That's where I picked them up coming somewhere like
7 along the road.

8 Q I need you to use that microphone.

9 A Somewhere along -- somewhere along that road,
10 like ---

11 Q Okay. Would the road be ---

12 A In front of there, yes.

13 Q Okay. So the road that runs this way (indicating)?

14 A Yes.

15 Q Okay. That you believe that that's the road you
16 picked them up on?

17 A Yes.

18 Q Does this apartment complex look familiar to you?

19 A Yes.

20 Q Okay. And why is that?

21 A I picked them up from like somewhere around that
22 area.

23 Q Okay. From which direction related to this complex
24 did they walk? Where did they come from?

25 A Like where that mailbox is.

1 MS. GARY: Okay. And if you -- Deputy, can he stand
2 up and reference that larger photo?

3 BY MS. GARY:

4 Q Mr. Porter, if you would step down. I know it might
5 be hard for you to reference this screen, but just do the
6 best you can.

7 A That one right over there (indicating).

8 Q So there's a mailbox here?

9 A Uh-huh.

10 Q And you believe they came from this area?

11 A Yes.

12 Q Okay. Was it dark back there?

13 A Yes.

14 Q Okay. So this is the area from which they walked?

15 A Yes.

16 Q And you picked them up somewhere on -- your car was
17 on this road.

18 A Yes, ma'am.

19 Q All right. You can have a seat. Thank you.

20 Mr. Porter, when Raymond Martinez and Robert Belcher
21 came back to you, were they walking?

22 A Yes.

23 Q Okay. Do you recall what they were wearing?

24 A From the clothes, no. Not exactly, no.

25 Q Okay. Were they wearing gloves?

1 A I think so.

2 Q Okay. Did they come out of that apartment complex
3 carrying anything?

4 A Yes. A container.

5 Q So which one of them had a container?

6 A Ray did.

7 Q Okay. Can you describe that container for us?

8 A Clear container, purple top.

9 Q What did it look like it had in it?

10 A Change.

11 Q Change. Okay.

12 Did Rob have anything?

13 A Not that I can remember.

14 Q Okay. Mr. Porter, what did you four think you were
15 going to get out of that house?

16 A Drugs and money.

17 Q Okay. Did they come back with drugs?

18 A No.

19 Q Not that you know of.

20 A Not that I know of.

21 Q Did they come back with money?

22 A That was in their container.

23 Q That's it ---

24 A Yeah.

25 Q --- that you know of?

1 A That I know of, yes.

2 Q Okay. Did Raymond Martinez say anything when he got
3 back in your car?

4 A No.

5 Q Okay. Did Mr. Belcher say anything when he got back
6 in your car?

7 A No.

8 Q Did you ask questions of them?

9 A Yeah, I did.

10 Q Do you know if there was anybody else inside that
11 apartment when they got in there other than the person
12 they robbed?

13 A No. It was just him and them.

14 Q I'm sorry?

15 A I think it was just him. I'm not sure.

16 Q Did they tell you they had to wait for someone else
17 to leave?

18 A At some point, yes, somebody went in before they did,
19 I guess.

20 Q Okay. How would you describe Robert Belcher's
21 demeanor when he got back in your car?

22 A It hadn't changed. I mean, he was just, you know,
23 smiling, really.

24 Q Okay. What about Mr. Martinez?

25 A Same as always, you know. Just quiet.

1 Q Well, I don't know him, sir, so I don't know what
2 "always" means.

3 A Oh, yeah, yeah, yeah. Just quiet. Nothing --
4 nothing out of the ordinary.

5 Q Okay. Where did you drive after they got back in
6 your car?

7 A To Crestwood Apartments.

8 Q Okay. What did you do there?

9 A I think I dropped Kiki off.

10 Q Okay. Do you recall where you went after that?

11 A Yes. To the Ingles on Poinsett.

12 Q Okay. The Ingles on Poinsett Highway?

13 A Yes.

14 Q All right. Why did you go there?

15 A To the Coinstar.

16 Q There's a Coinstar there?

17 A Yeah.

18 Q Okay. Tell this jury why -- what is that?

19 A The place where you take change, I guess.

20 Q Okay. Who went inside?

21 A Ray did.

22 Q Where did you go?

23 A I just sat in the car.

24 Q Was Robert still with you?

25 A I think he had got out of the car at that point in

1 Crestwood, too.

2 Q Okay. Where did you park; do you recall?

3 A Somewhere in the parking lot. I'm not sure exactly
4 where.

5 Q In the parking lot of Ingles?

6 A Yeah.

7 Q All right. Mr. Porter, I'm going to show you State's
8 Exhibit 47 and ask you if you recognize that.

9 A Yes.

10 Q You do?

11 A Yeah.

12 Q What is that?

13 A Raymond Martinez going into Ingles.

14 Q Is it a photo?

15 A Yes.

16 Q Have you been shown that before?

17 A Yes.

18 Q Does it have your signature on it?

19 A Yes.

20 Q And a date?

21 A Uh-huh.

22 MS. GARY: Okay. Your Honor, at this time we would
23 seek to introduce State's Exhibit 47.

24 THE COURT: Any objection from Belcher?

25 MR. GIBSON: No, Your Honor.

1 THE COURT: On behalf of Martinez?

2 MR. GRUBBS: Your Honor, prior objection.

3 THE COURT: Okay.

4 (WHEREUPON, State's Exhibit Number 47 was admitted into
5 evidence.)

6 BY MS. GARY:

7 Q Mr. Porter, looking at State's Exhibit 47, tell us,
8 who is that in that photo, sir?

9 A Martinez.

10 Q And what does he have in his hands?

11 A The container.

12 Q Okay. Is that the same container you saw him come
13 back to your car with?

14 A Yes.

15 Q Do you know where this is?

16 A At Ingles.

17 Q At Cherrydale?

18 A Yes.

19 Q Okay. Thank you, sir.

20 Mr. Porter, do you know how much money Mr. Martinez
21 got out of that jar?

22 A No. The Coinstar machine wasn't working.

23 Q Is that what he told you?

24 A Yeah.

25 Q Okay. So you didn't get the money?

1 A No.

2 Q What did you do after you left Ingles?

3 A I dropped him off at the trailer.

4 Q You dropped who off?

5 A Martinez.

6 Q At what trailer?

7 A On Alice Street.

8 Q Alice Avenue? Alice Street?

9 A Yeah. Alice, yeah.

10 Q Okay. The one you mentioned earlier you shared with
11 Candice?

12 A Yes.

13 Q Okay. You dropped him off, again, still in your
14 Mercedes.

15 A Yes.

16 Q Okay. And where did you go, sir?

17 A I met Francesca at a hotel.

18 Q Do you know where that was?

19 A I think Pelham. I think Pelham Road.

20 Q Okay. Mr. Porter, were you driving this whole time?

21 A Yes.

22 Q Had you been smoking marijuana that night?

23 A Yes. Earlier, yes.

24 Q That day?

25 A Yeah.

1 Q Had you been drinking?

2 A Yes.

3 Q Did you see Keyla Mansell smoking and drinking?

4 A Yes.

5 Q Did you see Robert Belcher smoking and drinking?

6 A Yes.

7 Q Did you see Raymond Martinez smoking and drinking?

8 A Yes.

9 Q Again, all on that same New Year's Eve day?

10 A Yeah. On the same day.

11 Q December 31st. So the end of your New Year's Eve was
12 with your girlfriend?

13 A Yes.

14 Q Okay. When did you find out, Mr. Porter, that the
15 man inside that house who you all planned to rob had
16 died?

17 A Sometime -- I'm not sure if it was the next day or
18 something like that.

19 Q Okay. Did you know he had been shot?

20 A No.

21 Q Did you meet with Investigator Maltby and other
22 members of law enforcement?

23 A Yes.

24 Q Did you tell them what you told us today?

25 A Yes.

1 Q Did they tell you what to say?

2 A No.

3 Q Did they threaten you?

4 A No.

5 Q Did they promise you anything?

6 A No.

7 Q Did they tell you who to name?

8 A No.

9 Q Did they tell you where to say you went?

10 A No.

11 Q Did they tell you what to say you did?

12 A No.

13 Q Did they tell you what to say Mr. Martinez did?

14 A No.

15 Q Did they tell you what to say Mr. Belcher did?

16 A No.

17 Q When you met with law enforcement, do you recall them
18 showing you a number of photo lineups?

19 A Yes.

20 Q Pictures?

21 A Yes.

22 Q Do you recall them asking you to identify -- to see
23 if you knew anybody?

24 A Yes.

25 Q All right. Mr. Porter, I'm going to show you State's

1 Exhibits 31 to 36. If you could just thumb through those
2 and to see if those are familiar to you the best you can,
3 sir.

4 A (Reviews exhibits) Yes.

5 Q Mr. Porter, do those look familiar to you?

6 A Yes.

7 Q Is your signature on each of these pages?

8 A Yes.

9 Q Okay. And what are these, generally?

10 A Photo lineup.

11 Q These are the lineups that you signed?

12 A Yes.

13 Q Okay. Your signature's on all of them.

14 A Uh-huh.

15 Q Do they appear to be accurate?

16 A Yes.

17 MS. GARY: All right. Your Honor, at this time we
18 would seek to introduce State's Exhibits 31 to 36.

19 THE COURT: Any objection?

20 MR. GIBSON: No objection, Your Honor.

21 THE COURT: Martinez?

22 MR. GRUBBS: Prior objection. Yes, Your Honor.

23 THE COURT: All right.

24 (WHEREUPON, State's Exhibit Numbers 31 through 36 were
25 admitted into evidence.)

1 BY MS. GARY:

2 Q All right. Mr. Porter, looking at State's 31, sir,
3 on this top left corner here, what is that?

4 A My signature and the date.

5 Q That's the date?

6 A (Nonverbal answer.)

7 Q And what does this say, sir?

8 A Rob.

9 Q Rob?

10 Is this the individual you identified as Robert
11 Belcher?

12 A Yes.

13 Q Okay. Did you also sign an affidavit indicating --
14 or you can read it for us. What does that affidavit say
15 right here?

16 A (As read) "I, Kirk P. Porter, have reviewed a group
17 of six photographs this 28th date of February 2018, from
18 which I positively identified Photograph Number 1
19 displayed to me by Investigator" -- I can't really see his
20 name.

21 Q Okay. That's okay.

22 A And "GCSO." I guess that's what that says.

23 Q Uh-huh.

24 A "As being the person who I know as Rob."

25 Q Okay. And, again, looking at State's 31, this person

1 you identified as Robert Belcher, is that person in this
2 courtroom?

3 A Yes.

4 Q And that's the defendant Robert Belcher.

5 A Yes.

6 Q Okay. And is this the Robert Belcher you've been
7 telling this jury was with you on December 31st, planned
8 with you to rob that victim and went inside that victim's
9 home?

10 A Yes.

11 Q The same person.

12 A Yes.

13 Q Okay. Let's take a look at State's 33, Mr. Porter.
14 What is up here in this left-hand corner?

15 A A date and name Ray.

16 Q The name Ray?

17 A Yes.

18 Q And did you make this circle here?

19 A Yes.

20 Q Okay. And you identified this person as being who?

21 A Raymond Martinez.

22 Q Raymond Martinez. Do you also call him Ratchet?

23 A Yes.

24 Q Do you also call him Ray?

25 A Yes.

1 Q Okay. And did you sign State's Exhibit 34 indicating
2 that you know this person as Raymond? I'm trying to find
3 your signature. There it is.

4 A Yes.

5 Q Okay. And is this the same Raymond Martinez who's in
6 this courtroom today?

7 A Yes.

8 Q And this is the same Raymond Martinez who planned
9 with you and Keyla Mansell and Robert Belcher to rob that
10 victim?

11 A Yes.

12 Q And got in your car knowing that plan?

13 A Yes.

14 Q And went in that house?

15 A Yes.

16 Q Okay. All right. Mr. Porter, I'm going to show you
17 State's Exhibit 35. Can you tell us who this is?

18 A Kiki.

19 Q That's Ms. Mansell?

20 A Yes.

21 Q And is this your writing here (indicating)?

22 A Yes.

23 Q Okay. And this is Keyla Mansell.

24 A Yes.

25 Q And you also signed an affidavit saying I know this

1 person as Kiki?

2 A Yes.

3 Q And that's State's Exhibit 36.

4 I know I'm repeating myself, Mr. Porter, but is this
5 the Keyla Mansell that suggested who y'all could rob?

6 A Yes.

7 Q Is this the Keyla Mansell who got in the car with
8 you?

9 A Yes.

10 Q And who stayed in the car with you?

11 A Yes.

12 Q And in whose home this plan was hatched?

13 A Yes.

14 Q Okay. Thank you, sir.

15 I should have taken this one with me, Mr. Porter.

16 I'm going to show you State's Exhibit 46. State's 46, do
17 you recognize this document, sir?

18 A Yes.

19 Q Is your signature on it?

20 A Yes.

21 Q Is it dated? The top right-hand corner.

22 A Yes.

23 Q Okay. What's that date?

24 A 2/28/18.

25 Q Okay. So what is this, sir?

1 A A waiver of rights.

2 Q Use that microphone for me.

3 A A waiver of rights.

4 Q Okay. A waiver of rights.

5 Do you recognize it?

6 A Yes.

7 Q Does it appear to be fair and accurate as a
8 representation of the waiver of rights that you signed?

9 A Yes.

10 MS. GARY: Okay. Your Honor, at this time we would
11 move State's Exhibit 46 into evidence.

12 THE COURT: All right. Any objection from Belcher?

13 MR. GIBSON: No objection, Your Honor.

14 THE COURT: Martinez?

15 MR. GRUBBS: No, Your Honor.

16 THE COURT: All right. In without objection.

17 (WHEREUPON, State's Exhibit Number 46 was admitted into
18 evidence.)

19 BY MS. GARY:

20 Q And, Mr. Porter, we're looking at a waiver of rights
21 form. Is this your signature here (indicating)?

22 A Yes.

23 Q Or excuse me. Right here (indicating).

24 Do you remember going over this form with
25 Investigator Maltby on February 28, 2018?

1 A Yes.

2 Q Is that the same day you identified those folks in
3 photo lineups?

4 A Yes.

5 Q And the same day you told them what happened that
6 night?

7 A Yes.

8 Q Do you recall they went over your rights, and you
9 gave all those up?

10 A Yes.

11 Q Do you recall a conversation about coercion? Did
12 they make sure you understood you weren't being coerced?

13 A You mean on that day?

14 Q Yes, sir.

15 A Not on that day, no.

16 Q Did they -- again, did they threaten you at all?

17 A No.

18 Q Did they promise you anything?

19 A No.

20 Q Did they feed you information?

21 A No.

22 Q Did they tell you what to say?

23 A No.

24 Q All right. Mr. Porter, we talked about this earlier.
25 But you entered a guilty plea as to your actions in this

1 case on June 7, 2022; isn't that right?

2 A Yes.

3 Q All right. Now, sir, I'm going to show you State's

4 Exhibit 40. There's two things stapled together, sir.

5 But just take a look at that and tell me if you recognize
6 that.

7 A Yes.

8 Q You do?

9 A Yes.

10 Q What is that?

11 A An affidavit.

12 Q Use that microphone.

13 A An affidavit.

14 Q An affidavit.

15 Is your signature on it?

16 A Yes.

17 Q Okay. Is your name on it?

18 A Yes.

19 Q Have you seen this before?

20 A Yes.

21 Q Does this appear to be a fair and accurate
22 representation of what you had seen before?

23 A Yes.

24 MS. GARY: All right. Your Honor, at this time we
25 would move State's Exhibit 40 into evidence.

1 THE COURT: Any objection from Belcher?

2 MR. GIBSON: No objection, Your Honor.

3 THE COURT: Martinez?

4 MR. GRUBBS: No, Your Honor.

5 THE COURT: In without objection.

6 (WHEREUPON, State's Exhibit Number 40 was admitted into
7 evidence.)

8 BY MS. GARY:

9 Q Mr. Porter, I'm going to hand this back to you in a
10 minute. What is this?

11 A An affidavit.

12 Q This is an affidavit?

13 A Yes.

14 Q This is the first page. What is this?

15 A An envelope.

16 Q It might be obvious. Okay. Yes, sir.

17 Is this something that you signed here?

18 A Yes.

19 Q Is that your name?

20 A Yeah.

21 Q Is this your name here?

22 A Yes.

23 Q Did you mail this to my office?

24 A No.

25 Q You did not?

1 A No.

2 Q All right. Mr. Porter, I'm going to let you read
3 this to the jury.

4 A It says (as read), "I, Kirk Porter, would like to
5 recant my story on behalf of defendant Robert Belcher
6 situation to state the opinions I made were not true and I
7 would like to withdraw from being -- from being evidence
8 against him for a testimony. I was under the influence of
9 drugs and hallucination and was coerced by law enforcement
10 to state these untrue comments. Please dismiss me from
11 anything to do with these charges." It says, "This
12 affidavit is made upon my personal knowledge and set forth
13 facts that would be admissible in evidence at trial. I am
14 competent to testify matters presented. I declare under
15 penalty of perjury that the foregoing is true and correct.
16 Further affiant sayeth -- sayeth not." And it's dated the
17 17th of June 2022.

18 Q Okay. Is there a different date at the bottom of
19 that Mr. Porter?

20 A It says, "Sworn to and subscribed before me this 23rd
21 day of June 2022."

22 Q All right. Thank you.

23 Now let's talk about this, Mr. Porter. At some
24 point, sir, were you approached by Robert Belcher to sign
25 this document?

1 A Yes.

2 Q Okay. And, again, you told this jury that this is
3 your signature, your handwriting here?

4 A Yes.

5 Q Is the rest of this document in your handwriting?

6 A No.

7 Q So you didn't write everything that you just read.

8 A No, I didn't.

9 Q Is this your handwriting here, June 17th ---

10 A Yes.

11 Q --- 2022?

12 And, again, you're telling us this is your signature
13 and your name. You signed this.

14 A Yes.

15 Q Okay. But, again, this is a different date, right,
16 when it was allegedly notarized? This is a different
17 date?

18 A Yes.

19 Q Okay. Mr. Porter, were you under the influence of
20 drugs and hallucinating when you talked to law
21 enforcement?

22 A No.

23 Q Are you under the influence of drugs or hallucinating
24 today?

25 A No.

1 Q Were you coerced by law enforcement to state these
2 untrue comments as this document says?

3 A No.

4 Q Have you been coerced to say anything that you're
5 saying to this jury today?

6 A No.

7 Q What did you do with this document after you signed
8 it?

9 A Gave it to Mr. Belcher.

10 Q Gave it to Mr. Belcher?

11 A (Nonverbal answer.)

12 Q And you did not mail this to my office.

13 A No.

14 Q So is what's in this documentary true, sir? Do you
15 wish to be excused from this proceeding?

16 A No.

17 Q And what you're saying today is not -- is the truth,
18 right?

19 A Yes.

20 MS. GARY: Mr. Porter, I think that's all I have.
21 If you'd answer any questions from defense, okay? Thank
22 you.

23 THE COURT: On behalf of Mr. Belcher.

24 MR. GIBSON: Thank you, Your Honor.

25 ///

CROSS EXAMINATION

BY MR. GIBSON:

Q Mr. Belcher [sic], other than your testimony here today, do you have any proof whatsoever that Robert Belcher was involved in this crime?

A No.

Q Now, you have been convicted in the past of previous offenses; is that correct?

A Yes.

Q Do you want to tell the jury what those were? Do you recall?

A I can't recall them, but it was stated earlier.

Q In 2011 you were convicted for burglary third; is that not correct?

A Yeah.

Q Burglary third degree.

A Yes.

Q And you were also -- you have also been convicted of disturbing schools?

A Yes.

Q Is that correct?

A Yeah.

Q You've also been convicted of assault and battery third degree; is that not correct?

A Yes.

1 Q 2013 you were convicted of a burglary second degree;
2 is that not correct?

3 A Yes.

4 Q And also a conspiracy.

5 A Yes.

6 Q All right. And many of those crimes or several of
7 those crimes involved theft; did they not?

8 A Yes.

9 Q So if I were to say that you were a thief, that would
10 be a correct statement, would it not?

11 A Yes.

12 Q Now, when you did those crimes, I presume you did
13 them because you thought they were in your interest; is
14 that fair to say?

15 A Yes.

16 Q So just to be clear, you were willing to commit a
17 crime if you believed it is in your interest; is that not
18 true?

19 A Yes.

20 Q Isn't it also true that you would be willing to lie
21 if you thought it was in your interest?

22 A No.

23 Q So you would burglarize someone's home, you would
24 assault them, you would conspire, in this case you would
25 plan an armed robbery, but you would not lie.

1 A Yes. That's correct.

2 Q Now, let's talk about this -- actually, let's go back
3 and talk about what happened that night.

4 A Yes.

5 Q So you said that you were in the apartment of Keyla
6 Mansell.

7 A Yes.

8 Q And you said that you were with Robert Belcher and
9 Mr. Martinez, and they were both in the apartment with
10 you, correct?

11 A Yes.

12 Q And what time was that?

13 A I'm not sure. Sometime late in the evening.

14 Q Okay. And then at some point, though, you guys
15 decided y'all were going to -- according to you, y'all
16 decide -- you decided you were going to commit this crime,
17 correct?

18 A Yes.

19 Q Did you see B-Man that day? Do you know who B-Man
20 is?

21 A Yes. I know who that is.

22 Q Did you see him that day?

23 A I'm not sure.

24 Q Do you remember what time it was that you guys
25 decided you guys were going to commit this crime?

1 A No.

2 Q After you decided, what did you guys do?

3 A Got in the car and drove to the church.

4 Q How long did you sit in the car?

5 A I can't remember exactly how long, but it wasn't too
6 long.

7 Q Why did y'all sit in the car? Why didn't you just
8 get in the car and just drive right away?

9 A I'm not sure.

10 Q Withdrawn, actually.

11 You were in your car, and then you guys drove over to
12 where Rasor is; is that correct?

13 A Yes.

14 Q Or where the robbery/murder occurred, according to
15 you.

16 A Yes.

17 Q All right. And you said that you parked in the
18 church lot.

19 A Yes.

20 Q And then you said that you guys sat in the church lot
21 for a while; is that right?

22 A Yes.

23 Q How long did you guys sit in the church lot?

24 A Before they got out of the car or ---

25 Q Before they got out of the car.

1 A A couple minutes.

2 Q A couple minutes.

3 How long did it take you to get from Crestwood

4 Apartments to the church lot?

5 A Probably about five minutes.

6 Q Five minutes?

7 A Yeah. Something like that.

8 Q All right. So y'all sat there, y'all sat in the car
9 for two minutes, and then, according to you, Robert
10 Belcher and Raymond Martinez got out of the car to do this
11 armed robbery.

12 A Yeah.

13 Q And then what did you do?

14 A I sat in the car.

15 Q You sat in the car. You didn't drive around or
16 anything like that?

17 A No.

18 Q All right. So when you said in your statement when
19 you first talked with Inspector Maltby that you did drive
20 around, that was an untrue statement, correct?

21 A Yes. I guess. I'm not sure.

22 Q In that same interview -- keep going.

23 So you stayed there in the parking lot, and then at
24 some point you decided to drive up to the street where the
25 armed robbery was occurring -- was to occur; is that

1 correct?

2 A Yes.

3 Q How long did you wait between those two things?

4 A Not sure of the exact time.

5 Q How did you know when to drive back up there?

6 A I just did.

7 Q I'm sorry. Say again?

8 A I just did. I'm not sure.

9 Q You just knew?

10 A Yeah. I just ---

11 Q How did you -- so you testified that, according to
12 you, that Raymond Martinez and Belcher told you they had
13 to wait for somebody to go come out of the apartment,
14 correct? Do you remember saying that?

15 A Yeah. That was after I picked them up, yeah.

16 Q That was after. So you didn't know beforehand that
17 they were going to have to wait for somebody to come out
18 of the apartment.

19 A Yes. Correct.

20 Q But nevertheless, somehow you just intrinsically knew
21 when to go back up there.

22 A Yes.

23 Q Okay. And you said that when you got there, they
24 were coming out from behind the sign.

25 A Yes.

1 Q At this point did you see anybody else on the street?

2 A No.

3 Q Do you recall what time that was?

4 A No, I don't.

5 Q Did you ever look at your watch at any point during
6 this?

7 A No.

8 Q Okay. All right. So you waited in the church lot,
9 and then somehow you intrinsically knew what time to come
10 back up there to pick them up. Do you have any idea how
11 long that was?

12 A A few minutes, maybe.

13 Q A few minutes?

14 A Not even 20 minutes. Something like that. Ten
15 minutes.

16 Q 20 minutes?

17 A I'm not sure of the exact time.

18 Q Was it more than ten minutes?

19 MS. GARY: Your Honor, this witness has already
20 answered he doesn't know.

21 MR. GIBSON: Judge, he can -- I'm certainly allowed
22 to try to get him to bracket it.

23 THE COURT: Yeah. Overruled.

24 BY MR. GIBSON:

25 Q Was it more than ten minutes?

1 A I'm not sure of the exact time.

2 Q You don't know?

3 A No.

4 Q So you sit for a time, and you have no idea how long
5 you sat for; is that right?

6 A Yeah.

7 Q But somehow you knew that that was the time that you
8 needed to go by and pick them up; is that correct?

9 A Yeah.

10 Q All right. Was the plan all along for you to come up
11 there and pick them up?

12 A Yeah.

13 Q Okay. But you guys didn't organize any like signal
14 or anything like that to let you know when to come.

15 A No.

16 Q I'm going to show you -- or I'm going to try to
17 because I'm not very good with all this stuff that's in
18 here now. But I'm going to try to show you a picture.

19 All right. So from my understanding from what you're
20 saying is that you're in the parking lot -- I mean you're
21 sitting in the parking lot at a church. Do you know where
22 in orientation to this (indicating) the church is?

23 A No. Somewhere about that (indicating) way.

24 Q Like straight back that (indicating) way?

25 A Yeah.

1 Q Or straight over that (indicating) way?

2 A No. Straight back like the other way.

3 Q Straight back that (indicating) way.

4 A The road, it runs along that ---

5 MS. GARY: Your Honor, I have to object. Mr. Gibson
6 is pointing the opposite direction that the witness is
7 pointing.

8 MR. GIBSON: Well, I've got no problem with him
9 getting up and indicating that if the Court has no
10 objection to that.

11 THE COURT: All right. That's fine. Yeah. If he
12 needs to get up and . . .

13 BY MR. GIBSON:

14 Q If you would, please show me where you're talking
15 about.

16 A Okay. There's a road that runs -- this right here
17 (indicating) going this way.

18 Q All right. So the church is on the same road as this
19 (indicating).

20 A Yes.

21 Q Okay. Do you remember the name of the church?

22 A No, I don't.

23 Q I'm going to show you another.

24 So do you believe that it may have been Northside
25 Baptist Church where you waited or where you dropped them

1 off?

2 A Yes.

3 Q Northside Baptist Church is not on the same road as
4 [REDACTED] Razor Drive. So do you want to rephrase that?

5 A I'm not sure what you're saying.

6 Q So it's not -- I'm looking. I'm showing you a map.
7 It's not on the same road as Razor Drive. Do you have a
8 response to that?

9 A No. No, I don't.

10 Q Okay. So do you just not recall where all this stuff
11 happened?

12 A No. I guess . . .

13 Q All right. So, in fact, you had to go up around the
14 block and then come down to get there, is that not
15 correct, based upon the map I just showed you? Do you
16 want to see it again?

17 A No. Yeah.

18 Q You need to see it again?

19 A Yeah, yeah.

20 Q So you see -- so the church is here (indicating). If
21 you go here, up, down, and then you've still got to go
22 back another way to get to that road. Do you see that?
23 Do you see what I just pointed to?

24 A Yes. Yeah. I see that.

25 Q So, in fact, like I just said, you actually have to

1 go up and back around to go down that street to get there.

2 A Yeah.

3 Q Do you have any idea how long that took you?

4 A No, I don't.

5 Q Now, you said that -- just now or just before I got
6 up and started asking questions that Robert Belcher had a
7 gun.

8 A Yeah.

9 Q But that's not what you told Inspector Maltby the
10 first time you got interviewed. Do you remember that?

11 A No, I don't.

12 Q You don't? So you don't recall telling Investigator
13 Maltby that Robert Belcher, you did not see a gun on
14 Robert Belcher?

15 A No.

16 Q All right. So you picked them up.

17 A Uh-huh.

18 Q And after you picked them up, what do you guys do?

19 A We went to Crestwood Apartments.

20 Q Went back to Crestwood Apartments. Did that take you
21 another five minutes?

22 A Yes.

23 Q Did y'all go straight there?

24 A Yes.

25 Q Did y'all do -- I mean, what route did you go? How

1 did you guys get there; do you recall?

2 A I'm not sure.

3 Q Did you go down to, say -- but you don't recall the
4 route that you took.

5 A No.

6 Q Did you go anywhere out of the way or anything like
7 that, or did you go as straight as you could?

8 A I'm not sure what you're asking.

9 Q So y'all went straight back to Crestwood?

10 A Uh-huh.

11 Q And then what did you do?

12 A I let Kiki out of the car and Robert.

13 Q You let Kiki and Robert out of the car.

14 A Uh-huh.

15 Q And was that the last time you saw them that evening?

16 A Yes.

17 Q Did anybody else get in the car with you to replace
18 them?

19 A No.

20 Q So at this point it is just you and Mr. Martinez?

21 A Yes.

22 Q Is that correct?

23 And then you go directly to the Ingles.

24 A Yes.

25 Q And then what did you do after that? Remind me.

1 A I went to [REDACTED] Alice Street, Avenue or whatever.

2 Q And dropped him off?

3 A I dropped him off, yes.

4 Q And then you went home?

5 A No. I went to a hotel.

6 Q You went to where? A hotel.

7 A A hotel, yes. Uh-huh.

8 Q Okay. Now, do you remember telling the police a few
9 untruths as you were going through this whole thing?

10 A Do I remember what?

11 Q Let me rephrase. When you met with Investigator
12 Maltby and you gave the confession that we're -- in this
13 particular case, were you straightforward and honest from
14 the start?

15 A Yes.

16 Q So when you said -- when you were asked and you said,
17 "I don't know anything about somebody getting killed,"
18 that was a lie?

19 A I mean, I didn't.

20 Q I'm sorry. Say again?

21 A I said I didn't.

22 Q You didn't at that point, the time that you were
23 interviewed with Agent Maltby -- Investigator Maltby,
24 correct? Is that what you're saying?

25 A No. I'm saying that I didn't know anybody got

1 killed.

2 Q You didn't.

3 A No.

4 Q So this interview that we're talking about, it took
5 place sometime in February.

6 A Yes.

7 Q And you testified earlier that you found out that
8 this individual had gotten killed the next morning after
9 it happened.

10 A I found out that somebody got killed. I'm not sure
11 if it was this specific person.

12 Q So you thought all along that your robbery that you
13 had planned had absolutely nothing to do with the death of
14 Mr. Bruster.

15 A Yes.

16 Q So when did it click for you? I mean, when do you
17 say, oh, my God, this is the incident? I mean, obviously,
18 it clicked before you spoke with Mr. Maltby. So when did
19 that happen?

20 A It happened sometime before that.

21 Q Sometime before what?

22 A Before I spoke with him.

23 Q Before you spoke with him?

24 A Yeah, yeah.

25 Q So when he spoke with you during that interview and

1 he asked you the question and you said, "I don't know
2 anything about somebody getting killed," that was, in
3 fact, a lie, was it not? Because you knew everything
4 about Mr. Bruster being killed.

5 A No.

6 Q Which is it? So you were telling the truth when you
7 met with him? You ---

8 MS. GARY: Your Honor, can he be allowed to answer
9 one set of questions before he's asked another?

10 THE COURT: Yeah.

11 MR. GIBSON: I'm sorry, Your Honor. I thought he did
12 answer. I thought he said ---

13 THE COURT: Go ahead. Re-ask the first question.

14 THE WITNESS: What's the question?

15 BY MR. GIBSON:

16 Q When you were interviewed in February -- let me back
17 up. You just told me that you made a connection that the
18 armed robbery that you were involved in and the murder of
19 Mr. Bruster were connected prior to you meeting with
20 Inspector Maltby. Do you remember just saying that?

21 A Uh-huh.

22 Q When you met with Inspector Maltby and you entered
23 your first confession to these events, you were asked do
24 you know -- you were asked a question, and your answer
25 was, "I don't know anything about anybody -- about someone

1 getting killed."

2 A Uh-huh.

3 Q Do you remember that?

4 A Yes.

5 Q When you said that in February after making the
6 connection between these two events, you were, in fact,
7 lying, were you not?

8 A No. I didn't put it to that they killed anybody.
9 So . . .

10 Q You do realize you just told me that you had put that
11 together prior to meeting with Inspector Maltby, don't
12 you?

13 A That the victim had died in the case? I'm still
14 confused.

15 Q I'm sorry. Say again?

16 A I said I'm still confused. I'm not sure what you're
17 -- what you're asking.

18 Q All right. Let's try to go through this again, okay?

19 A Uh-huh.

20 Q You said that you were involved in this armed
21 robbery.

22 A Yes.

23 Q You said that the day after it happened, that's when
24 you found out somebody was killed as a part of it.

25 A No. Not as a part of it, but that somebody was

1 killed.

2 Q So you didn't -- you didn't know that Jermaine
3 Bruster's murder had anything to do with what you had done
4 with either, according to you, Mr. Belcher, Ms. Mansell or
5 Mr. Martinez.

6 A Yes.

7 Q When did you put that connection together?

8 A I didn't put that connection together.

9 Q When? You're saying you have never put the
10 connection together, that what you were involved in and
11 the murder of Jermaine Bruster were related and involved?

12 A Yes. I'm saying yeah.

13 Q So even today as we sit here now, you don't see how
14 those two things are connected and involved?

15 A From what I was told, I mean . . .

16 Q What do you mean what you were told?

17 A That -- that he was killed.

18 Q So you were told he was killed.

19 A And that is the same night he was supposed to have
20 been robbed.

21 Q So you were told that he was killed.

22 A Uh-huh.

23 Q And you've confessed and you pled to a murder -- or,
24 I'm sorry, a manslaughter, and we'll get into that -- to a
25 voluntary manslaughter in connection with this

1 transaction.

2 A Uh-huh.

3 Q Is that not fair? Is that not correct?

4 A Uh-huh.

5 Q But you're telling me that even now you don't see how
6 those two things are involved?

7 A No. Not really.

8 Q Okay. But yet you did plead to a voluntary
9 manslaughter, right?

10 A Yeah.

11 Q So let's go back and ask -- let's ask the same sort
12 of issue but with a different question as to -- as to
13 what, in fact, you knew. Did you know anything about
14 Jermaine Bruster being killed?

15 A Yeah. I mean, through the -- through the message
16 that I had got.

17 Q Message you had got. The message you had got from
18 who?

19 A From Kiki.

20 Q So Kiki sends you a message. She says what? What
21 does this message say?

22 A It was like a link for the news thing or whatever.

23 Q So Kiki sends you a link to the news.

24 A Uh-huh.

25 Q And why would she send you that?

1 A She said that, hey, this guy got killed.

2 Q Okay. But she didn't link it up to what you guys had
3 done the night before.

4 A No. I mean, I don't ---

5 Q And you didn't ---

6 A Because I don't know the victim, so yeah.

7 Q And you didn't think in your mind that this might be
8 linked up to the night before?

9 A No.

10 Q Okay. And then do you understand that it's linked up
11 now?

12 A Yes. Now, yes.

13 Q When did you make the realization that these two
14 events were linked?

15 A I guess when I took the plea.

16 Q So you didn't understand they were linked until you
17 went before a judge in June that Jermaine Bruster and this
18 armed robbery was one and the same.

19 A I guess, yeah.

20 Q And yet you still gave a confession to Inspector
21 Maltby regarding it.

22 A Yes. I gave him -- yes.

23 Q Okay. Now, that interview that you had where you
24 ultimately gave this confession, that was actually
25 something you requested, correct?

1 A No.

2 Q You didn't request to meet with him?

3 A No.

4 Q Okay. But somehow or another you ended up meeting
5 with him, correct?

6 A Yes, yes.

7 Q And without going into the details of it, they were
8 -- let me rephrase that question. You initially met with
9 two investigators in the room with you, correct? Do you
10 recall that?

11 A Yes.

12 Q And one of those investigators left, and it was just
13 you and Inspector Maltby for a short period of time; do
14 you remember that?

15 A Yes, yes.

16 Q Now, during that period with Inspector Maltby, in
17 fact, throughout the rest of the interview, okay, do you
18 remember Inspector Maltby telling you ---

19 MS. GARY: Objection, Your Honor. That calls for
20 hearsay.

21 THE COURT: I'm not sure how that's hearsay.

22 MS. GARY: Out-of-court statement by a person who's
23 not this witness. Thank you.

24 MR. GIBSON: Judge, I am not asking that to assert
25 the truth of the matter. I am only asking it to set up

1 another question. It is not hearsay if I'm not asserting
2 it for the truth of the matter.

3 THE COURT: I'm going to sustain the objection. I
4 think it is being asserted for that.

5 MS. GARY: Thank you, Judge.

6 MR. GIBSON: Judge, may we approach?

7 THE COURT: Yes.

8 (WHEREUPON, a bench conference was held off the record.)

9 BY MR. GIBSON:

10 Q Eventually, you were worked out a deal on this case,
11 or at least your lawyer did, correct?

12 A Yes.

13 Q And your lawyer's in the courtroom now, is he not?

14 A Yes.

15 Q And you had -- in addition to the charges in this
16 case, you had a number of other charges as well, did you
17 not?

18 A Yes.

19 Q In this case alone, you had a charge for murder,
20 correct?

21 A Yes.

22 Q You had a charge for armed robbery.

23 A Yes.

24 Q You had a charge of burglary first, burglary first
25 degree.

1 A Yes.

2 Q You had a charge of petit larceny.

3 A Yes.

4 Q You had a charge for conspiracy, criminal conspiracy.

5 A Yes.

6 Q Did you also have a charge for a possession of a
7 weapon during the commission of a violent crime?

8 A Yes.

9 Q Now, the other charges that you had, you had
10 attempted murder.

11 A Yes.

12 Q And you had three of those.

13 A Yes.

14 Q In that case also you had an armed robbery charge.

15 A Yes.

16 Q And a criminal conspiracy charge.

17 A Yes.

18 Q And a larceny charge.

19 A Yes.

20 Q And another possession of a weapon during the
21 commission of a violent crime.

22 A Yes.

23 Q Now, as a result of the plea deal that you have
24 worked out in exchange for your testimony, you have pled
25 to one count of voluntary manslaughter; is that not right?

1 A Yes.

2 Q And every other charge you have had has been
3 dismissed.

4 A Yes.

5 Q Now, on that voluntary manslaughter count, you are
6 looking at a sentence of zero -- or two to 30 years; is
7 that not correct?

8 A Yes.

9 Q But you have not been sentenced yet.

10 A Yes.

11 Q They're holding off on your sentencing to see how you
12 do as a witness in this case, are they not?

13 A I guess.

14 Q And it is your hope that through your performance in
15 this particular case, that you get a lesser sentence than
16 the maximum 30 years; is that not correct?

17 A Yes.

18 Q Now, on that murder charge that you had but was
19 dismissed, you were looking at a mandatory 30 years and
20 life -- mandatory 30 years ---

21 MS. GARY: Objection, Your Honor.

22 MR. GIBSON: Objection?

23 MS. GARY: Counsel should be well aware that's
24 inappropriate.

25 THE COURT: Sustained.

1 (Pause in proceedings.)

2 MS. GARY: Your Honor, I'm sorry. I know the jury's
3 coming in. For scheduling purposes, how long would Your
4 Honor like to go this evening?

5 MR. GIBSON: I hate to make them too much past 5:00.

6 MS. GARY: Yes, sir. We're just trying to see who we
7 need to get here.

8 THE COURT: Unless the jury is fine with that.

9 MS. GARY: No. And I'm not asking to go past 5:00.
10 I'm just curious.

11 THE COURT: Okay.

12 MS. GARY: Thank you.

13 (WHEREUPON, the jury entered the courtroom at 2:59 PM.)

14 THE COURT: All right. Ladies and gentlemen, as you
15 will recall, cross-examination by Mr. Belcher.

16 So you may proceed.

17 MR. GIBSON: Thank you very much, Your Honor.

18 BY MR. GIBSON:

19 Q All right. So when we broke, I was asking you about
20 your sentence that you would have been looking at on the
21 murder that you were charged with in connection with this
22 case.

23 A Yes.

24 Q And what I was asking you to confirm was that prior
25 to you entering this plea to this voluntary manslaughter,

1 on that particular charge alone, you were looking at a
2 mandatory minimum term of prison, in prison for 30 years
3 up to life.

4 A Yes.

5 Q And by pleading guilty to this voluntary manslaughter
6 and agreeing to testify against these two individuals, you
7 have substantially cut the possibility or potential for
8 your sentence; is that not correct?

9 A Yes.

10 Q And that is in addition to all the other charges that
11 you had that have been dismissed; is that not correct?

12 A Yes.

13 Q And, again, as I asked you before and you said, other
14 than your testimony, you have no proof whatsoever that
15 Robert Belcher was involved in this crime; isn't that, in
16 fact, correct?

17 A Yes.

18 MR. GIBSON: Thank you.

19 THE COURT: Mr. Martinez?

20 CROSS EXAMINATION

21 BY MR. GRUBBS:

22 Q Mr. Porter, you don't want to spend the rest of your
23 life in prison, do you?

24 A No.

25 Q Thanks to your plea today, you don't have to; isn't

1 that right?

2 A You're correct.

3 Q Because as we talked about extensively at this point,
4 you pled guilty to voluntary manslaughter.

5 A Yes.

6 Q And so you're not looking at life anymore, right? Is
7 that correct?

8 A Yes.

9 Q We talked a little bit about some of the charges that
10 you already had dismissed, but I want to go into a little
11 bit more detail about those, because I think it's
12 important to note there were 15 of those charges; do you
13 recall that?

14 A Yes.

15 Q We're going to go through them and I'm going to
16 represent to you this is the maximums that they all carry.

17 Unlawful carry of a pistol up to one year, do you
18 recall that being dismissed?

19 A Yes.

20 Q Receiving stolen goods enhancement that carries up to
21 ten years, do you recall that being dismissed?

22 A Yes. I'm -- yes.

23 Q Okay. Three attempted murders, that's zero to 30
24 years apiece, do you recall those being dismissed?

25 A Yes.

1 Q Possession of marijuana, 30 days, that was
2 dismissed.

3 A Yes.

4 Q Two armed robberies at a mandatory minimum ten years
5 up to 30 years in prison dismissed.

6 A Yes.

7 Q Petit larceny, 30 days, dismissed.

8 A Yes.

9 Q Conspiracy, zero to five years, that was dismissed.

10 A Yes.

11 Q Possession of a weapon during the commission of a
12 violent crime, two of those at five years apiece
13 dismissed.

14 A Yes.

15 Q Burglary first degree, mandatory minimum 15 years in
16 prison up to life in prison dismissed.

17 A Yes.

18 Q Another conspiracy, zero to five years dismissed.

19 A Yes.

20 Q Finally, discharging a weapon into an occupied
21 vehicle, zero to ten years dismissed.

22 A Yes.

23 Q So I'm not very good at math, Mr. Porter, but that
24 adds up to over 190 years in prison you've avoided already
25 by testifying today; isn't that right?

1 A Yes.

2 Q And as we said, this isn't the first time you've been
3 in trouble.

4 A Uh-huh.

5 Q Is that a yes?

6 A Yes.

7 Q You've been convicted of a couple other burglaries
8 we've already talked about, correct?

9 A Yes.

10 Q So this isn't your first rodeo committing crimes and
11 that kind of thing.

12 A Yes.

13 Q In fact, you told Investigator Maltby in your
14 interview that you had your share of crimes; do you recall
15 that?

16 A Uh-huh.

17 Q Is that a yes?

18 A Yes.

19 Q So let's talk about that interview. You've been
20 asked about it a couple different times.

21 A Yes.

22 Q You remember having that interview, right?

23 A Yes.

24 Q It was on February 28th of 2018; does that sound
25 right?

1 A Yes.

2 Q Did you review that interview before your testimony
3 here today?

4 A What do you mean did I review it?

5 Q Did you watch it again before you came in here to
6 testify today?

7 A No. I've never seen the video.

8 Q Never seen that video. Okay.

9 A No.

10 Q But you did testify earlier that you did not lie to
11 Investigator Maltby. That's what you testified to.

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes.

15 Q So when this interrogation started initially, you
16 told Investigator Maltby you were at a hotel with your
17 girlfriend all night; isn't that true?

18 A To begin with?

19 Q To begin with at the very beginning of this
20 interview, you told Investigator Maltby that you were at a
21 hotel with your girlfriend all night, true?

22 A No. Not that I remember.

23 Q That's not true. So you're denying making that
24 statement to Investigator Maltby.

25 A I can't recall.

1 Q You can't recall. Would it help refresh your
2 recollection if I showed you the portion of the interview
3 where you said that? Would it help you remember if I
4 showed you that part of the video?

5 A No, I guess.

6 Q It wouldn't help you? Okay.

7 MS. GARY: And Your Honor, if Mr. Grubbs intends to
8 publish that in front of the jury, that would be
9 inappropriate at this time. It needs to be outside the
10 jury's presence.

11 MR. GRUBBS: Judge, I'm planning to impeach him with
12 this. He said that he can't remember making the
13 statement ---

14 THE COURT: The statement is not in the record is
15 what ---

16 MS. GARY: Correct. Yes, sir. It would not be
17 proper in front of the jury at this time.

18 MR. GRUBBS: Okay. Well, then I will show him with
19 the headphones on.

20 BY MR. GRUBBS:

21 Q Put those on Mr. Porter.

22 A I can't even put them on.

23 Q Can you hold one of them just kind of up to your ear
24 as best you can?

25 (WHEREUPON, a video was played for the witness.)

1 BY MR. GRUBBS:

2 Q Were you able to hear that statement, Mr. Porter?

3 A No. I can't hear.

4 Q All right. I'm going to try to turn it up a little
5 bit.

6 (WHEREUPON, a video was played for the witness.)

7 BY MR. GRUBBS:

8 Q How about now? Could you hear the statement then?

9 A Yeah. It sounded like I said I was at a hotel with
10 her.

11 Q So you did say that you were at a hotel with her.

12 A Uh-huh.

13 Q You told Investigator Maltby you were smoking weed,
14 taking pills and drinking on that night, right?

15 A Uh-huh. Yes.

16 Q And as Mr. Gibson has already gone over, you told him
17 that you didn't know anything about someone getting
18 killed.

19 A Yes.

20 Q In fact, I recall you even asking Investigator Maltby
21 where this incident happened, right?

22 A Yes.

23 Q Told Investigator Maltby that Keyla was the
24 ringleader, it was her idea, right?

25 A Uh-huh, yes.

1 Q Do you know if -- do you have any knowledge whether
2 or not Keyla Mansell had bought drugs from Jermaine
3 Bruster before?

4 A I'm not sure if she bought any from him, but I do
5 know that, you know, she stated he had drugs.

6 Q I'm sorry. Were you finished?

7 A Yes, yeah.

8 Q But it was her idea, according to you?

9 A Yes.

10 Q Now, you testified that Raymond Martinez was armed
11 with a gun on this night, according to you.

12 A Yes.

13 Q You also told Investigator Maltby that he gave that
14 gun to you at some point, right?

15 A Yes.

16 Q And that that gun was confiscated by law enforcement
17 when you were arrested, right?

18 A Yes.

19 Q You also testified just now on the stand that Robert
20 Belcher was also armed with a gun; do you recall that?

21 A Yes.

22 Q And Mr. Gibson started to ask you a question about
23 when you were initially being interviewed by Investigator
24 Maltby, that he did not have a gun and you said you never
25 said that, right?

1 A Correct.

2 Q Okay. Would it help refresh your recollection if I
3 showed you, again, a clip from your interview about that
4 statement?

5 A Yes.

6 (WHEREUPON, a video was played for the witness.)

7 BY MR. GRUBBS:

8 Q Were you able to hear that statement, Mr. Porter?

9 A Yeah. Some -- some of it. Sounded like ---

10 Q I'm sorry. Do you need to hear it again?

11 A Yeah. I said I don't think he did.

12 (WHEREUPON, a video was played for the witness.)

13 BY MR. GRUBBS:

14 Q Were you able to hear that statement, Mr. Porter?

15 A Yes.

16 Q And in that statement, isn't it true that you told
17 Investigator Maltby that you didn't think Robert Belcher
18 had a gun?

19 A Yes.

20 Q And your testimony here today is that he did have a
21 gun.

22 A Yeah.

23 Q Those two things are different. We can agree on
24 that?

25 A Uh-huh.

1 Q So one's a lie, right?

2 A Yeah.

3 Q Which one?

4 A When I said I think he did and that he did I guess is
5 a lie. I'm not sure if it's a truth or lie.

6 Q You know what a lie is, right, Mr. Porter?

7 A I mean, I didn't have -- my memory at the time, I
8 really couldn't remember.

9 Q You couldn't remember.

10 A Yeah.

11 Q That's your testimony that you couldn't remember at
12 the time.

13 A Uh-huh.

14 Q This was five and a half years ago, right?

15 A Uh-huh.

16 Q So you're saying that your memory is better now than
17 it was five and a half years ago.

18 A No. Not really, no.

19 Q It's not. Your memory's better now that you've
20 gotten a deal from the State to testify here today; isn't
21 that right?

22 A No.

23 Q That's not true either?

24 A You said my memory's better that I got a deal.

25 Q Right. Now that you're here testifying, you remember

1 something you didn't remember five and a half years ago,
2 right?

3 A I mean ---

4 Q You need to answer, Mr. Porter.

5 A Saying it's like five and a half years ago as if I
6 didn't remember this like months after the interview or
7 something. You just assume.

8 Q I'm saying that five and a half years ago, you said
9 Robert Belcher didn't have a gun. I'm saying five and a
10 half years later, you're saying he did have a gun, right?

11 A I said I thought. I never said I didn't ---

12 Q Okay. But we've already agreed that those two things
13 are different, right?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yep.

17 Q So what I'm saying is now that you remember that
18 Robert Belcher had a gun, you remember that here today at
19 your trial, right?

20 A Uh-huh.

21 Q Is that a yes?

22 A Yep.

23 Q And that memory that has just come back to you has
24 happened after you pled guilty to voluntary manslaughter,
25 right?

1 A I'm not sure if it has anything to do with that.

2 Q That's not my question, Mr. Porter. You are
3 testifying here today after you have pled guilty to
4 voluntary manslaughter, correct?

5 A Yep.

6 Q And your testimony here is different, correct?

7 A Yeah. Somewhat.

8 Q Thank you.

9 Now let's go back to some of the testimony that you
10 gave about the process of getting to this church where you
11 allege that you went.

12 A Uh-huh.

13 Q Okay. So I think you testified that from Crestwood
14 to where the church was it took you about five minutes; is
15 that correct?

16 A Uh-huh.

17 Q Is that a yes?

18 A Yeah.

19 Q And you said that you parked at that church.

20 A Yes.

21 Q And then you testified earlier that that's where you
22 stayed.

23 A Yes.

24 Q But in your interview with Investigator Maltby, you
25 actually told him that you drove around for ten minutes;

1 do you recall that?

2 A I just heard it when you just played that video.

3 Q So you do recall now, after playing that video, that
4 you told Investigator Maltby that you were not just
5 sitting at the church, right?

6 A Before we got there or . . .

7 Q Mr. Porter, I'm saying that your testimony here in
8 this courtroom is that you stayed at that church the whole
9 time until you went and got them. That's what your
10 testimony was, right?

11 A Yes. Correct.

12 Q And now I'm saying that, in that interview with
13 Investigator Maltby, you said you drove around for ten
14 minutes right?

15 A Yeah.

16 Q So then, again, that is different, isn't it?

17 A Yep.

18 Q So again, that's a lie, isn't it?

19 A Yes. I guess.

20 Q So when you said earlier that when you testified that
21 you didn't lie to Investigator Maltby, were you lying to
22 him then or are you lying to this jury now?

23 A I'm confused about what you're saying right now.

24 Q You're confused about the question.

25 A Yeah.

1 Q All right. Let's back it up. I'll try to break it
2 down for you.

3 A Uh-huh.

4 Q You parked at the church according to your testimony
5 today, correct?

6 A Yes.

7 Q And that's where you stayed, correct?

8 A Yes.

9 Q You just heard on a video that I played for you that
10 you told Investigator Maltby that you drove around for ten
11 minutes, correct?

12 A Yes.

13 Q We can agree that driving around is different than
14 being parked, can't we?

15 A Yeah.

16 Q So again, one of those things is a lie, correct?

17 A Yeah.

18 Q So again, I'm going to ask my question. Did you lie
19 to Investigator Maltby then or are you lying to this jury
20 now?

21 A I guess then, but I'm not sure.

22 Q Okay. So when you testified earlier, again, that you
23 didn't tell any lies to Investigator Maltby, that, in
24 fact, is a lie, isn't it?

25 A That's not a lie. I just didn't remember exactly

1 what it was I said.

2 Q Okay. You said your plan was to pick them up in
3 front of that location, right?

4 A Uh-huh.

5 Q And as Mr. Gibson elicited on his cross-examination,
6 you just knew when to be there, right?

7 A Yeah.

8 Q You never told Investigator Maltby anyone gave you a
9 phone call or anything like that telling you to be there.

10 A Yeah. No. Nobody did.

11 Q You just knew.

12 A Yes.

13 Q You told Investigator Maltby that Raymond Martinez
14 had mentioned to you that he tied somebody up that night,
15 right?

16 A No. He asked me -- he asked me about what happened.
17 I told him I didn't know. And I assume that that's what
18 happened.

19 Q Okay. So now you're assuming that that's what
20 happened.

21 A Uh-huh.

22 Q Okay. Now, you know Keyla Mansell, right?

23 A Yes.

24 Q Do you know that Keyla Mansell has already been --
25 has already pled guilty to the killing of Jermaine Bruster

1 also? Are you aware of that?

2 A Yes.

3 Q Do you know what she got?

4 A Like 12 years, something like that.

5 Q Okay. So she got a good deal, too. Okay. I'll
6 withdraw.

7 And then after all this happened, you went back to
8 Crestwood, right?

9 A Uh-huh, yeah.

10 Q Then you say a couple people got out.

11 A Yes.

12 Q And then Raymond stayed in with you.

13 A Yes.

14 Q And then went to Ingles.

15 A Yes.

16 Q And then he went to the Coinstar.

17 A Yes.

18 Q Now, Mr. Porter, you've used Coinstar before, haven't
19 you?

20 A Yes.

21 Q You've done burglaries before, right?

22 A Yes.

23 Q Have you ever used that Coinstar in that Ingles
24 before?

25 A No.

1 Q But you know that Coinstars are in grocery stores
2 most of the time.

3 A Yes.

4 Q You know that there are cameras in grocery stores,
5 right?

6 A Yes.

7 Q And, in fact, you were the driver that night, right?

8 A Yes.

9 Q You were in control of that car.

10 A Yes.

11 Q You chose where to go with it.

12 A Yes.

13 Q And when you pulled into that Ingles parking lot, you
14 parked far away, didn't you?

15 A Not sure where I parked.

16 Q You told Investigator Maltby that Raymond Martinez
17 was wearing all black that night; you remember that?

18 A Yes.

19 Q And that he was not wearing a jacket.

20 A Yes.

21 Q And he was wearing gray-black Nikes; do you recall
22 that?

23 A (No answer.)

24 Q Do you recall that, Mr. Porter?

25 A Yeah.

1 Q Let's talk about what you didn't tell Investigator
2 Maltby. You were asked about gloves. You never told
3 Investigator Maltby Raymond Martinez had gloves in your
4 interview, did you?

5 A No. Not that I remember.

6 Q Never told him he had a mask, did you?

7 A No.

8 Q So again, here we are five and a half years later,
9 your testimony here in this court in front of this jury is
10 that he had gloves on, right?

11 A Yeah.

12 Q Even though five and a half years ago when you met
13 with Investigator Maltby, never mentioned that, right?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes.

17 Q You testified earlier that when you went to go pick
18 them up, allegedly, that they came from the mailbox and
19 you were shown that picture, right?

20 A Yes.

21 Q Didn't tell that to Investigator Maltby in your
22 interview, did you?

23 A I'm sure I did.

24 Q You're sure you did. Okay. As sure as you are about
25 these other things I've been asking you about?

1 A To the best of my knowledge, yeah.

2 Q Your testimony on cross-examination under Mr. Gibson
3 was that you never put it together that this murder and
4 this lick that you guys allegedly did were linked, right?

5 A Uh-huh.

6 Q Is that a yes?

7 A Yes.

8 Q And that you didn't put it together until you walked
9 into court to plead guilty to voluntary manslaughter,
10 right?

11 A I mean, it was before then. But yeah. Like by that
12 time, I knew.

13 Q So you put it together by the time you confessed to
14 all this, right?

15 A Uh-huh.

16 Q Is that a yes?

17 A Yes.

18 Q And you're going to be sentenced at some point after
19 this trial, right?

20 A To my understanding, yes.

21 Q And you want as little prison time as possible,
22 right?

23 A Yes.

24 MR. GRUBBS: I have nothing further, Judge.

25 THE COURT: Redirect?

1 MS. GARY: Very briefly, Judge.

2 REDIRECT EXAMINATION

3 BY MS. GARY:

4 Q Mr. Porter, there's been a lot of conversation about
5 your interview with Investigator Maltby. Do you recall
6 that Investigator Maltby told you that somebody died on
7 New Year's Eve 2017 at Razor Drive?

8 A Yes.

9 Q And do you recall saying, "I don't know anything
10 about anyone getting killed"?

11 A Yes.

12 Q Okay. And Mr. Porter, isn't it true you testified
13 earlier you did not go inside that apartment, right?

14 MR. GIBSON: Objection. Leading.

15 THE WITNESS: Yes.

16 BY MS. GARY:

17 Q Did you testify earlier -- did you go inside that
18 apartment?

19 A No.

20 Q So you don't know what happened inside that
21 apartment, do you?

22 A No, I don't.

23 Q So do you know the details of how Mr. Bruster was
24 killed?

25 A That he was shot. No. That was it.

1 Q So when you told Investigator Maltby, "I don't know
2 anything about anyone killed," is that what you meant?

3 A Yes. Correct.

4 Q Okay. And there's been a lot of conversation about
5 State's Exhibit 17 I'm going to show you, the church and
6 the apartment. Let me just zoom out here a little bit.

7 And you identified earlier -- again, this is State's
8 Exhibit 17 -- that you believe this to be the incident
9 location, Rasor Drive; is that right?

10 A Yes.

11 Q Okay. And you believe you did not know the name of
12 it, but you believe this (indicating) to be the church
13 where you parked?

14 A Yes.

15 Q Let me actually zoom in a little bit. And
16 Mr. Porter, in the aerial -- or excuse me -- in the photo
17 we have of the church, you indicated that you parked in
18 the back, is that right, in the parking lot that's in the
19 rear?

20 A Yes.

21 Q So would that area be here (indicating)? Sorry. I'm
22 blocking it. Back here (indicating)?

23 A I'm not sure exactly where it's at. But wherever ---

24 Q Would you agree with me, Mr. Porter, that the back of
25 this church and Rasor Drive are on the same road?

1 A Yes.

2 Q Okay. Mr. Porter, you testified earlier that you, at
3 least on New Year's Eve 2017 if not more often, were
4 smoking marijuana and drinking; is that right?

5 A Yes.

6 Q Do those things affect your memory, sir?

7 A Yes.

8 Q Are you clearheaded and sober today?

9 A Yes, ma'am.

10 MS. GARY: All right. Thank you.

11 That's all I have, Judge.

12 THE COURT: You may step down.

13 Everybody okay on the jury? Okay.

14 All right. Call your next witness.

15 MS. GARY: Thank you, Your Honor. We're trying to
16 see who we have in order here.

17 THE COURT: All right.

18 MR. GRESHAM: Your Honor, the State calls Dr. Michael
19 Ward to the stand.

20 THE CLERK: Please place your left hand on the Bible
21 and raise your right hand.

22 WHEREUPON,

23 MICHAEL WARD

24 After having been duly sworn, testified as follows:

25 THE CLERK: Thank you. Please take a seat and state

1 your name for the record.

2 THE WITNESS: Michael Eugene Ward.

3 DIRECT EXAMINATION

4 BY MR. GRESHAM:

5 Q Dr. Ward, good afternoon.

6 What is your occupation?

7 A I'm a forensic pathologist. I'm employed by
8 Pathology Associates of Greenville and by Greenville
9 County as the chief medical examiner.

10 Q And how long have you served as medical examiner?

11 A 28 years.

12 Q Could you tell us your duties as medical examiner?

13 A My responsibilities are to investigate deaths that
14 occur in Greenville County to determine cause and manner
15 of death.

16 Q Okay. And would you explain to us what the purpose
17 of an autopsy is?

18 A An autopsy is one of the tools that we use in this
19 investigation. It's a detailed physical examination
20 performed on someone who is deceased. It includes an
21 external examination looking at the outside of the body
22 for any injuries or natural disease that may be present as
23 well as an internal examination, again, looking for signs
24 of trauma or natural disease.

25 Q And what is the cause of death versus a manner of

1 death?

2 A The cause of death is that entity that resulted in
3 your death that day. It can be trauma. It can be a
4 gunshot wound. It can be heart disease, pneumonia,
5 cancer. Those are all causes of death. Manner of death
6 is how that came to be. Is this a natural process? Is it
7 something that happened accidentally? Or is this
8 something at the hands of another individual, which would
9 be homicide?

10 Q Let's go a little bit more about you. Would you kind
11 of detail for the jury what your educational background
12 is?

13 A I received my bachelor's degree in biology from the
14 University of Alabama. I have a master's degree in
15 forensic science from the University of Alabama in
16 Birmingham. I received my medical degree from the
17 University of South Alabama which is in Mobile. I
18 attended a four-year anatomic pathology residency at the
19 Medical University of South Carolina in Charleston. Had a
20 one-year fellowship in forensic pathology at the
21 University of New Mexico in Albuquerque. I'm board
22 certified by the American Board of Pathology in both
23 anatomic and forensic pathology.

24 Q And is that the training that you received to become
25 a medical examiner or was there other training?

1 A That's my training, yes.

2 Q And are you a licensed medical doctor in the State of
3 South Carolina?

4 A Yes, I am.

5 Q And I believe you did testify to this, but you are
6 certified by the American Board of Pathology?

7 A Yes.

8 Q And that's a national basis?

9 A I'm sorry?

10 Q That's a national basis? That's not regional?

11 A Oh, national, yes.

12 Q Okay. Now, just briefly, what is pathology?

13 A Pathology is the study of disease and disease
14 processes and how they affect man. Forensic pathology
15 takes that one step further dealing primarily with trauma,
16 interpretation of toxicology results and how individuals
17 die and the presentation of that information in the court
18 of law.

19 Q And as a medical doctor, licensed medical doctor as
20 well as being a medical examiner, do you participate in
21 ongoing training?

22 A Yes, I do.

23 Q And is that a yearly basis? How much is done?

24 A I'm required to get 20 hours of continuing medical
25 education each year in -- primarily based in pathology and

1 forensic pathology.

2 Q And over the course of your time as medical examiner,
3 how many autopsies have you conducted -- personally
4 conducted?

5 A Well over 7,000.

6 Q And how many of those autopsies involve homicide
7 victims?

8 A Hundreds.

9 Q And have you ever testified in court as a forensic
10 pathologist?

11 A Yes, I have.

12 Q And how many times of that?

13 A Well over a hundred times.

14 MR. GRESHAM: At this time, Your Honor, the State
15 moves to have Dr. Ward declared an expert in the field of
16 forensic pathology.

17 THE COURT: Any objection or voir dire from Belcher?

18 MR. GIBSON: No, Your Honor.

19 THE COURT: Any objection or voir dire from Martinez?

20 MR. GRUBBS: No, Your Honor.

21 THE COURT: And you said forensic pathology?

22 MR. GRESHAM: Yes, Your Honor.

23 THE COURT: Ladies and gentlemen, normally, a person
24 can't testify about conclusions or their opinions.
25 Exception to that rule is if somebody's been declared an

1 expert, and then they can testify about their opinions and
2 their conclusions in their particular field based on their
3 education, their experience, their training. And in this
4 case Dr. Ward is qualified, designated as an expert in the
5 field of forensic pathology, and therefore, he can testify
6 about his opinions in those matters. But, just like all
7 testimony and all evidence, you're to give it the weight
8 and value which you feel is appropriate.

9 You may proceed.

10 MR. GRESHAM: Thank you, Your Honor.

11 BY MR. GRESHAM:

12 Q Were you the medical examiner in 2017?

13 A Yes, I was.

14 Q And did you perform an autopsy on the victim in this
15 case who is Jermaine Bruster?

16 A Yes, I did.

17 Q And when was that autopsy; do you recall?

18 A It was performed on January 2, 2018, at 9 a.m.

19 Q Okay. And where did that autopsy take place?

20 A The Greenville County autopsy facility is located on
21 the grounds of Greenville Memorial Hospital.

22 Q And through that autopsy, what did you notice as part
23 of your external examinations of the victim?

24 A That Mr. Bruster had a gunshot wound to the chest.

25 Q Okay. And did you notice any other findings besides

1 that one gunshot wound?

2 A Yes. He had superficial abrasion to the tip of his
3 nose, his upper lip, and superficial abrasion to the
4 anterior chest, or an abrasion being a scratch or a road
5 rash type of thing.

6 Q And what would that have been caused from?

7 A Most likely from a terminal collapse after he was
8 shot.

9 Q Okay. Now let's talk about that particular gunshot
10 wound. Would you kind of go into detail about your
11 findings pertaining to the internal findings of that
12 gunshot wound?

13 A Certainly. Mr. Bruster had a gunshot wound to the
14 left upper chest. It penetrated through his anterior
15 chest wall, through the sac surrounding the heart, through
16 the heart, through the aorta, through the tenth rib
17 posteriorly on the left side and terminated its course
18 within the deep muscles of the left upper back.

19 Q And was -- through the course of your autopsy, was a
20 projectile extracted from the victim?

21 A Yes. It was recovered.

22 Q And do you recall what caliber or what kind it was?

23 A It was a medium caliber, fully jacketed, round nose
24 projectile.

25 Q And through that internal examination of the victim,

1 did you determine the trajectory that the bullet entered
2 the body?

3 A The projectile passed through Mr. Bruster from his
4 front to his back and downward without deviation to the
5 left or to the right.

6 Q And could you determine at all what distance he was
7 likely shot from?

8 A I could not. Examination of his clothing, which was
9 not only dark but also very bloody, as well as his skin
10 reveals no evidence of gunshot residue. Gunshot residue
11 is what we use -- one of the measures that we use to
12 determine range of fire. So without the presence of
13 gunshot residue, we were unable to determine a range of
14 fire.

15 Q So when, as you said, the severing of the aorta, I
16 know you said it's the pericardial sac, would that have
17 been the fatal wound to him or would it have been the
18 surrounding the pericardial sac?

19 A Well, he's got fatal injuries both to his heart as
20 well as to the aorta with resulting internal hemorrhage or
21 blood present within the -- that hemorrhages from those
22 two defects.

23 Q And would you expect to see a lot of blood with
24 injuries sustained like that to the body, exterior, like
25 at the scene?

1 A Well, there certainly could be. There's not going to
2 be spurting type blood coming from this -- from this
3 wound. There's going to be a great deal of blood
4 internally. And if Mr. Bruster is face down, he certainly
5 could have blood escaping from the defect in his anterior
6 chest, but it's not going to be spurting type of blood.

7 Q And I believe you have testified to this but I just
8 want to make sure this is covered. Were you able to
9 determine the cause of death in this case based on those
10 findings?

11 A Yes, I was.

12 Q Would you tell us?

13 A Mr. Bruster died from a gunshot wound of the chest.

14 Q And how about manner of death?

15 A The manner of death would be homicide.

16 Q And would you tell us what is a homicide?

17 A A homicide is the death of an individual at the hands
18 of another person.

19 Q All right. I've got one exhibit here, 45, State's
20 Exhibit Number 45. Dr. Ward, I am showing you State's
21 Exhibit Number 45. Would you take a look at that? What
22 have I shown you?

23 A State's Exhibit Number 45 appears to be a copy of a
24 body diagram that I generated in relation to this case.

25 Q You prepared that?

1 A I did.

2 Q Is that typically something that you prepare in the
3 course of your autopsy in these cases?

4 A Body diagrams are prepared by me on each autopsy that
5 I perform. On the body diagram are listed not only
6 identifying characteristics of the body, but also any
7 trauma that we might see, measurements in relationship to
8 those injuries. This is what I would call a cleaned-up
9 version of my body diagram showing only the entrance
10 gunshot wound and as it is labeled as Gunshot Wound
11 Number 1.

12 Q Would you say it accurately reflects what you
13 observed where the gunshot wound was located on the victim
14 during your autopsy?

15 A Yes, it does.

16 Q Okay. Has this been -- from what you can tell
17 looking at it now, has it been changed in any way since
18 you prepared that?

19 A It has not.

20 Q No alterations or deletions?

21 A No.

22 MR. GRESHAM: Okay. I'll take that back from you.

23 Your Honor, at this time the State moves to enter
24 State's Exhibit Number 45 into evidence and requests
25 permission to publish.

1 THE COURT: Any objection from Belcher?

2 MR. GIBSON: No, Your Honor.

3 THE COURT: From Martinez?

4 MR. GRUBBS: No, Your Honor.

5 THE COURT: All right. In without objection.

6 (WHEREUPON, State's Exhibit Number 45 was admitted into
7 evidence.)

8 BY MR. GRESHAM:

9 Q All right. Dr. Ward, if you wouldn't mind, perhaps
10 you can stand down. Can you show us where the gunshot
11 wound you found was?

12 A So this is the injured portion of the body of
13 Mr. Bruster. And here is the entrance gunshot wound to
14 the left anterior chest. Here's the abrasion on the tip
15 of the nose, the upper lip and on the upper portion of the
16 abdomen/lower portion of the chest (indicating
17 throughout).

18 MR. GRESHAM: All right. Dr. Ward, I don't believe I
19 have any more questions for you. Please answer anything
20 the defense has for you.

21 THE COURT: Cross-examination From Belcher?

22 MR. GIBSON: No questions, Your Honor.

23 THE COURT: Martinez?

24 MR. GRUBBS: No questions, Your Honor.

25 THE COURT: All right. Thank you. You may step

1 down.

2 Do you need to take a break? All right. We'll take
3 a short break. Don't discuss your case -- this case, and
4 we'll bring you back out in just a few minutes.

5 (WHEREUPON, the jury exits the courtroom at 3:38 PM.)

6 THE COURT: All right. Now you can stand.

7 All right. Short break. And this was at the request
8 of the jury. I don't know if everybody caught that.

9 (WHEREUPON, a recess is taken at 3:38 PM; proceedings
10 reconvened at 3:49 PM.)

11 THE COURT: All right. Is the State ready?

12 MS. GARY: Yes, sir.

13 THE COURT: Defendant Belcher ready?

14 MR. GIBSON: Yes, Your Honor.

15 THE COURT: Martinez ready?

16 MR. GRUBBS: Yes, Your Honor.

17 THE COURT: That's all right. I didn't mean to start
18 without you, Mr. Martinez. We really hadn't started.

19 So okay. Bring the jury in.

20 (WHEREUPON, the jury entered the courtroom at 3:50 PM.)

21 THE COURT: All right. State, call your next
22 witness.

23 MS. GARY: Thank you, Your Honor. At this time the
24 State calls Francesca Troiso.

25 THE CLERK: Please place your left hand on the Bible

1 and raise your right hand.

2 WHEREUPON,

3 FRANCESCA TROISO

4 After having been duly sworn, testified as follows:

5 THE CLERK: Thank you. Please take a seat and state
6 your name for the record.

7 THE WITNESS: Francesca Troiso.

8 DIRECT EXAMINATION

9 BY MS. GARY:

10 Q And Ms. Troiso, if you would, just make sure you use
11 that microphone for me, especially with that mask on,
12 okay?

13 A Sure.

14 Q Ma'am, if you would, tell the jury how old are you?

15 A I am 29 years old.

16 Q Okay. And do you live in Greenville County?

17 A I do.

18 Q Okay. Where are you from originally?

19 A Brooklyn, New York.

20 Q All right. How long have you been in the Upstate?

21 A About eight years.

22 Q Okay. Ms. Troiso, were you convicted of shoplifting
23 in 2015?

24 A I was.

25 Q Okay. Do you know Kirk Porter?

1 A I do.

2 Q How do you know Kirk Porter?

3 A He's my ex-boyfriend.

4 Q How long were y'all in a relationship?

5 A It's hard to say. When he got locked up we were
6 dating a few months, and then I stayed with him shortly
7 after that.

8 Q Okay. In December of 2017, were the two of you in a
9 relationship?

10 A Yes.

11 Q Are y'all still in a relationship?

12 A No.

13 Q And, again, the focus of this case is December 2017,
14 okay?

15 A Yes.

16 Q Do you recall what car you had then?

17 A A silver Mercedes.

18 Q What type of car?

19 A It was like an E -- like an E350 sedan.

20 Q Okay. Who drove that car?

21 A Kirk.

22 Q Ms. Troiso, I'm going to show you what's already in
23 evidence as State's 38, just ask you, ma'am, if this looks
24 familiar to you.

25 A Yes.

1 Q Does that look like the car you had in December 2017?

2 A Yes.

3 Q All right. And you said Mr. Porter drove that car?

4 A Yes.

5 Q Okay. Was he driving your Mercedes on New Year's Eve
6 of 2017?

7 A Yes.

8 Q Will you tell us what you remember about that day?

9 A That day up until around 8:45 p.m. I was waiting on
10 him to come pick me up. He was doing whatever he was
11 doing that day. And he came and picked me up. We wound
12 up getting a hotel room that night. And that's really it.

13 Q So you were not with Mr. Porter ---

14 A Correct.

15 Q --- during the day December 31, 2017?

16 A Correct.

17 Q In fact, also for a portion of that evening you were
18 not with him.

19 A Correct.

20 Q Okay. And he came to you?

21 A That's correct.

22 Q When he came to you, ma'am, was he alone?

23 A Yes.

24 Q Okay. Do you recall, Ms. Troiso, if your Mercedes
25 had a license plate on New Year's Eve of that year?

1 A It still had a paper tag.

2 Q Okay. Do you know -- did you ever see Mr. Porter
3 with Defendant Robert Belcher?

4 A Never.

5 Q Did you ever see him with Raymond Martinez?

6 A One time.

7 Q Okay. Did you ever know Mr. Martinez to have a
8 nickname?

9 A Yes.

10 Q What was that?

11 A Ratchet.

12 Q Okay. Did you ever see Mr. Porter with Keyla
13 Mansell?

14 A Never.

15 Q Were you ever social with any of those individuals?

16 A Never.

17 Q Okay. When Mr. Porter returned or came to you on New
18 Year's Eve, do you recall anything about his demeanor?

19 A No.

20 Q Do you know -- are you aware of anything about what
21 he did that day?

22 A After the fact.

23 Q Okay. But when he came to you on New Year's Eve at
24 that hotel, you were unaware of where he had been.

25 A Correct.

1 Q Or with whom he had been.

2 A Correct.

3 MS. GARY: Those are all my questions. Answer any
4 questions from the defense attorneys, okay?

5 THE COURT: Cross-examine by Belcher?

6 MR. GIBSON: No questions, Your Honor.

7 THE COURT: Martinez?

8 MS. DIAZ: Just one question, Your Honor, briefly.

9 CROSS EXAMINATION

10 BY MS. DIAZ:

11 Q Ms. Troiso, Kirk was known to -- Kirk Porter was
12 known to carry a gun, right?

13 A While I was in a relationship with him, I never saw a
14 gun on him.

15 Q Never saw a gun on him.

16 A That's correct. I saw -- well, I never saw him. I
17 heard that he had a gun on him when he called me. He had
18 previously got locked up. It was earlier in December of
19 2017. I never saw it on him. The cops confiscated it
20 that day he went to jail, and that was the only time I've
21 ever seen him with a gun.

22 Q But Kirk was known to carry a gun, right?

23 A I never knew Kirk to carry a gun.

24 MS. DIAZ: Thank you. No further questions.

25 THE COURT: Any redirect?

1 MS. GARY: No, sir.

2 THE COURT: All right. Thank you. You may step
3 down.

4 Okay. Call your next witness.

5 MS. GARY: Thank you, Your Honor. At this time the
6 State calls Candice Holsey.

7 Ms. Holsey, if you would, come forward and be sworn
8 in.

9 THE CLERK: Please place your left hand on the Bible
10 and raise your right hand.

11 WHEREUPON,

12 CANDICE HOLSEY

13 After having been duly sworn, testified as follows:

14 THE CLERK: Thank you. Please take a seat and state
15 your name for the record.

16 THE WITNESS: Candice Holsey.

17 DIRECT EXAMINATION

18 BY MS. GARY:

19 Q Ms. Holsey, if you would, just use that microphone
20 for me, okay?

21 A Okay.

22 Q Tell the jury, Ms. Holsey, how old are you?

23 A 34.

24 Q And are you from -- or do you live in Greenville
25 County?

1 A Yes.

2 Q Where are you from originally?

3 A Seneca.

4 Q Okay. Have you been in Greenville for a long time?

5 A You could say that.

6 Q Ms. Holsey, have you previously been convicted of
7 shoplifting?

8 A Yeah.

9 Q Have you previously been convicted again of
10 shoplifting and also assault and battery in the third
11 degree?

12 A Yeah.

13 Q Have you been convicted of -- and in 2018,
14 Ms. Holsey, did you plead guilty to receiving stolen goods
15 and conspiracy?

16 A Yeah.

17 Q Have you been sentenced on that charge, ma'am?

18 A No. I got time served for the stolen goods charge,
19 but not on the conspiracy.

20 Q Okay. And was that in connection to a case that does
21 not relate to this case?

22 A Yes.

23 Q Okay. Ms. Holsey, do you know Raymond Martinez?

24 A Yeah.

25 Q How do you know him?

1 A We had some type of situation going on.

2 Q Can you tell us what type of situation that was?

3 A You want me to elaborate?

4 Q Was it a friendship?

5 A Yeah.

6 Q Was it a romance?

7 A I guess.

8 Q Okay. Did you know Mr. Martinez to go by a
9 nickname?

10 A I knew him as Ray.

11 Q You know him as Ray?

12 A That's what I called him.

13 Q Did you ever hear anybody call him Ratchet?

14 A I knew him as Ray. That's what I called him,
15 so . . .

16 Q Okay. Do you see Mr. Martinez in the courtroom
17 today?

18 A I do.

19 Q Would you point him out for this jury, please.

20 A The one with the glasses on (indicating).

21 Q Thank you. And is he seated at the table with his
22 attorneys?

23 A Yeah.

24 MS. GARY: Again, for the record, Your Honor, she's
25 identified the defendant Raymond Martinez.

1 BY MS. GARY:

2 Q Ms. Holsey, did you know Kirk -- do you know Kirk
3 Porter?

4 A I know of him, but I don't know him.

5 Q Okay. Do you know him to be called KP?

6 A Yeah.

7 Q Okay. Do you know Keyla Mansell?

8 A I know of her. I've seen her in passing.

9 Q That's fair.

10 Did you know her to have a nickname?

11 A Kiki, maybe. I don't -- I don't know.

12 Q Okay. And I think I already asked you this, and I
13 apologize, how long have you known Mr. Martinez?

14 A At the time this happened, maybe a few months.

15 Q Okay. At some point, ma'am, did you live on Alice
16 Street or Alice Avenue?

17 A Yeah.

18 Q Okay. Did Mr. Martinez stay with you there
19 sometimes?

20 A Periodically.

21 Q Did you ever see Kirk Porter there?

22 A Periodically.

23 Q Okay. And just so we're clear, you and Mr. Martinez
24 had some type of thing, as you called it, at the end of
25 2017.

1 A Yeah.

2 Q Okay. Are y'all still in some sort of relationship?

3 A No. I haven't talked to him in a couple years.

4 Q Okay. Do you have his name tattooed on you?

5 A No. I got it covered up.

6 Q Okay. But you did at one point.

7 A I did.

8 Q Okay. How did you -- let's talk about New Year's Eve
9 2017, okay? That's what we're here to talk about.

10 A Okay.

11 Q Do you recall where you were in the daylight -- in
12 the daytime of that day?

13 A I was at home.

14 Q Would that be at Alice Street, Alice Avenue?

15 A Yeah.

16 Q Okay. Was Mr. Martinez with you?

17 A No.

18 Q Okay. Do you recall telling Investigator Maltby in
19 an interview of June of 2020 that Mr. Martinez was with
20 you at Alice Street in the morning of New Year's Eve 2017?

21 A Yeah.

22 Q You do remember that.

23 A (Nods head affirmatively.)

24 Q So he was there that morning.

25 A Yeah. You asked me during the day. During the day,

1 no, he was not.

2 Q You're right. That's my fault.

3 Do you recall anyone coming over to see Mr. Martinez
4 at your home?

5 A KP came. I don't know what time. I worked third
6 shift, second shift around that time. I don't know what
7 time it was, but he came. And they left.

8 Q Any that's KP is Mr. Porter?

9 A Yeah. And they left.

10 Q Okay. And he and Mr. Martinez left together.

11 A Uh-huh.

12 Q Okay. Did Ms. Mansell -- was Ms. Mansell there?

13 A I don't think so. I don't know. I didn't go
14 outside.

15 Q Okay. Do you know where they went?

16 A No.

17 Q Okay. Where did you go for New Year's Eve?

18 A That night I went over to a friend's house. They
19 were having a New Year's Eve party. But I wasn't feeling
20 it so I had to take me back home.

21 Q Do you remember why you weren't interested in staying
22 at that party?

23 A My grandfather had just died, and we buried him two
24 days before my birthday, which is in December. I wasn't
25 feeling people at all.

1 Q Okay. At some point did you -- and what time of
2 night do you think you left that party?

3 A It was eleven something. I was home before New
4 Year's.

5 Q Okay. And you returned to your home.

6 A Uh-huh.

7 Q And was Mr. Martinez there when you got home?

8 A Yep.

9 Q Was he alone?

10 A Yeah.

11 Q Was that the first time you had seen him since he
12 left with KP?

13 A Yeah.

14 Q Okay. Ms. Holsey, have you ever known Keyla Mansell
15 to set up a lick?

16 A Yeah.

17 Q What is a lick?

18 A Basically, you take something that don't belong to
19 you.

20 Q Like a robbery?

21 A Yeah.

22 Q Ms. Holsey, at any time did a license plate
23 registered to you ever show up on a silver Mercedes?

24 A Yeah. A police officer called me.

25 Q Okay. Do you know when that was?

1 A Do I know when it was?

2 Q Yes, ma'am.

3 A November, sometime after Thanksgiving, because it was
4 after I wrecked my car.

5 Q Okay. And do you recall meeting with Investigator
6 Maltby seated here in June of 2020?

7 A No.

8 Q Do you recall meeting with him with your attorney,
9 Mr. Toney?

10 A Possibly. I don't . . .

11 Q Okay.

12 A I -- I don't remember.

13 Q Okay. Did you give a statement to this investigator
14 seated here, Mr. Maltby, with your attorney, Ivan Toney,
15 present on June 3rd of 2020?

16 A Yeah.

17 Q Do you remember that?

18 A Yeah. I don't remember the date. But yeah. I know
19 what you're talking about.

20 Q Okay. That's fair.

21 Was that after you pled guilty to conspiracy?

22 A Yeah.

23 Q Okay. And were you still in the thing, as you said,
24 with Mr. Martinez at that point?

25 A No. I don't believe so.

1 Q Do you recall telling Investigator Maltby that you
2 were still -- you thought y'all still were in a
3 relationship at that time?

4 A I don't recall the exact details of that
5 conversation, but it is possible.

6 Q Okay. And did you tell Investigator Maltby the
7 things you told us today?

8 A Yeah.

9 MS. GARY: Okay. That's all I have, ma'am. Thank
10 you so much.

11 THE COURT: Cross-examination on behalf of Belcher?

12 MR. GIBSON: No questions, Your Honor.

13 THE COURT: Martinez?

14 CROSS EXAMINATION

15 BY MS. DIAZ:

16 Q Ms. Holsey, you just testified that you saw Raymond
17 -- or Raymond was at your home earlier in the morning of
18 New Year's Eve, correct?

19 A Uh-huh.

20 Q Would you say that was pretty early morning?

21 A I don't know exactly what time it was.

22 Q It was in the morning.

23 A We woke up to him getting a phone call or whatever
24 the case was, and they left.

25 Q Okay. You testified earlier that at some point later

1 that night, you left for a party or something, correct?

2 A Uh-huh.

3 Q And you told investigators in that interview -- or
4 you remember that interview that you did potentially with
5 Investigator Maltby in 2020, correct?

6 A Uh-huh.

7 Q And you told investigators you were gone maybe
8 30 minutes to an hour, correct?

9 A Yeah.

10 Q And then you testified earlier that you were back
11 around -- or before New Year's Eve, so before the ball
12 dropped, correct?

13 A Yeah.

14 Q And Raymond was there when you got back?

15 A Uh-huh.

16 Q You don't know what Raymond did that day, do you?

17 A No.

18 MS. DIAZ: No further questions, Your Honor.

19 THE COURT: Any redirect?

20 MS. GARY: No, sir.

21 THE COURT: All right. Thank you. You may step
22 down.

23 THE WITNESS: I'm good to go?

24 THE COURT: You're good to go.

25 Call your next witness.

1 MS. GARY: Your Honor, at this time the State calls
2 Officer Thomas Moore.

3 THE CLERK: Please place your left hand on the Bible
4 and raise your right hand.

5 WHEREUPON,

6 THOMAS MOORE

7 After having been duly sworn, testified as follows:

8 THE CLERK: Thank you. Please take a seat and state
9 your name for the record.

10 THE WITNESS: My name's Thomas Moore.

11 DIRECT EXAMINATION

12 BY MS. GARY:

13 Q Good afternoon, Officer Moore. Tell the jury,
14 please, for whom do you work.

15 A The Greenville Police Department.

16 Q And what is your current assignment?

17 A I currently work in the Collision Reconstruction Unit
18 and Traffic Enforcement.

19 Q How long have you been with the Greenville Police
20 Department?

21 A Ten years.

22 Q Okay. Have you always been in the traffic unit?

23 A I have not.

24 Q Tell us about your duties prior to going into
25 traffic.

1 A Prior to working in traffic, I worked in uniform
2 patrol and answered various 9-1-1 and nonemergency calls
3 to service.

4 Q Okay. In January of 2018, sir, were you working in
5 uniform patrol?

6 A Yes, ma'am.

7 Q So you were answering calls for service?

8 A Yes, ma'am.

9 Q Okay. Specifically, sir, were you working on
10 January 6, 2018?

11 A Yes, ma'am.

12 Q And did you respond to a residence at [REDACTED] Jenkins
13 Street here in Greenville County?

14 A Yes, ma'am.

15 Q And at that residence, sir, did you locate a vehicle
16 outside?

17 A Yes.

18 Q Were several vehicles outside?

19 A Yes.

20 Q Did you locate a silver Mercedes?

21 A I did.

22 Q Okay. I'm going to show you what's already in
23 evidence as State's Exhibits 38 and 39 and ask you, sir,
24 if State's Exhibit 38 appears familiar to you.

25 A Yes, ma'am.

1 Q Okay. And what is that?

2 A That's a 2006 Mercedes that was found at [REDACTED] Jenkins
3 Street.

4 Q Okay. Is that the car we're talking about?

5 A Yes, ma'am.

6 Q Okay. And State's Exhibit 39, sir, does that appear
7 to be the rear of that same vehicle?

8 A Yes, ma'am.

9 Q Okay. And, sir, are you able to read the license
10 plate here? Or do you recall what the license plate said?

11 A I can see it. It's South Carolina PCV 676.

12 Q Thank you, sir.

13 And at some point while you were at this residence,
14 did you determine to whom that particular license plate --
15 or excuse me -- to which vehicle that particular license
16 plate was registered?

17 A Yes, ma'am.

18 Q Was it registered to that silver Mercedes?

19 A It was not.

20 Q And to whom was that license plate -- to whom did
21 that license plate belong?

22 A The license plate was registered to a Candice Holsey.

23 Q Okay. But it was supposed to be on a Hyundai Sonata.

24 A Correct.

25 Q And, in fact, it was displayed on a silver Mercedes.

1 A Yes.

2 MS. GARY: All right. Sir, those are all my
3 questions. Answer any questions of the defense attorneys.
4 Thank you.

5 THE COURT: Cross-examination from Belcher?

6 MR. GIBSON: None, Your Honor.

7 THE COURT: Martinez?

8 MS. DIAZ: None, Your Honor.

9 THE COURT: All right. Thank you. You may step
10 down.

11 MS. GARY: Your Honor, for scheduling purposes, our
12 next witness has to appear virtually, and we have that
13 arranged tomorrow morning at 9:00 or 9:30, whichever the
14 Court directs.

15 THE COURT: All right. Do y'all want to approach?

16 MS. GARY: Yes, sir.

17 (WHEREUPON, a bench conference was held off the record.)

18 THE COURT: I was just talking about scheduling up
19 here.

20 So it looks like we made a lot of progress this
21 afternoon. So, in fact, they went ahead -- the afternoon
22 was so efficient that they're through with witnesses for
23 today.

24 So it looks like we're in good shape. I expect that
25 you should get the case for deliberation tomorrow probably

1 again, through our virtual courtroom.

2 THE COURT: All right. Can you hear us Mr. Bosillo?

3 THE WITNESS: Yes, Your Honor. I can.

4 THE COURT: All right. Can you raise your right
5 hand?

6 WHEREUPON,

7 MICHAEL BOSILLO

8 After having been duly sworn, testified as follows:

9 THE COURT: And can you state your full name for the
10 record?

11 THE WITNESS: Michael Dominic Bosillo, B-O-S-I-L-L-O.

12 THE COURT: All right. Thank you.

13 All right. You may proceed.

14 MS. GARY: Thank you, Judge.

15 DIRECT EXAMINATION

16 BY MS. GARY:

17 Q Good morning, Mr. Bosillo. Can you hear me?

18 A Yes, ma'am, I can.

19 Q Okay. Thank you.

20 Tell this jury, sir, where are you located today?

21 A Dallas, Texas.

22 Q Okay. Is that your home town?

23 A Yes, ma'am.

24 Q And for whom do you work, sir?

25 A I work for T-Mobile cell phone company.

1 Q How long have you worked for T-Mobile?

2 A Going on 13 years.

3 Q Okay. Where were you previously employed,
4 Mr. Bosillo?

5 A I'm a retired homicide detective, worked for the
6 Arlington Police Department and then the Dallas DA's
7 office in the capital murder section.

8 Q Okay. And what is your title with T-Mobile?

9 A Custodian of records testifier.

10 Q And in that capacity, sir, it might be obvious, but
11 do you testify in trials all around the country?

12 A You broke up. I'm sorry, ma'am.

13 Q That's okay. Do you testify in various trials all
14 across the country?

15 A Oh, yes, ma'am, I do.

16 Q Okay. And were you, in fact, traveling this week?

17 A Yeah. I was up in Boston for a couple of days.

18 Q Okay. Very well. How many times have you testified
19 in your capacity as custodian of records?

20 A Going on 750.

21 Q Okay. Would you tell the jury, please, sir, a little
22 bit about how T-Mobile keeps records of cell phones?

23 A Yes. Once a call is generated, it's automatically
24 captured in our system and maintained electronically. We
25 maintain the actual record itself along with certain other

1 things like subscriber information, cell site location
2 pertaining to that particular call, those sorts of things.

3 Q Are those records kept in the ordinary course of your
4 business?

5 A They are.

6 Q And they are held by T-Mobile?

7 A Yes, ma'am.

8 Q And for how long do you keep those records?

9 A Approximately two years ---

10 Q Okay.

11 A --- unless there's been a preservation letter
12 submitted.

13 Q Sure. How do you -- how are the records connected?
14 Are they based on phone number?

15 A Yes, ma'am. Everything is generated by way of what
16 we call a target number or the actual phone number in
17 question.

18 Q Okay. And you mentioned briefly that the cell phone
19 records contain various pieces of information. Can you
20 tell us just generally the types of information that are
21 contained in these records?

22 A Yes, ma'am. Well, the first is subscriber
23 information which contains information on a subscriber.
24 If it's a post-pay account, which most of ours are, we
25 verify identification by way of driver's license or

1 passport for purposes of billing. If it's a pre-pay, we
2 can't solicit that information because it's paid up front.

3 And then we have that information on subscriber,
4 their address, their phone number, the device they use,
5 things of that nature, numbers associated with that
6 particular number.

7 The next document we preserve is the call detail
8 records. Call detail records are the activity on a
9 particular target number for a designated period of time,
10 both the outgoing call -- if I'm going to call one of
11 y'all that's the outgoing -- I'm sorry.

12 Q No. You're fine.

13 A And then if it's an incoming, y'all would be calling
14 me, for instance.

15 Q Would the records notate a call incoming even if it
16 is not answered by a phone?

17 A Yes. Correct.

18 Q Okay. And you can go ahead. I didn't mean to
19 interrupt you.

20 A Okay. Sure. And then the next thing we provide is
21 the cell site location. That is the towers that typically
22 are involved in the network transaction.

23 Q Okay. So let's talk about those towers. Would you
24 tell the jury, please, what happens as it relates to the
25 towers when a cell phone call is made.

1 A Sure. There's three components necessary to effect
2 your call. One is the actual handset which gives out a
3 relatively weak signal. It's picked up by the nearest,
4 strongest tower. And these towers are plotted
5 approximately two miles apart.

6 Once it does connect with the tower, the nearest,
7 strongest one, then the tower authenticates the call and
8 then kicks it over to the switch. Now, the switch is the
9 gatekeeper. It's the computer that actually makes the
10 call work.

11 Once it does that, then it reaches out to the
12 nearest, strongest cell tower adjacent to the number that
13 you're trying to reach. Therefore, you've made a connect
14 with the network at that point in time.

15 Q Okay. And you referenced the nearest, closest tower.

16 A Correct.

17 Q So the handset, the actual cell phone, we're talking
18 about the closest tower to where that handset is located;
19 is that right?

20 A That's exactly correct.

21 Q Okay. Are those towers divided into sectors?

22 A Yes, they are. Best way to remember, each tower
23 starts out with three sectors. It's a 360 degree
24 circumference, each being 120 degrees. Further down the
25 line based on need, they may -- the engineers may further

1 divide them or dissect them into other sectors. You can
2 have as many -- I've seen as many as 12. It's all -- it's
3 just depending upon the demand. But they all start out
4 with three.

5 So you have Sector 1 starting in a northerly
6 direction, Sector 2 pointing in a southeasterly direction,
7 Sector 3 pointing in a southwesterly direction.

8 Q Okay.

9 A The best way to remember it is like you take a look
10 at a clock and you start in the middle and you draw out
11 from the center out to the 2, then you draw a line from
12 the center out to the 10, that's one pie-shape wedge of
13 the pie, wedge-shape piece of the pie. Then the other one
14 is southeasterly, and the third one is southwesterly. And
15 they give you Sectors 1, 2, and 3. They work in a
16 clockwise manner.

17 Q Okay. Sir, so if a call is noted as having been made
18 within a certain sector, does that mean that that cell
19 phone was physically somewhere within that sector?

20 A That's correct.

21 Q Okay. Thank you, sir.

22 Do the call data records that you referenced earlier
23 that your company maintains also contain latitude and
24 longitude information?

25 A Yes, we do.

1 Q Will you tell us about that?

2 A The latitude and longitude pertains to the actual
3 location of the cell tower. These towers, we see them on
4 tops of buildings, they're the antenna. They're disc
5 shape or tubular shape, and they have to have elevation
6 because of the way radio wavelengths are transmitted and
7 picked up.

8 Once it has that, then it actually will pick up the
9 signal and transmit it as I described earlier.

10 Q Okay. And, sir, are your cell phone records -- what
11 time -- not time zone, but what time system are your
12 records saved in?

13 A They're kept in UTC, Universal Time Coordinated.

14 What UTC is, it's not a time zone. It's a time
15 standard with which they determine the time zones around
16 the world. Ground Zero is the Greenwich, England. So if
17 you start there and you move in a westerly direction and
18 you traverse the Atlantic Ocean, by the time you get to
19 the East Coast, which is where y'all are on, you're in
20 Eastern standard or daylight time. You would subtract 4
21 from the time you see on the record, and that will give
22 you precise time for, for instance, South Carolina, on a
23 particular call in question.

24 Q Okay. So the times we see reflected in your records
25 that we'll see in a moment, we're going to have to do some

1 math; is that right?

2 A Yes, yes. I believe you refreshed my memory as far
3 as the time, the date.

4 Q Yes, sir. That's where I was headed.

5 Let me ask you this. If we're talking about phone
6 calls in December of 2017, will we need to subtract four
7 hours or five hours?

8 A That's a standard, so you subtract five.

9 Q Okay. Yes, sir. Very well. Thank you so much.

10 And you mentioned, Mr. Bosillo, that your call
11 records contain subscriber information. If someone buys a
12 cell phone on the street, would your company have updated
13 subscriber information?

14 A No.

15 Q Okay. How does one update subscriber information?

16 A They call in. And if they want to update, they
17 provide a PIN, personal identification number, and they
18 will provide whatever update is requested.

19 Q Okay. Now, sir, it's been a long time since you and
20 I have met in person, but I'm going to show you as best I
21 can, do you recognize this, sir?

22 A Yes, I do.

23 Q Okay. Is your signature on this disc?

24 A Yes. It's up in the upper right-hand corner, my
25 signature. I believe the date's November 2, 2022. And it

1 is the disc on number [REDACTED]-4313.

2 Q Thank you, sir.

3 Do you recall reviewing that disc with me?

4 A I do.

5 Q Okay. And what is on that disc?

6 A That disc contains subscriber information, call
7 detail records and tower information.

8 Q And I jumped a little bit ahead of myself,
9 Mr. Bosillo. I'm sorry. Did T-Mobile receive a search
10 warrant in this particular case?

11 A Yes, ma'am.

12 Q And was it for that phone number you just referenced?

13 A It was.

14 Q And did T-Mobile provide those records to law
15 enforcement?

16 A Yeah. Based on a legal demand, yes.

17 Q Yes, sir. And those are the records that you
18 reviewed on this disc, which is State's Exhibit 41; is
19 that what you're telling this jury?

20 A I am.

21 MS. GARY: Okay. Your Honor, at this time the State
22 would seek to admit Exhibit 41 and publish the same to the
23 jury.

24 THE COURT: All right. Any objection on behalf of
25 Belcher?

1 MR. GIBSON: No objection, Your Honor.

2 THE COURT: And Martinez?

3 MR. GRUBBS: No, Your Honor.

4 THE COURT: All right. In without objection.

5 (WHEREUPON, State's Exhibit Number 41 was admitted into
6 evidence.)

7 MS. GARY: Thank you, Judge.

8 BY MS. GARY:

9 Q Mr. Bosillo, we're going to share our screen with
10 you. All right. Sir, can you see these call detail
11 records on your screen?

12 A Yes, ma'am. It's quite small. I understand if I
13 double-click it will get enlarged?

14 Q Yes, sir. It should. We'll try to enlarge it on our
15 end as well.

16 A Okay. Let me try because it's still pretty small.
17 I'm not having much luck in enlarging.

18 Q Okay.

19 A Try it again, maybe, because I can't ---

20 Q Sure.

21 A I double-clicked it and nothing's worked. Oh, there
22 you go.

23 Q Is that better?

24 A That'll help.

25 Q Okay.

1 A Yeah, I think I can do it that way.

2 Q Okay. Thank you, sir. And we have scrolled -- this
3 is the top of this document. Would you tell this jury,
4 sir, what information is reflected at the top of this?

5 A Yes. This was requested by the sheriff of Greenville
6 County Sheriff's Office in Greenville, South Carolina.
7 And it was pursuant to a search warrant which was dated
8 January 15, 2019. And it was requesting information --
9 record information for a timeframe of September 1, 2017,
10 to January 31, 2018, on phone number [REDACTED]-4313.

11 Q Thank you.

12 A And this contains the call detail record starting on
13 that date.

14 Q Okay. And is this to your knowledge a pretty lengthy
15 list of records?

16 A Yes, ma'am, it is.

17 Q Okay. I'm going to scroll down to the phone calls
18 that we are specifically interested in, sir. All right.
19 Can you see three highlighted rows there, Mr. Bosillo?

20 A I do.

21 Q Okay. Starting with Column A, sir, if you would just
22 kind of walk this jury through what these various columns
23 -- not necessarily in detail, but what are the categories
24 reflected in these columns? So Column A would be what?

25 A Starting with A and moving to the right, A is the

1 date, month, day, year; B is the time in military, keeping
2 in mind if you want the exact time in South Carolina,
3 subtract 5.

4 Q Yes, sir.

5 A So that first one will be minus 5. And then C is the
6 duration in seconds of the call starting when the send
7 button is pushed. And the next is the directionality.
8 You'll see mobile outgoing call is the first one, and it
9 further explains what that is, outgoing.

10 Q Okay.

11 A And then the first one is the calling number that's
12 making the call which is the target number -- correction
13 -- is the -- I'm having trouble seeing. I'm sorry.

14 Q That's okay.

15 A The -- okay. That helps. Yes. The first number is
16 [REDACTED]-4313 calling [REDACTED]-7329.

17 Q So Column G is the number being called?

18 A That's the number being called.

19 Q Okay.

20 A H is the number being dialed. And I is the number or
21 the destination number. Now, they're almost always the
22 same.

23 Q Sure.

24 A The only time destination would be different than the
25 previous two is if you had forwarded your phone to a third

1 number whereby I called the number, punched in those
2 numbers, but yet you had transferred your call -- or your
3 phone number to a third number.

4 Q Okay.

5 A And so you end up getting a different number.

6 Next is the method in which the network has completed
7 the call, which this particular case all three of them are
8 successfully completed.

9 Next is the voicemail code, M.

10 N is the network letter and number series.

11 And then they have the zip code of that particular
12 switch. And keeping your perspective, we have about 80 or
13 90 switches that cover the whole country, so a switch
14 deals with a lot of cell towers.

15 Q Okay.

16 A Then the next is -- I think that's sector. I'm not
17 sure.

18 Q Which column are you referring to, sir?

19 A P.

20 Q Okay. P. Yes, sir.

21 A And then going over to S is the azimuth. The azimuth
22 is the point of orientation. It's where the antenna is
23 pointed. For instance, assume you're looking at a clock
24 head on, 0 would be due north, due east would be 90
25 degrees. So 60 would be somewhat in between those two at

1 a north to north easterly direction. And that's the area
2 of coverage.

3 Q Okay.

4 A And the next one is the latitude. And the next one
5 adjacent to it is the longitude. It provides the precise
6 location of the cell tower.

7 Q Okay.

8 A And adjacent to it is the actual street address and
9 -- along with the city, state and ZIP Code.

10 Q Okay. And I'm going to stop you right there, sir.
11 Is there more information -- no, there's not.

12 Okay. So looking here at Row 6863 on your screen ---

13 A Yes.

14 Q --- your testimony is that Columns T and U are the
15 latitude and longitude location of that cell phone tower
16 itself; is that what you said?

17 A Exactly.

18 Q And could you read for us what that tower address is,
19 if you're able?

20 A I'm really having -- it's 25 -- okay. 2512 Poinsett
21 Highway.

22 Q Okay. Yes, sir.

23 A Greenville, South Carolina 29609.

24 Q Thank you, sir.

25 And then for the second highlighted phone call, is

1 there a different tower reflected there?

2 A Yes. It's 1434 C Charles, Poinsett Highway,
3 Greenville, South Carolina 29609.

4 Q Thank you, sir.

5 And then for this third highlighted phone call, are
6 we back to that first cell phone tower?

7 A Yes, we are. 2512 Poinsett Highway, Greenville,
8 South Carolina 29609.

9 Q Thank you, sir.

10 I'm going to scroll back to the dates and times there
11 for you. Can you tell this jury at what time was this
12 first phone call made?

13 A Yeah. The first one is at 23:57:55 seconds, keeping
14 in mind subtract 5 would make it, I believe, 6:57:55
15 seconds in the p.m.

16 Q In the p.m. Okay.

17 And what is the date of that, sir?

18 A The date of that is December 31, 2017.

19 Q Thank you. And would you do the same for the second
20 highlighted phone call, Row 6865?

21 A Yes. It's January 1, 2018. It says 0:43:59 seconds.
22 Subtract 5 would make it 7:43:59 seconds in the p.m. on
23 the night before.

24 Q So on December 31, 2017?

25 A Correct.

1 Q Thank you, sir.

2 And finally, would you do the same for this last call
3 -- or row?

4 A Yes. And the last one is January 1, 2018, at 0:58:36
5 seconds. Subtract your 5 and then you get 7:58:36 seconds
6 in the p.m. on the night before.

7 Q Again, December 31, 2017.

8 A Correct.

9 Q Thank you, sir.

10 And just one more time, Mr. Bosillo, are these
11 T-Mobile records able to be altered by anyone in any way?

12 A No.

13 MS. GARY: Okay. So those are all of my questions.
14 If you would, please answer any questions the defense
15 attorney has.

16 CROSS EXAMINATION

17 BY MR. GIBSON:

18 Q Mr. Bosillo, I am Ken Gibson. How are you?

19 A Fine, sir. How are you?

20 Q I am good. Thank you.

21 I just wanted to ask you a few quick questions. You
22 said that when a phone call picks up or when it attached
23 to the tower, it attaches to the closest tower to it. Do
24 you remember saying that?

25 A Yes. Closest and strongest. They try to set them to

1 where they're one and the same. But it will always -- if
2 there's a disparity, it will always go to the stronger of
3 the two towers. Of course, if one were closer but yet the
4 records show it went to one a little further, it just
5 meant it went to that stronger of the two.

6 Q Okay. So if there are two towers and one, say, is
7 really close but the signal is kind of weak but there's
8 one a little further away and the signal's stronger, it's
9 going to pick up that tower that's further away, correct?

10 A Exactly.

11 Q All right. Now, is it also possible for a tower to
12 become too busy to accept calls?

13 A That's possible.

14 Q All right. And if that happens, then it will pick up
15 to the next strongest tower, correct?

16 A That's correct.

17 Q And she asked you about a number of calls, like three
18 calls. But there are a number of other calls that were
19 made between those two highlighted portions, correct?

20 A Between those three yellow highlighted ones?

21 Q Yes, sir.

22 A Yeah. I think there's three between the three
23 highlighted ones, yes.

24 Q So there was another call. I'm looking at entry
25 6864. That was made at 00:46; is that correct?

1 A Yes, sir. That's correct.

2 Q And if we put that back to our time, we're looking at
3 7:00 and 46 seconds; is that fair?

4 A That's very fair.

5 Q All right. And if we take -- if we look at 6866,
6 there was a call made at UTC time 0:48:57; is that
7 correct?

8 A That's correct.

9 Q And if we adjust for this particular time, we're
10 looking at 6:48:57; is that fair?

11 A I think it's 7, I believe.

12 Q I'm sorry. Say again?

13 A I believe it's 7:48 and 57 seconds.

14 Q 7:48. I apologize. You're right. 7:48:57.

15 Then the next call, the one right below that, that
16 would be at 7:49:34, correct?

17 A That's correct.

18 MR. GIBSON: Thank you, sir.

19 THE WITNESS: Thank you.

20 THE COURT: All right. Questions from Martinez?

21 MR. GRUBBS: No questions, Your Honor.

22 THE COURT: All right. Any redirect?

23 MS. GARY: No, sir.

24 THE COURT: All right. So at this point can we go
25 ahead and end the virtual?

1 MS. GARY: Yes, sir.

2 Thank you, Mr. Bosillo.

3 THE COURT: Thank you, sir.

4 THE WITNESS: Appreciate it. Thank you.

5 THE COURT: All right. State, call your next
6 witness.

7 MS. GARY: Thank you, Your Honor. At this time the
8 State calls Dan Kelley.

9 Mr. Kelley, if you would, come forward and be sworn,
10 sir.

11 THE CLERK: Please place your left hand on the Bible
12 and raise your right hand.

13 WHEREUPON,

14 DAN KELLEY

15 After having been duly sworn, testified as follows:

16 THE CLERK: Thank you. Please take a seat and state
17 your name for the record.

18 THE WITNESS: Daniel Paul Kelley.

19 DIRECT EXAMINATION

20 BY MS. GARY:

21 Q Good morning, Mr. Kelley.

22 A Good morning.

23 Q Will you tell this jury where you work?

24 A Currently, I work at a company called Motorola
25 Solutions, Incorporated.

1 Q How long have you been with Motorola?

2 A Since February 20th of last year.

3 Q Okay. Where did you work before that?

4 A Before that I worked at the Greenville County
5 Sheriff's Office for 25 years.

6 Q Okay. In what capacity did you serve the Greenville
7 County Sheriff's Office?

8 A For the last 18 1/2 years, I was the sergeant over
9 the Technical Services Unit that took care of a majority
10 of functions, anything technical related at the sheriff's
11 office.

12 Q Okay. And before that were you working answering
13 calls on the road?

14 A Took a lot of call -- call answering during my time,
15 yes.

16 Q Okay. So in your capacity as sergeant over Technical
17 Services, did you and your staff work with cell phone
18 records?

19 A Yes, we did.

20 Q Typically, from whom did you receive those cell phone
21 records?

22 A Whenever there's a case that they want analyzed with
23 those records, it will be from an investigator working
24 that case who serves a search warrant to a phone company
25 and brings those records to us.

1 Q Okay. And did you work with cell phone records in
2 this case?

3 A I did.

4 Q And do you recall the investigator you worked with in
5 this case?

6 A Yes. It was Investigator Chad Maltby.

7 Q Okay. Did you use a computer program to view the
8 records received from T-Mobile?

9 A We did. We used a computer program at the time when
10 I was there called Geotime.

11 Q Geotime. Would you tell the jury about Geotime?

12 A So Geotime is a way to ingest the records that come
13 from a phone carrier. They are huge, and it takes a lot
14 of time to sort through that stuff. So Geotime is kind of
15 like a big coin sorter. You can take a handful of
16 quarters, dimes, nickels and pennies and drop them in the
17 top and it sorts them out nice and easy for you to use.
18 That's what Geotime does with the software data that comes
19 from the call -- the call carrier.

20 Q And that cell phone data, as you said, does it
21 contain a lot of different pieces of information?

22 A It contains a lot of different information.

23 Q So would it be fair to say that Geotime creates a
24 visual representation of what's in those records?

25 A It does. It gives you an analysis file and visual

1 representation where it places that data on a map for you.

2 Q Okay. So would that information include phone calls?

3 A It does.

4 Q Text messages?

5 A Phone calls, text messages, tower data, location cell
6 phone, the lat. and long. of the tower that that phone is
7 hitting at that time.

8 Q And did you receive phone records for [REDACTED]-4313?

9 A I did.

10 Q And do you know to whom that number was connected?

11 A I was told it belonged to the defendant Robert
12 Belcher.

13 Q Okay. Did Investigator Maltby provide you with any
14 names that might correspond with phone numbers contained
15 in those records?

16 A I believe he gave me a couple of names that we -- the
17 analysis file that this produces, we used to call it a CDR
18 list. It's a technical file that allows the investigator
19 to do a little more research work and analysis. And it
20 has a space, a tab on there called "contacts," and it
21 allows them to associate phone numbers with known
22 contacts. And that way it shows up in the record easier
23 for them to find.

24 Q So it has a name attached to it.

25 A It has a name attached to it. So when they're

1 looking through the records, instead of just trying to see
2 all the numbers, the name stands out so they know that
3 that call came from that phone number.

4 Q And in your work with these records, did you add any
5 names to the call -- CDR list that you produced?

6 A I may have at the time showing him how to use it,
7 asked him for a name or a number associated with the
8 number that was involved in the incident and put it in
9 that for him.

10 Q Okay. But other than that, sir, do you manipulate
11 that CDR list at all?

12 A No, we don't.

13 Q Okay. What can the CDR list tell you? Can it tell
14 you anything about the frequency with which someone
15 contacts a particular number?

16 A That's the nice thing about that analysis file that I
17 was saying. We used to call it a CDR list. It puts it in
18 a nice easy-to-read format in Excel, and it shows you who
19 they contact the most, who they text the most, who they
20 talk to the longest on the phone. And it just sorts it
21 with that phone number. And if you add their name, it
22 will have their name on there so it's easy to find
23 information.

24 Q Okay. We're talking about this CDR list analysis,
25 sir. I'm going to show you State's Exhibit 42 and just

1 ask you if you recognize that disc.

2 A I do.

3 Q And what is that?

4 A This is a disc of that phone record analysis that we
5 created out of Geotime.

6 Q That you created.

7 A Correct.

8 Q Have you reviewed it prior to court?

9 A Yes.

10 Q Are your initials on it?

11 A My initials are on it, yes.

12 Q Okay. Is it a fair and accurate representation with
13 what you created with these cell phone records?

14 A It is.

15 MS. GARY: Thank you. Your Honor, at this time we
16 would move State's Exhibit 42 into evidence.

17 THE COURT: All right. Any objection?

18 MR. GIBSON: No objection, Your Honor.

19 THE COURT: Belcher or Martinez?

20 MR. GRUBBS: No objection, Your Honor.

21 THE COURT: All right. In without objection.

22 (WHEREUPON, State's Exhibit Number 42 was admitted into
23 evidence.)

24 MS. GARY: Thank you, Judge.

25 (Pause in proceedings for technical difficulties.)

1 BY MS. GARY:

2 Q All right. Mr. Kelley, if you would, will you tell
3 the jury what we're seeing here?

4 A So this is the CDR list, the analysis file that
5 you're looking at. And you can see it categorizes them,
6 top contacts by frequency, top text or messages by
7 frequency. And if you scroll over to the right, you can
8 see it goes by top voice. It even shows the cell towers
9 that they hit the most with that handset.

10 Q I'll have to get a little closer. My eyes aren't
11 that good.

12 So this first red column on our left, what is -- that
13 is top contacts by frequency?

14 A Correct. That is top contacts by frequency. And you
15 can see if you enter the name where it said "contacts"
16 down below on the tab and you put Kirk Porter's name
17 that's on there for that phone number, it associates it
18 with that -- with that number. And it associates it
19 throughout the file.

20 Q And, again, that information, that name Kirk Porter
21 being connected to that phone number came to you from
22 Investigator Maltby.

23 A Correct.

24 Q Okay. So the cell phone records you received for
25 [REDACTED]-4313 indicate to you that the number associated with

1 Kirk Porter is in this phone's top frequent contacts.

2 A Correct.

3 Q Okay. Let me see if we can scroll over to that
4 purple column. What is that, sir?

5 A That is the top voice by frequency. So that's the
6 top call by frequency.

7 Q Okay. So whereas the red contact would be any sort
8 of contact, phone or text ---

9 A Correct.

10 Q --- this is specifically phone calls.

11 A Just phone calls.

12 Q Okay. And do you see on Row 45 there's a name
13 associated with that phone number?

14 A Yes. Keyla Mansell.

15 Q Okay. And, again, that's information you received
16 from Investigator Maltby.

17 A Correct.

18 Q But that number connected to Ms. Mansell is a top
19 voice contact of this phone number.

20 A Correct.

21 Q Okay. All right. Sir, what other -- there are
22 several tabs at the bottom of this, what you said earlier
23 this visual representation of these phone records. What's
24 contained in these various other tabs?

25 A So the first one is the -- or the first one is the

1 actual records that came in, and then Geotime adds records
2 to it. So whenever it adds records, it adds the records
3 in green to show what they had done to change things. So
4 date and time, if it's in UTC, then it automatically
5 converts it to Eastern Standard Time, which is where we
6 live. So that's why it created those files. And it also
7 created a duration file as well from it.

8 Q Okay. And when you say "it," you're referring to
9 Geotime, the computer program.

10 A Geotime does this.

11 Q So we've heard some discussion about times and having
12 to do some math to get accurate time. So Geotime does the
13 math for you.

14 A It does.

15 Q Okay.

16 A It didn't used to, but it does now.

17 Q Okay. And because it has added something that was
18 not in the original record, that's why it's reflected in a
19 new color?

20 A Correct.

21 Q Got it. Okay.

22 What is contained in -- well, it may be obvious --
23 this contacts tab?

24 A Right. Then the analysis summary which is what -- or
25 the contacts is where we -- you would enter a name so it

1 associates throughout this entire spreadsheet. Through
2 all of the tabs, it will put their name with that phone
3 number.

4 Q And these are contacts -- these are contact numbers
5 that were associated with this phone number?

6 A Associated, correct, from the phone carrier.

7 Q Okay. Thank you, sir.

8 Okay. And then this analysis summary is what we've
9 already viewed.

10 A Correct.

11 And then the activity by hour, basically, it's taking
12 those numbers based on the number from there of what time
13 it was called and the most frequent. So the times of the
14 day, there's 24 hours in the day, it shows the red or
15 orange is the highest count of calls during those times.

16 Q Okay. And what is in this tab?

17 A That's the duration in seconds of those phone calls
18 total that that -- that that phone -- phone number called.

19 Q Okay. And Mr. Kelley, I'm going to close this. I'll
20 just leave it right there.

21 Does Geotime also have the capabilities to produce an
22 animation for you?

23 A Yes. It produces two files that come out when we --
24 when we export the data from there. And it is this
25 analysis file, the CDR list, and a compact file that is

1 used strictly for mapping the -- it uses the cell phone --
2 cell phone data, the tower data in order to map visually
3 so you can see in space and time where that handset is in
4 that area.

5 Q And the handset meaning what?

6 A The phone.

7 Q The actual phone.

8 A The actual phone.

9 Q So Geotime assists you in creating an animation to
10 show someone where that phone was.

11 A Correct.

12 Q Okay. And we've heard some discussion about cell
13 phone towers. Would you just briefly tell the jury how
14 that information is recorded, how the towers work?

15 A So the cell towers are usually broken up into --
16 they're 360 degrees, and they're broken up into 120 degree
17 chunks. So you have a direction of 120 degrees. That
18 call that is made has an azimuth associated with it with
19 that antenna, and it hits that antenna on that side of the
20 tower. So if you're on the east side of a tower, you're
21 going to connect to that east side antenna. Whether it's
22 a little bit northeast facing or southwest facing, you
23 will still connect to it. And it will tell you what side
24 of the tower you're connecting on. So that information is
25 then recorded with that cell tower data, and that way you

1 can see what side of the tower that handset is on.

2 Q So not only, sir, is it telling you to which tower a
3 handset is connected, but also to which side of that tower
4 it is connected.

5 A Yes, yes. To which antenna on that side of that
6 tower, that 120 degree radius.

7 Q Yes, sir.

8 And then with Geotime's assistance, did you create an
9 animation pertaining to certain calls in this case?

10 A Yes.

11 Q All right. I'm going to show you, sir, State's 43
12 and again just ask you if you recognize it.

13 A Yes, I do.

14 Q And what is that?

15 A This is the animation created of the mapping created
16 from Geotime.

17 Q That you made?

18 A That I made.

19 Q Okay. And are your initials on there?

20 A They are.

21 Q Have you reviewed it?

22 A I have.

23 Q And does it appear to be accurate?

24 A It is.

25 MS. GARY: Thank you, sir.

A I can see.

1 The red -- the red mark is [REDACTED] Razor Drive. That's
2 the incident location.

3 Q Okay.

4 A The second X that's closest to it up top is the
5 [REDACTED] Crestwood Forest Drive. That's Crestwood Forest
6 Apartments. And then the one below is the Ingles on
7 Poinsett Highway.

8 Q Okay. And there appears to be what looks to be maybe
9 a person on the screen. We're going to see that again in
10 a minute, but will you tell us what that is?

11 A Yeah. That's not a -- that's not a person. It is a
12 representation of the handset. And it is not a direct
13 line. It does not show you exactly where that handset is
14 moving through space and time, but it shows you the
15 direction that it's traveling between the towers.

16 Q Okay. So at some point as we watch this animation,
17 is that icon going to move?

18 A The icon is going to move, and then you will see the
19 radius of what side of the tower it is hitting on by it
20 will show you a pie.

21 Q Okay. And we'll talk about that when we get there.

22 All right. And there's a time reflected in this
23 bottom left-hand corner here. Is that the proper Eastern
24 Standard Time?

25 A That is correct. Eastern Standard Time.

1 Q Again, converted from those cell phone records?

2 A Yes.

3 Q Thank you.

4 And I'll just stop right here, sir. What is
5 indicated on this screen? Again, if you need to step
6 down, that's fine.

7 A I can see.

8 So there was an outgoing phone call on that date and
9 time. So at twelve-thirty -- on December 31, 2017, at
10 6:57:55 p.m. Eastern time, there was a call that hit that
11 tower on that side of the tower, on the side where
12 Crestwood Forest Apartments is. So somewhere in that area
13 a call was made from that handset to that number.

14 Q And by which number was that call made?

15 A It was by the defendant's phone number.

16 Q Okay. That [REDACTED]-4313?

17 A Correct.

18 Q And, again, you don't know where within that piece of
19 pie this handset was located.

20 A No, you don't.

21 Q Okay. But it was within that piece of pie.

22 A The side of the tower that handset connected to.

23 Q Okay. And as we move forward, is time progressing on
24 the bottom left?

25 A It is.

1 Q Okay. All right. Sir, and this is just another file
2 that you created?

3 A Correct.

4 Q Okay. All right. Sir, what are we seeing here?

5 A So there you're seeing an incoming voice call from
6 the [REDACTED]-6608 on that date, December 31, 2017, at
7 7:43:59 p.m. on the west side of that tower.

8 Q Okay. And, again, that is an incoming call to this
9 target number we've been discussing?

10 A Correct.

11 Q Would these records reflect an incoming call whether
12 it was answered or not?

13 A Yes.

14 Q Okay. And, again, we see that icon that I
15 incorrectly referred to as a person earlier is not within
16 this piece of pie that we're discussing. But can you
17 explain to the jury, again, just what this (indicating)
18 represents to you?

19 A That represents -- that just represents where the
20 handset -- in the area that the handset was when it hit
21 that side of that tower.

22 Q So the fact that this icon is not in -- how can you
23 explain that this icon is not within this pie piece? What
24 does that mean?

25 A It is in that area. It is within that pie that that

1 phone call was made to that tower. So that is the side of
2 the tower that it hit.

3 Q Okay. And, again, you said that this icon is simply
4 tracking the direction in which this handset's moving.

5 A Correct.

6 Q Okay. And we'll see that here in a moment.

7 And, sir, is [REDACTED] Rasor Drive located within that
8 sector?

9 A Yes, it is.

10 Q Now we see that icon on the move again just to
11 indicate direction?

12 A That's correct.

13 Q Thank you.

14 Now, are these other calls, incoming and outgoing,
15 noted as well?

16 A Correct. And you can see as he traveled -- as that
17 handset traveled south, it connected to the south side of
18 the tower, to that side. And as it goes north, as the
19 handset travels north and it connects to a tower, you'll
20 see whatever side it connects to.

21 Q Okay. Sir, what are we seeing here?

22 A So at 7:58:36 p.m. Eastern Standard Time on
23 December 31st there was an incoming voice call from
24 [REDACTED]-6608 to the defendant's phone at that tower, and
25 it was on the side that the Crestwood Forest Apartments is

1 on. You can see it's in that pie shape, that area.

2 MS. GARY: We'll just finish out the animation here.

3 Thank you, Mr. Kelley. Those are my questions.

4 Answer any questions of the defense attorneys.

5 THE WITNESS: Thank you.

6 MS. GARY: Yes, sir.

7 CROSS EXAMINATION

8 MR. GIBSON:

9 Q Mr. Kelley, just to be clear on what this handset
10 thing represents, what you're actually doing is you're
11 tracking which cell tower it's clicking off of, right?

12 A Correct.

13 Q So when you have that pie shape, what it's saying is
14 that it's clicking off a cell tower that is located at
15 that particular time point, at that particular time.

16 A Yes, sir.

17 Q And then what you're doing is you're graphing that as
18 they move from cell tower to cell tower.

19 A Correct.

20 Q But if a cell phone hits off of a certain angle call,
21 that's absolute, correct? I mean, I can't be on the north
22 side of a tower and come and hit the south side, correct?

23 A I'm not sure if that's 100 percent the case. You
24 would have to check with the T-Mobile engineer for that.
25 But when that handset is traveling, it will connect to

1 that side of that tower.

2 Q Okay.

3 A So it will hit that side of the tower.

4 MR. GIBSON: Good deal. Thank you, sir.

5 THE COURT: Cross-examination from Martinez?

6 CROSS EXAMINATION

7 BY MR. GRUBBS:

8 Q Mr. Kelley, your animation did not contain any
9 numbers about Raymond Martinez, did it?

10 A It did not.

11 MR. GRUBBS: Thank you. Nothing further.

12 THE COURT: Any redirect?

13 MS. GARY: No, sir.

14 THE COURT: All right. Thank you.

15 THE WITNESS: Thank you, Your Honor.

16 MS. GARY: Your Honor, at this time the State rests.

17 THE COURT: All right. Ladies and gentlemen, the
18 State has rested their case in chief which means that's
19 the evidence that they're going to provide in their case
20 in chief. At this time there's some things that I have to
21 go over with the attorneys. So this will take a few
22 minutes, and then we'll bring you back out as soon as
23 possible.

24 But at this time, do not discuss the case, but you're
25 going to head back in your jury room. We'll bring you

1 back out as soon as possible.

2 (WHEREUPON, the jury exits the courtroom at 10:30 AM.)

3 THE COURT: All right. Anything from the State at
4 this time?

5 MS. GARY: No, sir.

6 THE COURT: All right. Defendant Belcher or
7 Martinez, whichever one you ---

8 MR. GIBSON: Judge, I'd move for a directed verdict
9 based on the fact that the State has not met its burden.
10 They have not provided sufficient evidence to prove my
11 client guilty of any of these crimes beyond a reasonable
12 doubt. Based upon that, Judge, we request that these
13 charges be dismissed.

14 THE COURT: And I believe that, based on the totality
15 of the facts and the standard under which I must look at
16 them and the circumstantial evidence, I'm going to deny
17 your motion.

18 MR. GIBSON: Thank you, Your Honor.

19 THE COURT: Anything, Mr. Martinez?

20 MR. GRUBBS: Your Honor, I also make a motion for a
21 directed verdict in addition to renewing all prior
22 objections throughout the trial.

23 THE COURT: All right. And like I said, I think this
24 is a matter for the jury based on the evidence presented,
25 so I'll deny your motion as well and stand on my previous

1 rulings on the previous motions.

2 So do y'all want to take a few minutes, all right,
3 discuss your clients with testifying and presenting
4 evidence and then I'll come back on the record and discuss
5 that with them. All right.

6 MR. GIBSON: Thank you very much, Your Honor.

7 THE COURT: Ten minutes.

8 (WHEREUPON, a recess is taken at 10:32 AM; proceedings
9 reconvened at 10:42 AM.)

10 THE COURT: All right. Are we ready to discuss with
11 Mr. Belcher and Mr. Martinez about their Fifth Amendment
12 rights?

13 MR. GRUBBS: Yes, Your Honor.

14 THE COURT: All right. Mr. Belcher and Mr. Martinez,
15 if y'all both would stand at this time. All right. Raise
16 your right hand.

17 (WHEREUPON, ROBERT BELCHER and RAYMOND MARTINEZ are duly
18 sworn.)

19 THE COURT: All right. First of all, Mr. Belcher,
20 are you under the influence of any alcohol, drugs, or
21 medication today?

22 DEFENDANT BELCHER: No, sir.

23 THE COURT: Do you have any health or mental issues
24 which would keep you from understanding what's going on?

25 DEFENDANT BELCHER: No, sir.

1 MS. GARY: Yes, sir. As to -- well, I can ---

2 THE COURT: And I've added the expert charge as well.

3 MS. GARY: Yes, sir. I have an objection to
4 Mr. Gibson's proposed charge, which I'd be happy to go
5 into now.

6 THE COURT: All right.

7 MS. GARY: Your Honor, we would object to his
8 proposed charge. I will -- which is the accomplice
9 testimony warning coming from the federal system. We
10 believe that the spirit of that is encompassed in Your
11 Honor's credibility of witnesses section of your charge.
12 I believe that the language enumerated in this request
13 would be an improper comment on the facts of this
14 particular case. We would respectfully object to his
15 request.

16 THE COURT: All right. Do you want to mark this?

17 MR. GIBSON: I would, Your Honor.

18 THE COURT: I can mark my copy here.

19 (WHEREUPON, Court's Exhibit Number 5 was marked for
20 identification.)

21 THE COURT: All right. You may proceed. And I've
22 got it marked as Court's Exhibit 5, your submission.

23 MR. GIBSON: And just for the record, that exhibit
24 includes the request to charge as well as all the
25 supporting authority for it.

1 The charges that I have requested is basically a
2 verbatim charge from the pattern jury instructions for
3 federal criminal cases in the district to South Carolina.
4 While it is a federal case, the baseline and the basis for
5 it and the authority for it are based upon Supreme Court
6 jurisprudence from as far back as 1917. That
7 jurisprudence, I believe, also applies to the State of
8 South Carolina. Specifically, as far as back to 1917 it
9 rests upon the Caminetti case, Caminetti vs. United
10 States, 242 U.S. 470, 495, 1917.

11 As I said, Your Honor, this is a standard jury
12 instruction that is given in every federal trial within
13 the State of South Carolina as well as all the other
14 states as well.

15 THE COURT: Even civil cases and cases not involving
16 accomplices?

17 MR. GIBSON: I do not know if that is the case, Your
18 Honor. But I think -- I would imagine that, particularly
19 since we're talking about liberty and freedom and what is
20 at stake, I think that is why the Supreme Court decided or
21 thought that this would be appropriate to do. I mean, it
22 is I don't think as much of a statement to say that
23 accomplice liability should actually be received with
24 great caution and care. I mean, it absolutely should.
25 And the Supreme Court has recognized that, and the pattern

1 jury instructions have recognized that. I'm not asking
2 for any instruction that does not come from somewhere.
3 Like I say, Your Honor, this is a verbatim instruction
4 from the pattern jury instructions.

5 THE COURT: And you want to join in on that one,
6 Mr. Martinez?

7 MR. GRUBBS: Yes, Your Honor. We would join in
8 Mr. Gibson's argument.

9 THE COURT: All right. And like I said, I just
10 briefly reviewed through some of these cases, and they
11 kind of discuss different angles of accomplice's testimony
12 and whether they should be admitted or not, one of them.
13 I just believe that -- and it may be that they allow that
14 in Federal Court. I just believe that this seems to be
15 more of a charge on the facts and kind of puts an angle
16 from the judge's perspective of almost, well, you need to
17 believe this -- you don't need to believe this because
18 it's an -- I don't know. It's just -- I think it's just a
19 little more than what the state courts in South Carolina
20 usually go to. And I think the spirit of that is covered
21 in my general comment about believability of witnesses.
22 And that, of course, does not prevent you from arguing
23 that. So I'm going to deny this request to charge.

24 MR. GIBSON: Thank you, Your Honor.

25 THE COURT: All right. Anything else on behalf of

1 Belcher?

2 MR. GIBSON: No, sir.

3 THE COURT: All right. On behalf of Martinez?

4 MR. GRUBBS: No, Your Honor.

5 THE COURT. All right. You've also looked at the
6 verdict form. Any objections to that on behalf of the
7 State?

8 MS. GARY: No, sir.

9 THE COURT: The only thing I did change since the one
10 I presented to you is added the foreperson's juror number.
11 So anything on behalf of Belcher?

12 MR. GIBSON: Other than the request that was made by
13 Mr. Grubbs regarding -- let me back up. Not as to form,
14 but we would request that you make the instruction to the
15 jury that they cannot find the defendants guilty of
16 possession with a firearm during the commission of a
17 violent crime if they are not found guilty of the
18 underlying ---

19 THE COURT: Right. And I will discuss that in my
20 charge to them. So okay.

21 Anything else from Martinez?

22 MR. GRUBBS: As Mr. Gibson stated, Judge, that's the
23 only comment we have.

24 THE COURT: All right. Also, I presented to counsel
25 the elements of the charges which I plan to put up on the

1 projector. Anybody have any problems with that from the
2 State?

3 MS. GARY: No, sir.

4 MR. GIBSON: No, sir.

5 MR. GRUBBS: No, Your Honor.

6 THE COURT: All right. Anything else?

7 MS. GARY: Just real fast, Your Honor, before the
8 jury comes in. It seems like our keypad is locked. Will
9 you switch me back to the HDMI? There we go. Thank you.

10 THE COURT: All right. So State argues first and
11 then Belcher, then Martinez.

12 MR. GRUBBS: Yes, Your Honor.

13 THE COURT: All right. If the jury is ready, bring
14 them in.

15 (WHEREUPON, the jury entered the courtroom at 11:38 AM.)

16 THE COURT: All right. Ladies and gentlemen, as I
17 indicated, we're kind of in the final stages of the trial.
18 we will now have closing arguments by counsel. The State
19 will have the first argument and then the defendants will
20 have final arguments. And then when they've concluded
21 that, then I will charge you on the law.

22 At this time I'm going to turn it over to the
23 solicitor.

24 CLOSING ARGUMENTS

25 MS. GARY: Thank you, Your Honor. May it please the

1 Court.

2 Good morning ladies and gentlemen, I want to thank
3 you for your patience this week as we've navigated
4 inevitable technical difficulties, scheduling issues.
5 This is my favorite part of this trial, of any trial,
6 because all week I've been looking at you, I've been kind
7 of dancing around you, but I haven't been able to talk to
8 you. This is my chance to talk to you. So again, I want
9 to thank you for your patience. If you would just hang on
10 there with us through this morning.

11 I find it helpful personally to start closing
12 arguments discussing the elements of cases. I think it's
13 helpful for you to know what it is that we have to prove
14 to each of you beyond a reasonable doubt as to each
15 defendant as you're hearing from the attorney.

16 So let's start with murder. We've heard a lot of
17 talk about that. What do we have to prove to each of you?

18 Murder is the unlawful killing of another with malice
19 aforethought. It sounds very simple.

20 Of course, another technical difficulty.

21 So let's talk about what is malice. It is hatred, it
22 is ill will, it is hostility towards another person. It
23 is entering a man's home without his permission at
24 nighttime with the plan to rob him. It is shooting him in
25 his home, leaving him for dead and taking what amounts to

1 \$71.72.

2 What is aforethought? Aforethought means that malice
3 must exist in someone's mind right before and at the time
4 the crime is committed. And there are two ways that
5 malice can exist: it can be expressed or inferred.
6 Express malice is shown through words which express ill
7 will or hatred or when a person prepares beforehand to
8 accomplish the act later accomplished.

9 It can also be inferred from actions indicating a
10 total disregard for human life.

11 So let's talk about that life. Let's talk about
12 Jermaine Bruster. There's been a lot of conversation
13 about him this week. We know him by Twin now. We know
14 that he was a fiance, a father, a friend, an ex-convict.
15 We know that. We know that he was selling drugs out of
16 his home. But what I also know is that the law still
17 applied to him, and I know that his life was worth more
18 than \$71.72.

19 You heard from Dr. Ward that, in his expert opinion,
20 Mr. Bruster died at the hands of another. His death was
21 ruled a homicide, again, the unlawful killing of another
22 with malice aforethought.

23 You've also heard us talking about burglary in the
24 first degree. This one gets a little lawyerly, right,
25 with all these elements.

1 So what do we have to prove to you? That each of
2 these men participated in a plan to enter Jermaine
3 Bruster's home without his consent, to commit a crime
4 while inside, an armed robbery, and with one or more of
5 the following factors: that that entering occurred at
6 night, one of the people doing the entering was armed with
7 a deadly weapon, someone inside was hurt or someone used a
8 deadly weapon inside. I would submit to you that at this
9 point, we've met all of those elements.

10 We know that there's been testimony that this
11 occurred on New Year's Eve sometime between 7:48 and 8:15
12 -- okay, and we'll get to that timeline in a minute -- at
13 night. There has been no evidence presented to you that
14 Mr. Bruster knew these gentlemen. There has been ample
15 evidence presented to you that these gentlemen entered
16 that home with the intent to commit at the very least an
17 armed robbery, to get drugs, money, other items, guns. So
18 again, I would submit to you that we've met the elements
19 of burglary in the first degree.

20 We'll come back to this map later. But, again, I
21 just wanted to highlight to you the locations on it. And
22 this is State's Exhibit 17. But there's been testimony
23 that this plan was concocted at Crestwood Forest a mere
24 less than two miles from Rasor Drive with the intent to
25 commit a crime inside.

1 Again, we talked about armed robbery. This one's
2 fairly simple: taking personal property from another
3 person with the intent to keep it for yourself while armed
4 with a deadly weapon.

5 We've seen a lot of these photos before. They are
6 necessarily in evidence. Cedric McKinney told you that
7 this is not how his house normally looks, that the folks
8 that were inside, these two gentlemen, made it look like
9 this. They ransacked. Why ransack a home if you're not
10 looking for drugs or guns or money or coins?

11 You've also been told that these gentlemen are
12 charged with conspiracy. We have to prove to each of you
13 beyond a reasonable doubt that these two men combined with
14 one or more people, Kirk Porter and Keyla Mansell, and
15 each other for the purpose of committing an unlawful act,
16 for robbing Jermaine Bruster. We also have to show you
17 that that requires a mutual understanding or a plan. We
18 don't have to give you a blueprint. It doesn't have to be
19 an articulated plan or a handshake, but a plan. Everyone
20 in that car knew why they were going to that house.
21 Again, Kirk Porter identified these individuals for you.
22 He told you what the plan was. He told you Keyla made the
23 plan. She knew this guy. Again, I would submit to you
24 that we've met all those elements.

25 I want to say finally, but I think there's one more.

1 These gentlemen are also charged with possession of a
2 weapon during the commission of a violent crime. That one
3 is fairly simple. We must show you that they possessed or
4 displayed a firearm while committing a violent crime.
5 Murder, armed robbery and burglary in the first degree are
6 all classified as violent crimes.

7 Finally, ladies and gentlemen, the defendants have
8 been charged with petit larceny, and that is simply taking
9 property from another person without their consent with
10 the intent to never get it back, and that property was
11 valued at less than \$2,000, or more specifically, \$71.72.

12 The judge will charge you when we are all done
13 talking to you about the law. And one of the things he
14 will tell you is that the law in South Carolina is that
15 the hand of one is the hand of all. Sometimes you hear
16 that referred to as accomplice liability. And that means
17 that when a person joins with another or multiple others
18 to commit a criminal act, that person is criminally
19 responsible for everything done by all members of that
20 plan which happen as a natural or probable consequence of
21 the plan. If you plan to rob someone at gunpoint and they
22 die, I would submit to you that that's a natural and
23 probable consequence of your plan. Said another way, when
24 two or more people combine with a plan or an intent and
25 are present at the commission of a crime, in the car

1 committing the crime, it does not matter who actually
2 commits the crime. All of them are guilty. The hand of
3 one is the hand of all. And we'll come back to that, but
4 I just want to highlight that for you. That is the law of
5 South Carolina. And under that theory, Keyla Mansell is
6 no different than Kirk Porter, and Kirk Porter is no
7 different than Robert Belcher, and Robert Belcher is no
8 different than Raymond Martinez.

9 Let's talk about the evidence in this case. The
10 judge, again, will charge you at the end of our argument
11 that crimes can be proven by circumstantial evidence, and
12 that is what this case is based on. The law makes
13 absolutely no distinction between circumstantial or direct
14 evidence or the value to be given to either one.

15 I wish we had more physical evidence in this case.
16 We've talked about that a lot. We don't. I can't make it
17 what it is not. Investigator Maltby told you that
18 forensics came to this scene and collected evidence. And
19 a lot of those pieces of evidence were tested, and
20 absolutely nothing was helpful in his investigation.

21 Unfortunately, this is not CSI. You're not going to
22 see people in here with a smoking gun. That is not how
23 these cases go.

24 Investigator Maltby told you it is not common at all,
25 in his many years of investigating homicides, to find DNA

1 evidence of any kind. He told you it is not common, and
2 very rarely do they ever find the murder weapon, most
3 especially not on the suspects. Kirk Porter told you and
4 Investigator Maltby told you that people don't leave
5 fingerprints behind when they're wearing gloves.

6 So unfortunately, we do not have CSI level evidence,
7 but we are not required by the law to have that.

8 What else do we not have in this case? This is not a
9 case of investigative blindness. Oftentimes, you will see
10 an investigator from the very first minute focusing on a
11 suspect and never consider anyone else and never let up.
12 That's not what happened in this case. Investigator
13 Maltby told you that, in fact, initially his primary
14 suspect was Jimmy Sullivan. And he systematically told
15 you how he ruled Mr. Sullivan out. Not only was
16 Mr. Sullivan fully cooperative, gave his DNA, his shoes, a
17 statement, all of that evidence voluntarily, but the blood
18 on his shoes definitively came back as not matching to the
19 victim.

20 He talked to witnesses who very importantly both
21 noted the victim was still alive when Jimmy left his
22 house. He used Jimmy's phone, we've heard this morning,
23 to track him from an apartment on Kerns Avenue going to
24 buy drugs from the victim and back at his home before our
25 timeline would make any sense.

1 So I submit to you this is not a case, and to his
2 credit this is not a case of investigative blindness. So
3 again, that is one thing -- one other thing we do not have
4 in this case.

5 And the judge will charge you later as to
6 circumstantial evidence, that if you believe that the
7 defendant's behavior is merely suspicious, you should not
8 convict him. You cannot convict him. I would submit to
9 each of you, ladies and gentlemen, that the evidence as to
10 each of these gentlemen is significantly more than to make
11 their behavior merely suspicious.

12 Again, what else do we have in this case? We have
13 evidence that corroborates the circumstantial evidence
14 that we do have.

15 Let's talk about Kirk Porter. A very seasoned
16 prosecutor in my office likes to say that when a plan is
17 hatched in hell, you can't expect the actors to be angels.
18 That would apply to Mr. Bruster as well.

19 I know Mr. Porter walked in here yesterday, he told
20 you everything about his criminal history, he told you he
21 pled guilty in this case, he told you about the reductions
22 he got before he did that. He also told you that the
23 substance of his statement, what he told you these men did
24 on New Year's Eve 2017 was exactly what he told officers
25 from February 28, 2018, the first chance he got to talk to

1 them. And we'll get to some of the issues that he had in
2 a minute. But I want to remind you that his testimony was
3 that he, Keyla Mansell and both of these gentlemen were
4 smoking, drinking, and taking pills all day long on New
5 Year's Eve, and that he did that routinely. I would
6 submit to you that is reasonable and logical to believe
7 that when he gave that interview and when he observed what
8 he observed on December 31, 2017, those specific details
9 that Mr. Grubbs tried to trick him up on yesterday, his
10 memory was foggy from that marijuana and that alcohol.
11 But what he is not tripped up on and what he was
12 consistent on is exactly the substance, the plan and what
13 everyone in the plan actually did.

14 Let's talk about this. This is State's Exhibit 40.
15 Mr. Porter came in here and told you that his name is on
16 that document, that he signed it, and that he signed it
17 because Robert Belcher told him to. He said he never
18 signed it in front of a notary. And, in fact, I would
19 submit to you that's fairly obvious because it's my
20 understanding that any good notary would not notarize a
21 document with the signature -- without the people signing
22 it in front of them, yet somehow Mr. Porter's signature is
23 dated June 17th and the notary stamp is dated June 23rd.
24 I think right there this thing has absolutely no value.
25 But Mr. Porter told you it has no value. He told you

1 Mr. Belcher made him do it. He told you that this
2 document is a lie, and that what he told you on the stand
3 was the truth. We'll come back to this.

4 So I talked about how we can corroborate what
5 Mr. Porter told you. So let's go through that. Okay.
6 Mr. Porter told you that this idea was Keyla Mansell's,
7 that Keyla knew a guy who had weight. We know that Keyla
8 knew the victim. Investigator Maltby told you that on at
9 least one occasion she had called this victim.

10 We know that the victim sold cocaine. Cedric and
11 Tiffany both addressed that.

12 Kirk told you that this plan came about at Keyla's
13 apartment at [REDACTED] Crestwood Forest, Building 10. Sherry
14 confirmed for you that Keyla Mansell lived right above
15 her, and Sherry lived at 10 [REDACTED] Crestwood Forest.

16 Kirk told you that on New Year's Eve he was driving a
17 silver Mercedes. Francesca told you that was technically
18 her car, but they were dating and he was driving it. He
19 always drove it. He also told you most importantly that
20 he didn't let anybody else drive that car.

21 We do know that Mr. Martinez has been connected to
22 that car. And I'll come back to this. But we know this
23 because Candice's license plate was later found on that
24 vehicle. Again, I'll come back to that.

25 Kirk told you that he, Keyla, Ratchet and Rob were

1 friends. Candice told you that, Francesca told you that,
2 Sherry told you that.

3 Raymond told you -- excuse me. Kirk Porter told you
4 that Ratchet, Raymond, was with him and Keyla on New
5 Year's Eve. Candice told you that too, that they came to
6 her house, Ms. Mansell and Mr. Porter, and left with
7 Mr. Martinez.

8 Robert Belcher's phone this morning with Dan Kelley
9 hit on the Crestwood Forest side of that phone tower at
10 6:57 p.m. Kirk Porter told you that's where the plan was
11 hatched.

12 In that Crestwood video, you see a silver Mercedes
13 leave the Crestwood Building 10 at 7:39 p.m. Again, he
14 told you we got in my car, I was driving, we went to the
15 guy that Keyla knew.

16 Mr. Porter told you that Mr. Martinez and Mr. Belcher
17 came from the dark -- from behind those apartments to the
18 right in from where it is dark. Came out of the darkness.
19 We know that the area behind [REDACTED] Razor Drive, Apartment 9
20 is dark. Cedric told you that. Tiffany told you that.
21 There are photos in evidence that show you that. If they
22 weren't doing anything wrong, why would they come from the
23 back, from the dark?

24 We know from Dan Kelley this morning that Robert
25 Belcher's phone hit on the Razor Drive side of that phone

1 tower at 7:43 p.m. We also know that Jimmy Sullivan left
2 this victim's house at 7:33 p.m. and the victim was still
3 alive.

4 Mr. Porter told you that Mr. Martinez came back to
5 that car with a cheese ball container. And Cedric
6 McKinney told you, the very first witness, that that was
7 from their house and it was missing.

8 Mr. Porter told you that they went back to Crestwood
9 when they left Rasor Drive. Crestwood video shows that
10 same Mercedes coming back at 7:51 p.m. Robert Belcher's
11 phone you saw this morning hits on that Crestwood Drive
12 side of that phone tower at 7:58 p.m. And if you
13 remember, from the end of that animation from Dan Kelley,
14 it never hits again -- it doesn't move for a number of
15 minutes. Mr. Porter told you Rob got out of that car at
16 Crestwood.

17 Again, on that Crestwood video you see the silver
18 Mercedes leave at 8:15. Mr. Porter told you we went back
19 to Crestwood. We left and went to Ingles.

20 Raymond Martinez was identified on that Ingles
21 surveillance video by both Kirk Porter and Raymond
22 Martinez and Investigator Maltby.

23 He walks in that Ingles at 8:21 p.m. If you look at
24 our map, ladies and gentlemen, that's exactly the amount
25 of time you need to get from Crestwood Forest to Ingles.

1 Kirk told you after they went to Ingles, he took Ray
2 home to Alice Avenue. Candice told you that when she got
3 home, Ray was home.

4 Kirk told you that after he dropped off Raymond, he
5 went to his girlfriend's at a hotel in Simpsonville,
6 exactly what Francesca told you, that he didn't get home
7 until close to 11:00 that night. And she has no idea
8 where he was that day, but he wasn't with her.

9 Kirk, again, told you that Rob and Keyla got out of
10 that car at Crestwood. 7:53 p.m., again, is that
11 timestamp.

12 Sherry told you Rob came home that New Year's Eve.
13 He had not been there the rest of that day. He came home
14 late in the evening on New Year's Eve.

15 She also talked about his demeanor when he got home.
16 She talked about how he was crying, how he got a phone
17 call and said don't call me. Don't call me. She told you
18 about his statement what would you do if I hurt someone
19 you know. I would submit to you, ladies and gentlemen, I
20 don't know that it matters whether she knew Mr. Bruster as
21 a brother or she knew him from church, she knew him from
22 the streets. She said I knew of him. If I hurt someone
23 you know, would you be upset with me?

24 So let's talk about the timeline. There's been a lot
25 of talk about the time.

1 Again, from this morning we know Robert Belcher's
2 cell phone hit on the Crestwood Forest tower at 6:57 p.m.
3 We know that Jermaine O'Sullivan -- excuse me -- Jimmy
4 Sullivan left Jermaine Bruster's house at 7:33 p.m., and
5 Jermaine Bruster was still alive. We know that that
6 silver Mercedes left Crestwood at 7:39 p.m., and Robert
7 Belcher's phone hit on the Rasor Drive side of that tower
8 having just previously hit at Crestwood at 7:43 p.m. We
9 know that Shelvis called Tiffany Gambrell at 7:48. She
10 couldn't get the victim to answer. We know that that
11 silver Mercedes went back to Crestwood at 7:53, and that's
12 when you see the activity around that car. And we know
13 that Robert Belcher's phone was at Crestwood at 7:58.
14 Tiffany's 9-1-1 call is at 8:09 p.m. The silver Mercedes
15 leaves Crestwood again to go to Ingles at 8:15, and
16 Raymond Martinez walks in at 8:21.

17 So why is that timeline important? The defense is
18 going to ask you to believe that there was not enough time
19 for these people to commit this crime. I submit to you,
20 ladies and gentlemen, that there was.

21 Mr. Porter was very clear yesterday that he has no
22 idea how long he sat at that church, how long they were
23 inside. He finally, I think, at one point consented to
24 one of the times that Mr. Gibson suggested to him, but it
25 was my impression of his testimony that he was very unsure

1 how long this took. At one point he said just a few
2 minutes. But from 7:39 to 7:53 -- and we know Robert
3 Belcher was there at 7:43. Look at the map. None of
4 these places are far from each other. It's New Year's Eve
5 at night. Nobody's on the road. All the stores are
6 closed early. It's absolutely possible to park at that
7 church, walk down that street, go in the back of that
8 home, shoot that man, ransack that house, find nothing,
9 say, "Come on, man, we've got to go," and get out that
10 door and back to Crestwood. It is absolutely possible.

11 The judge has already told you and I think we told
12 you that it is our burden as the State to prove to every
13 single one of you individually that both of these men,
14 again, individually are guilty of all of these crimes
15 beyond a reasonable doubt. The judge will tell you later
16 that one way to define that is proof that leaves a person
17 firmly convinced. I like to say it's a doubt to which you
18 can assign a reason. Why do I doubt this? But I would
19 remind you, ladies and gentlemen, it is not proof beyond
20 all doubt. Nothing can be proven beyond all doubt.

21 I would submit to you, ladies and gentlemen, that if
22 you choose to believe that Kirk Porter is lying about what
23 the plan was and about what he did and about what Keyla
24 did and Ratchet did and Rob did, then necessarily, you
25 have to disregard Cedric McKinney, Tiffany Gambrell

1 Investigator Maltby, what you see on that Ingles video,
2 what you see on that Crestwood video. You must completely
3 disregard Sherry McBee and Francesca and Officer Moore and
4 Candice Holsey and Mike Bosillo and Dan Kelley. And is
5 that reasonable? I say it is not.

6 Is it reasonable, ladies and gentlemen, to believe
7 that Kirk Porter put Raymond and Robert into this crime
8 out of thin air? He told you they were friends. Why
9 would he say they were there if they weren't there?

10 Again, if you choose to believe -- and this comes
11 back to the hand of one is the hand of all. And the judge
12 will charge you about this, but if you choose to believe
13 that Kirk is lying about his role in this plan, that maybe
14 you want to believe he went in that house and he shot
15 Jermaine and that he had a gun, but if you believe that
16 Kirk and Robert and Keyla and Raymond planned to rob that
17 man and got in that car with that intent and carried out
18 that plan, every single one of them is just as guilty as
19 if they pulled the trigger.

20 I think it's important to ask yourselves why. When
21 you're evaluating doubt and its reasonableness, ask
22 yourselves why. Why would Kirk Porter plead guilty?
23 There's a lot of discussion about charges that the State
24 dismissed for him. There's a lot of discussion about the
25 reduction that he faced in his sentence.

1 Why would Keyla Mansell plead guilty? The hand of
2 one is the hand of all.

3 We heard two very different phone conversations
4 between Robert Belcher and other people. I would remind
5 you the first conversation you heard was between Robert
6 Belcher and Sherry McBee, his ex-girlfriend. The second
7 conversations that you heard was between Robert Belcher
8 and Investigator Maltby. And if you'll remember, those
9 were from the very same afternoon, only hours apart.

10 When Robert talks to Sherry, he's talking about Kiki
11 and Keyla and Ratchet and Ray. Very clearly knows who
12 these people are. Several hours later talking to law
13 enforcement, all of a sudden he says, "Who the hell is
14 Kiki? I don't know who you're talking about. Who's
15 that?" Even tells him the woman who lives upstairs from
16 his girlfriend. And he acknowledges knowing Sherry, but
17 very conveniently says, "I don't know any Keyla. I never
18 heard of Ratchet." Why? If he did not commit a crime
19 with these people, why would he not admit knowing them?
20 Their phone numbers are all over his phone. Keyla Mansell
21 is in his top most frequent contact. Excuse me. Kirk
22 Porter is in his top most frequent contact. Keyla
23 Mansell's one of the people he calls the most.

24 I would submit to you that this conversation with
25 Sherry was the truth. This conversation with Investigator

1 Maltby, very clearly a lie. Why?

2 Why would Robert Belcher ask Mr. Porter to fill out
3 this affidavit? Why would Mr. Porter need to recant
4 anything about Mr. Belcher if it weren't the truth? Why?

5 We heard from Dan Kelley this morning. Why is Robert
6 Belcher's phone hitting at Rasor Drive at 7:43 p.m. on New
7 Year's Eve 2017 if he had nothing to do with this? And
8 why is his phone at 6:57 at Crestwood and at 7:58 at
9 Crestwood? But they want you to believe that very
10 conveniently his phone went to Rasor Drive but he didn't.
11 Is that reasonable?

12 We heard testimony from Francesca and Sherry and
13 Candice Holsey, all three of whom told you that their
14 romantic interest -- I think Ms. Holsey called it a
15 situation -- their situation that they decided to tattoo
16 on their body were not with them on New Year's Eve. Is it
17 reasonable to believe, as Kirk Porter told you, that Kirk
18 Porter and Keyla Mansell and Robert Belcher and Raymond
19 Martinez were together all day smoking, drinking, taking
20 pills but for this very short period of time Mr. Porter
21 went by himself to go rob a guy? Is that reasonable? No.

22 I would ask you to consider too, ladies and
23 gentlemen, Francesca told you that on New Year's Eve 2017
24 her car, this silver Mercedes seen here -- I believe this
25 is State's 39 -- had a paper tag. Officer Moore told you

1 yesterday that on January 6, 2018, six days later by my
2 count, Candice Holsey's license plate was displayed on
3 this silver Mercedes. If Raymond Martinez had nothing to
4 do with this crime, why is his girlfriend's license plate
5 trying to conceal the identity of this car? Didn't make a
6 lot of sense to me.

7 We've seen this exhibit several times. I don't
8 recall the number, but it is in evidence. This is another
9 picture of Raymond Martinez walking into Ingles.

10 Mr. Martinez wants you to believe that Kirk Porter made
11 him go in that Ingles, Kirk's the one who shot Jermaine,
12 Kirk got that money, but he made Mr. Martinez go in that
13 Ingles and cash it for him.

14 Let's break that down a little bit. Let's think
15 about that. Is it reasonable to believe that Kirk Porter
16 would rob a man and shoot him, entrust somebody else to go
17 inside a store with those winnings, not panic and ask for
18 help, not call for help, not ditch the money? If I shot
19 somebody and took their money, I wouldn't give it to
20 anybody else. Why would you send a man in a grocery store
21 with your trophy? It's not reasonable.

22 Mr. Martinez wants you to believe that Mr. Porter
23 sent him in there because Mr. Porter knew there were
24 cameras in that grocery store and he would be seen. Isn't
25 that why Mr. Martinez is wearing a hat? He knew he'd be

1 seen. He tried his best to cover it up.

2 And while we're looking at him, let's talk about what
3 Mr. Martinez is wearing. Mr. Martinez's attorney wants
4 you to believe that you can't believe anything of
5 substance that Kirk Porter told you because he told the
6 police that Raymond was wearing gray and white Nikes, so
7 necessarily, in every way he's a liar. He also wants you
8 to believe you can't believe anything Kirk Porter says
9 because he said Ray had on black pants and a black shirt
10 that night. Kirk Porter also told you they went back to
11 Crestwood.

12 Isn't it reasonable to believe that Mr. Martinez put
13 a jacket on over what he was wearing when he shot Jermaine
14 Bruster? Why would you wear the same clothes you wore to
15 commit a crime to a grocery store that has surveillance
16 cameras? Of course he put a coat on, put a hat on. And,
17 again, they want you to believe that you cannot believe
18 anything Kirk Porter says because he thought those were
19 gray and white Nikes. They're Nikes, they're white, light
20 blue. I know a lot of men who can't tell the difference
21 between colors. I would submit to you that when you're
22 smoking marijuana, maybe you think something is gray
23 that's blue. Is it reasonable to doubt everything he told
24 you about what happened that night for that? No.

25 I would also submit to you that it is not reasonable

1 to believe that Kirk Porter sent Raymond Martinez in that
2 store with that jar of change because Mr. Porter told you
3 he didn't think Kirk got anything. He never got any
4 money. If I sent somebody in with coins and they came
5 back with nothing, I would be asking questions. It is not
6 reasonable.

7 I want to remind you, ladies and gentlemen, that the
8 hand of one is the hand of all. If you conspire, if you
9 plan, if you intend to commit a crime with one or more
10 other people and you do commit that crime, that crime does
11 happen, in this case if you plan to commit an armed
12 robbery and someone dies, you are just as responsible as
13 if you pull the trigger yourself. That's what the law in
14 South Carolina says, and that is the reason why these men
15 are guilty. I am not required to show you who pulled that
16 trigger. We don't know. Kirk Porter doesn't know. Keyla
17 Mansell doesn't know. Investigator Maltby doesn't know.
18 We do not have to know to meet our burden in this case.

19 Mr. Gresham told you at the beginning of this case if
20 you're in for a penny, you're in for a pound. You're in
21 for \$71.72. You're in it. You're in for an armed
22 robbery, you are in for a burglary, you are in for
23 conspiracy, you are in for a petit larceny, you are in for
24 possession of a weapon during the commission of a violent
25 crime, and you are in for murder.

1 Thank you.

2 THE COURT: Defendant Belcher?

3 MR. GIBSON: Good afternoon, ladies and gentlemen. I
4 just want to start off by telling you one thing. When a
5 prosecutor spends more time explaining the problems with
6 their case than reminding you about the evidence that
7 supports their case, then they have a bad case, and they
8 know that.

9 Now, Ms. Gary said that she wanted to start her
10 closing statement to you with an explanation of the
11 evidence. I want to start with what your role in this
12 case is and what the burden of proof is. And I want to
13 tell you about your role by first starting to tell you
14 about what your role is not. Your role in this case is
15 not to make sure that someone is convicted of this crime.
16 Your role in this case is not to make sure that someone
17 pays for the death of Jermaine Bruster. Your role in this
18 case is to hold the State's feet to the fire. Your role
19 in this case is to make sure that they prove beyond a
20 reasonable doubt every element of every crime as to each
21 defendant, and particularly in my case, as to Robert
22 Belcher. Your role in this case is to protect the
23 accused. Your role in this case is to protect Robert
24 Belcher. If you don't believe me, look at the language of
25 the Constitution.

1 In the Constitution the right to a jury trial is
2 afforded to the accused. It's not afforded to the State.
3 It's not afforded to the victim. It's not afforded to
4 anyone else. It's afforded to the accused. And if your
5 role in this case was to make sure that someone was
6 convicted, if your role in this case was to fill in the
7 holes that the prosecution left and could not fill in
8 their case, then what kind of right would that be?

9 Ladies and gentlemen, we are a nation that values
10 freedom. We value liberty. It is a thing that makes us
11 great. It is our calling card throughout the world. Our
12 Founding Fathers fought a war for it. They shed blood for
13 it. They lost sons, they lost daughters, they lost wives,
14 they lost children. They lost all kinds of people
15 fighting for their principle. So when they formed this
16 country, they made sure that they did not create a
17 government where that freedom that they had fought so
18 desperately for could be taken away so easily. So they
19 created the criminal justice system that we have today,
20 and they created a number of rules to make sure that
21 before the State took away someone's liberty, before the
22 State could take away their freedom, that it was
23 absolutely necessarily, that it was an extraordinary
24 circumstance, that the burden was as high as possible.

25 Now, other nations, ladies and gentlemen, haven't

1 followed our rule. If you look at Japan -- in fact, in
2 Japan, you have to prove your innocence. We don't do that
3 here. We allow a jury of our peers instead of allowing
4 judges to decide guilt. We have all kinds of other
5 protections that other nations don't have. But the
6 fundamental pillar of that system will be the 12 of you
7 who decide this case. Because if you decide to throw all
8 those things out the window, if you decide to, instead of
9 insisting that the government, that the State present
10 evidence beyond a reasonable doubt and you start filling
11 in holes for them, if you start speculating, you start
12 conjecturing as to what might be, then all of that falls
13 apart. All of it.

14 Now, I want to talk to you real quickly, again,
15 about, as I said, I want to talk about your burden of
16 proof. Now, when I was in law school, we spent three
17 weeks on burdens of proof. And I'm going to be honest
18 with you, it took me all three weeks to fully understand.
19 But basically, what it is, what a burden of proof is is
20 how certain and how sure you have to be before you as a
21 jury can make a decision.

22 And in our justice system, we have all types of
23 burdens of proof. The very lowest is preponderance of
24 evidence. Beyond that -- preponderance of evidence is
25 basically the standard that is in civil cases. For

1 instance, if you and I get into a car accident and you sue
2 me or I sue you, when we go to court, the burden of proof
3 is preponderance of the evidence. What it means is
4 basically more likely than not. And the reason why we
5 have that is because what's at stake is money. And we
6 want people to feel like they will -- if something happens
7 to them, that they will be able to be very easily
8 compensated for whatever happens.

9 The next burden of proof is clear and convincing
10 evidence. So, for instance, if you and I are engaged in a
11 traffic accident and you feel that my conduct was
12 reckless, that I was intoxicated or something like that
13 and I need to be punished for it, you'd have to prove a
14 higher standard of proof, clear and convincing. You would
15 have to prove to a jury clearly that I've done something
16 reckless and wrong and wanton and that you were convinced
17 and the jury was absolutely convinced that I should be
18 ordered to pay punitive damages.

19 Beyond a reasonable doubt is higher than that. So if
20 in this case you think it's more likely than not that
21 Robert Belcher committed this crime, that is not enough.
22 If you think in this case I'm convinced that he committed
23 this crime, that is not enough. You have to be certain
24 beyond a reasonable doubt.

25 Let's talk about this case. And the fact of the

1 matter is, there's not a lot to this case. I mean, it
2 really all boils down to the testimony of Kirk Porter.

3 As Mr. Maltby told you, there are no witnesses other
4 than Kirk Porter to this case. There is no physical
5 evidence which corroborates anything that Kirk Porter is
6 telling you. There is no DNA. There are no fingerprints.
7 There is no murder weapon. There is no video. There is
8 no blood. There is no link to anything stolen with
9 respect to Robert Belcher. There is no firearm to
10 recover. Nada, zilch, zero.

11 In addition to that, ladies and gentlemen, we know
12 that Kirk Porter is a liar. He admitted it on the stand.
13 And he lied. We saw numerous lies of what he told. He's
14 also a thief. He's also a convicted criminal. And he's
15 someone who has been rewarded extremely handsomely for
16 coming in here and telling these tales that he has told
17 you specifically with respect to Robert Belcher.

18 Kirk Porter is lying to you. He has lied to them.
19 And how do we know? One, what we said before, there's
20 nothing that corroborates it. Nothing.

21 When I was first trying cases, I had a case with a
22 lady named Regan Pellotan. She was a federal assistant US
23 attorney. And as she stood up and she addressed the jury,
24 she said to the jury this. She said the way you know
25 whether a witness is telling the truth is whether there is

1 evidence that corroborate that testimony, whether there
2 are other witnesses that say the same thing that that
3 witness said, whether there is physical evidence which
4 shows that what that witness said is true. There's none
5 of that in this case, ladies and gentlemen. None of that.

6 How else do we know? We know because his story just
7 does not make sense. Now, Ms. Gary talked about part of
8 it, the timeline. The timeline just it doesn't really
9 work. But the other part about it is the story itself
10 just doesn't make sense. I mean, if you believe Kirk
11 Porter, you have to believe that they planned this
12 robbery, that he goes to this parking lot, he sits in this
13 parking lot without any type of signal, somehow
14 spiritually knows when to go and pick these people up.
15 It's just not reasonable. It's not believable.

16 The other thing we know, ladies and gentlemen, is
17 that -- how we know he's not telling the truth is that he
18 tells you he had no idea what had happened in this
19 particular case. He tells you that I had no idea that
20 they had shot Jermaine Bruster. I had no idea about that,
21 and I didn't put two and two together until right before I
22 was about to plead. But he also told you that whoever
23 went in there told him that they had to wait for some
24 people to go out. So is it really believable to think
25 that these people would tell him, hey, we had to wait for

1 these people to go out, but they don't tell you the main
2 thing that happened in there, that Jermaine Bruster was
3 shot? It makes no sense.

4 Now, I can't tell you what exactly happened with this
5 case, but I can tell you what makes sense. And that's
6 this. Keyla Mansell and Kirk Porter drive directly up to
7 █████ Razor Drive. Keyla Mansell, who knows Jermaine
8 Bruster, knocks on his door. Jermaine Bruster lets her
9 in. At this point Kirk Porter incapacitates Mr. Bruster
10 and the two of them ransack their house. This is not a
11 four-person job. And if Keyla Mansell is just going to
12 sit in the car, there's no reason for her to come on this
13 thing at all. It would make -- as you know, as you
14 remember or should remember from the testimony there was
15 no sign of forced entry, so clearly, Jermaine Bruster knew
16 who was going into this apartment. What he's saying,
17 based upon what they have, it just does not make sense.

18 Now, Ms. Gary said that Robert Belcher was with Kirk
19 Porter all day, and he was smoking and drinking and doing
20 all these things with Kirk Porter. But remember this,
21 ladies and gentlemen. The only person who puts Robert
22 Belcher with Kirk Porter that day is Kirk Porter. Even
23 Sherry McBee, and I'm going to talk about her in just a
24 second, even she doesn't say that Robert Belcher was with
25 Kirk Porter. She says that he was with his normal friends

1 which is B-Man that she saw with at the beginning of the
2 day. She said when he came home at 10:00, she saw him
3 with B-Man. She said she did not see Raymond Martinez.
4 She said she did not see Kirk Porter. She said she did
5 not see Keyla Mansell.

6 Now, Ms. Gary also asked you, why lie? Why would
7 Robert Belcher lie? Because they were his friends, and he
8 didn't want to be involved. He didn't want to testify
9 about his friends. He didn't want to be involved in the
10 investigation whatsoever. And that's not uncommon in
11 these types of investigations.

12 Maltby had two other people who lied to him in this
13 particular case. Cedric McKinney lied. He wasn't -- that
14 didn't mean that he was guilty of anything. Carl
15 Westbrooks lied. Didn't mean that he was guilty of
16 anything. The fact of the matter is, ladies and
17 gentlemen, for the most part, people don't want to be
18 involved, particularly in a homicide investigation, and
19 particularly homicide investigations which involve their
20 friends.

21 So the question since we've answered that is why
22 would Kirk Porter lie? Quite frankly, he lied because it
23 was in his interest. That's what Kirk Porter does. He
24 told you on the stand, he said, you know, I've robbed,
25 I've stolen, I've done all these other things, and he said

1 I've done it for my interest. Now, he tried to say, you
2 know, I do all this stuff and I wouldn't lie for my
3 interest, but I don't think any of you would believe that.
4 He was in a situation where he had everything to gain and
5 nothing to lose. They had him dead to rights, ladies and
6 gentlemen, on not just this case, but also three other
7 attempted murders, and as Mr. Grubbs went through with
8 him, 190 minimum years of time that he was looking at.
9 And in exchange for throwing a couple of his friends under
10 the bus, he ended up with a sentence of no more than 30
11 years. And, quite frankly, when he goes in front of the
12 judge, he's going to tell the judge, hey, Judge, I
13 testified against all those guys, and the judge is
14 probably going to give him even less than that.

15 Kirk Porter knows the system because Kirk Porter has
16 been in the system. Kirk Porter's been to jail. He knows
17 how this works. When he had that interview with Maltby
18 and the other officers, they gave him a way out. They
19 said, listen, we're giving you an out, and he took it. He
20 took that out. But he knew, from being in the system,
21 ladies and gentlemen, that the shooter doesn't get the
22 best deal. So he had to figure out a way where he could
23 be in the car. And the only way he can do that is to find
24 patsies to say that they're the ones who went in as
25 opposed to him. That's why Kirk Porter lies. That's why

1 Kirk Porter lied in this particular instance.

2 Now, I want to talk to you about this statement, the
3 affidavit that Kirk Porter signed. And Ms. Gary made a
4 deal about the notarization of it. Quite frankly, at this
5 juncture that doesn't really matter. Kirk Porter stood on
6 the stand and he told you I signed it. So if there was
7 any problem with the notary, which I don't think there
8 was, but even if there was, it doesn't matter, because
9 like I said, he admitted he signed the statement.

10 Now, he says the only reason why I signed it was
11 because Robert Belcher asked me to. And that's true. And
12 the reason why Robert Belcher asked him to is because the
13 only reason Robert Belcher is in this mess in the first
14 place is because of Kirk Porter.

15 Ten days after Kirk Porter signed his -- went in
16 front of a judge and had all of his charges dismissed,
17 that's when he signed this affidavit. It is reasonable
18 for you to believe, it is reasonable for you to conclude
19 in this particular circumstance that Robert Belcher had
20 been asking him all along let me out of this. Tell them I
21 didn't have anything to do with this. Recant your
22 statement. Set me free. And Kirk Porter told him you
23 need to wait. I've got a deal in place. Once I get my
24 deal set, I'll take care of that. But until then, you're
25 just going to have to chill.

1 He signs his deal. All of his charges get dismissed.
2 He signs the statement. But I can tell you this. Right
3 after he signed it, his lawyer went down there and asked
4 him what the hell do you think you're doing? You have a
5 deal with the State. You have to testify against these
6 guys. You can't just get out of this thing now. You've
7 got to go the whole road, dude, or else they're going to
8 come back, they're going to revoke the deal. All those
9 charges that you had against you, they're going to be
10 reinstated and you're going to be right back in the same
11 place that you were before. And that's why Kirk Porter
12 got on the stand and said that's all, whatever, blah,
13 blah, blah, you know. I signed it. But whatever.

14 But this thing, ladies and gentlemen, even if what
15 he's saying is true, he signed what he considers to be a
16 lie which shows you even more you can't trust him.

17 Now, Sherry McBee, now, I don't know, ladies and
18 gentlemen, maybe in the land of spirits, apparitions, baby
19 gators, what she's saying is true. But I can tell you
20 right now it's not true in this world. There is no way
21 whatsoever that Robert Belcher sat on the bed with her and
22 cried at 4:00 in the morning. No way. There is no way
23 that Robert Belcher told her if I hurt someone that you
24 know, would you tell on me? And even if he did, it didn't
25 have anything to do with Jermaine Bruster because she

1 admitted that she didn't know Jermaine Bruster. Now, she
2 told you initially, she's like, yeah, I've been around
3 him, blah, blah, blah, blah, blah. But we went through
4 the phone call that she had with Robert Belcher on the day
5 that Maltby was present at her residence. And what did
6 she say? She asked him first, "Who is Twin?"

7 He said, "Who is Twin?"

8 She said, "I don't know."

9 Now, you can believe what she said in front of
10 Mr. Maltby or you can believe whatever she said on that
11 stand. But I can tell you this. It's absolutely clear
12 she doesn't like him. I mean, from the first moments of
13 her testimony you could tell that. Ms. Gary asked, "How
14 do you know him?"

15 She's like, "He's supposed to be my boyfriend."

16 And I don't know. Maybe he wasn't a good boyfriend.
17 But she clearly was mad at him because he wouldn't pay
18 bills. She was mad at him because she thought that he
19 cheated on her with her best friend. And she came in on
20 the stand a day or so ago and she tried to get even. But
21 you can't believe her. She is not credible. And that is
22 certainly not the type of evidence that our Founding
23 Fathers intended for a conviction for this type of crime
24 to be based upon.

25 Now, they have repeatedly told you about in for a

1 penney, in for a pound. Well, I've got my own saying in
2 this case, and that is you cannot be in the crime if
3 you're not in the car.

4 The one thing that is consistent throughout this
5 case, ladies and gentlemen, is that silver Mercedes. And
6 if you believe Kirk Porter's statements, even if you don't
7 believe as far as what the roles are, you have to believe
8 that all of these individuals were in that car during all
9 of these times. Now, Kirk Porter couldn't tell you the
10 times that he actually did certain things, but Mr. Maltby
11 could. And he went through the video, Crestwood video.
12 And he talked about when the car was there, when the car
13 left, all these other things.

14 At 7:00, if you recall, there's an hour and a half of
15 footage that came from Crestwood Forest apartments. It
16 started exactly at 7:00, ended exactly at 8:30. Based
17 upon that, Mr. Maltby told you that at 7:00 that car was
18 right there sitting, idling, waiting. It did not leave
19 until 7:04. It came back at like 7:36, left again at 7:39
20 and then came back around 7:53. Now, if that's the case,
21 ladies and gentlemen, and Robert Belcher, who's presumably
22 with his phone is in that car, then all of those things
23 should match up. But they don't.

24 MS. GARY: Your Honor. I have to object. This is
25 not -- this screenshot or still shot is not in evidence.

1 It has not been authenticated.

2 MR. GIBSON: Your Honor, this is a screenshot from
3 the video that she presented in evidence.

4 THE COURT: All right. For demonstrative purposes,
5 you can ---

6 MR. GIBSON: Demonstrative purposes. Yes, sir.

7 Now, when Ms. Gary went through the phone call, she
8 sort of breezed through it. There's certain ones that she
9 sort of focused on. There's certain other ones that she
10 didn't talk about at all. One of the ones she didn't talk
11 about, ladies and gentlemen, was this phone call right
12 here. It's an outgoing voice call at 7:00, 7 p.m. and 46
13 seconds. As you can see, it is no longer in the same
14 quadrant as here, the 6:50 -- 6:57 phone call which means
15 that Robert Belcher had left Crestwood Apartments at 7:00,
16 but that vehicle, the silver Mercedes, was still there.

17 The other way we know that Kirk Porter was lying and
18 that Robert Belcher was not involved is this, I repeatedly
19 asked Kirk Porter about when you left there, did you go
20 directly back?

21 He's like, "Yeah. Went straight back."

22 I said, "You didn't go out of the way or anything
23 like that?"

24 He's like, "Nope. Went straight back, straight back
25 to Crestwood."

1 Now, as you can see on this screenshot, the most
2 direct way from here, which is where this incident took
3 place, to here, which is Crestwood Forest Apartments, is
4 to go down Poinsett, over North Pleasantburg, hit State
5 Farm [sic] Road and then go right there. If that's the
6 way they went, ladies and gentlemen, there is no way
7 whatsoever that Robert Belcher's cell phone could be
8 hitting on the south side of this tower. No way. There
9 is no point in this crime at all that he ever should have
10 been able to hit in that spot. So, ladies and gentlemen,
11 we know he wasn't in the car (indicating throughout).

12 Now, I applaud Ms. Gary for doing what she's done
13 with her case. She's fought, and she's done the best she
14 could with what she has. But, ladies and gentlemen, you
15 can't decide this case on her argument. You have to
16 decide this case on the evidence, and the evidence for a
17 conviction of these crimes, that Robert Belcher simply is
18 not there. If you truly do your jobs, if you truly
19 fulfill your roles, there is only one verdict that you can
20 come back in this case as to Robert Belcher, and that is
21 not guilty.

22 THE COURT: Mr. Grubbs?

23 MR. GRUBBS: Thank you, Your Honor. May it please
24 the Court.

25 Ms. Gary, Mr. Gresham, ladies and gentlemen, first,

1 let me tell you that Raymond Martinez sits here before you
2 an innocent man, because he is presumed innocent. And he
3 is still innocent until after you go back and deliberate
4 in that case and you look at all this evidence, and only
5 after that determine that he's guilty beyond a reasonable
6 doubt. So you can't just assume that just because you
7 heard all of Ms. Gary's arguments that he's guilty. You
8 can't. Because that's why we get all of you together as
9 jurors, to put your collective experience together, your
10 minds, your opinions, your perceptions on things. You
11 have to get them all together, and only then and after you
12 have all the evidence and after Judge Gravely has given
13 you the law in this case can you finally start to analyze.
14 So as of right now and continuing through your
15 deliberations, as Mr. Gibson said, you need to be critical
16 of the State's evidence, because the presumption is that
17 he's innocent, not guilty. You have to challenge the
18 State's evidence, make them prove their case. Because
19 that's your duty. That's the oath that you took.

20 Now, once a liar, always a liar. Ms. Diaz, my
21 cocounsel, she told you that in the beginning. And we've
22 heard a lot of lies throughout this trial. A lot of them.
23 She told you there were several reasons why a person might
24 lie: to avoid punishment, gain control over somebody, to
25 gain a benefit. Hasn't Kirk Porter done all of those

1 things through his lies? They started five and a half
2 years ago, and they continued all the way up through
3 yesterday. Because he sat on this stand after he put his
4 left hand here and raised his right and he sat in this
5 chair, he lied to each and every one of you. He just
6 doesn't care about that. But you should.

7 Now, Ms. Gary did a fantastic job of going through
8 all the elements in this case, and I will not rehash all
9 of that. I couldn't have done a better job myself. So
10 we're just going to move to a couple of things that I want
11 to highlight about the law, especially the burden of
12 proof. Because as Mr. Gibson explained to you, they have
13 to prove their case beyond a reasonable doubt. Now,
14 that's a collection of words that don't mean a lot to
15 people who don't do what we do. So let me try to do this.
16 I'm going to show you something that I found to be helpful
17 to illustrate what the burden of proof means in a criminal
18 case.

19 So we're going to go through this. At the top:
20 innocent, beyond a reasonable doubt. Well, that one's
21 easy. Not guilty. Innocence is highly likely: not
22 guilty. Innocence is likely: not guilty. Probably
23 innocent. Still not guilty. Suspected innocent: not
24 guilty. Perhaps innocent: not guilty. Here's where it
25 starts getting interesting. May not be innocent. Guess

1 what? Still not guilty. Possibly innocent. Still not
2 guilty. Unlikely innocent. Still not guilty. Probably
3 not innocent. Still not guilty. Less than unlikely
4 innocent. This is that preponderance of the evidence that
5 Mr. Gibson explained to you. Still not guilty. Less than
6 unlikely innocent: not guilty. Highly unlikely innocent.
7 Still not guilty. You have to get through all of those
8 before you finally get to being proven guilty beyond a
9 reasonable doubt.

10 Ladies and gentlemen, that's a high burden. And I
11 agree with what Ms. Gary said. It is not beyond all
12 doubt, because as she said, there's no way that you can
13 eliminate all doubt. But that's a lot of steps that you
14 have to go through before you can get to guilt beyond a
15 reasonable doubt.

16 And you're going to find reasonable doubt in a couple
17 different ways. You're going to find it in the evidence
18 itself. You're going to find it in conflicts in the
19 evidence. And you're going to find it in a lack of
20 evidence. You only need reasonable doubt in one area, but
21 here we have all three.

22 And I like to think about reasonable doubt and the
23 presumption of innocence like the Grand Canyon where on
24 one side, you're innocent. And right now that's where you
25 all are as you have the presumption that Raymond Martinez

1 is innocent. And the State's got to build you a bridge to
2 get from one side of that canyon all the way to the other
3 side. And that bridge has to be built out of solid
4 material, strong so that you would not hesitate to take a
5 single step onto it. You must be firmly convinced that
6 that bridge is strong enough to get you from one side to
7 the other. And if you hesitate even for an instant to
8 step on that and cross that, you can stop your
9 deliberations because they haven't met their burden. They
10 haven't proven their case beyond a reasonable doubt.

11 We're going to talk a lot about credibility. We
12 already have talked a lot about credibility, believability
13 of witnesses. And Judge Gravely's going to give you the
14 law on that.

15 Ladies and gentlemen, I submit to you that the
16 credibility of Kirk Porter is the key to this case.
17 Because without it, despite Investigator Maltby sort of
18 disagreeing with me on it, he is the glue that holds their
19 case together. Because without him, what evidence do they
20 have against Raymond Martinez? They have him changing out
21 coins. That's it.

22 Let me tell you, ladies and gentlemen, changing out
23 coins is not a murder. Not a murder. And if this was all
24 this case was about, they were trying to prove him guilty
25 of changing coins, they've got strong evidence. But

1 that's all they have without Kirk Porter. And his
2 testimony falls apart. And because it falls apart, you
3 cannot believe a single word he says. Because what do you
4 believe?

5 I asked him, I said, "Are you lying -- did you lie to
6 Maltby or are you lying to the jury?" See how long he
7 took? Did you see the wheels turning as he's trying to
8 figure his way out of that? And then he figures better to
9 lie to this man than all these people. Because he's a
10 liar.

11 How a person looks when they testify, what they say,
12 how they say it, does it make sense in the face of proof,
13 and what motive or bias does a witness have for saying
14 what they say, we've gone into it a little bit and I'll do
15 more later, but those are all things you have to pay
16 attention to when you're evaluating whether or not to
17 believe a witness.

18 The State called a bunch of witnesses, 13 or so, some
19 to get into evidence, some that were more substantive than
20 others. But Kirk Porter's the only one that can really
21 implicate Raymond Martinez in any kind of a crime.

22 Now, the State's case is circumstantial. What does
23 that mean? There's two kinds of evidence that you're
24 going to hear about: direct evidence, circumstantial
25 evidence. And the judge is going to give you an

1 instruction, but let me kind of preview it a little bit.

2 Direct evidence directly proves the existence of a
3 fact and does not require deduction, whereas
4 circumstantial evidence is proof of a chain of facts and
5 circumstances that -- indicating the existence of a fact.
6 I like to think about it like connecting dots. We all did
7 those connect-the-dots books when we were kids or our kids
8 do them or grandkids do them. And you can kind of look at
9 a picture without connecting the dots and say that looks
10 like a bunny to me, but you still have to connect the dots
11 to make the picture. The State's case, it's like holes on
12 a dartboard. There's no clear picture besides Kirk Porter
13 lying. You can't connect those dots.

14 Why is that important? Because the judge is going to
15 tell you that, to the extent that the State relies on
16 circumstantial evidence, all of the circumstances must be
17 consistent with each other, and when they're taken
18 together, point conclusively to the guilt of the accused
19 conclusively when taken consistently together. And if
20 these circumstances merely portray the defendant's
21 behavior as suspicious, the proof has failed.

22 Whatever suspicious behavior you think of Raymond
23 Martinez, that cannot be enough that you use to convict
24 him. That's the law.

25 So let's move on. Let's go back in time a little bit

1 to December 31, 2017. We have Jermaine Bruster was
2 getting ready for a party. Jermaine Bruster was also
3 selling drugs New Year's Eve. We know that. He had been
4 known to flex, sell fake drugs to people. As Ms. Gary
5 said, he's a convict. He'd been to prison before. He was
6 known to sell powder cocaine. And let me just say that
7 whatever Mr. Bruster was, he did not deserve for Kirk
8 Porter and Keyla Mansell and possibly Jimmy Sullivan to go
9 into that home and murder him. He didn't deserve that.
10 And Raymond Martinez doesn't deserve to be lumped into
11 those people when there's no proof other than the word of
12 a liar.

13 There are no signs of forced entry. As Mr. Gibson
14 told you, what does that tell you? And as Investigator
15 Maltby said, that can mean the person knows the person who
16 owns the home or has that might actually know the person.
17 And we know that Keyla Mansell had previously bought
18 drugs. Investigator Maltby said he couldn't corroborate
19 it, but that is a fact known to him, which doesn't make
20 sense that Keyla set this up.

21 And isn't it also interesting that when Kirk Porter
22 got up there and he said that, who sent him a link the
23 next day? Keyla did. Keyla did.

24 Jimmy Sullivan, we spent a little bit of time talking
25 about him. And he's an interesting, interesting

1 character, as the two women who were there previously
2 described him as suspicious.

3 He was there moments before the murder. We know
4 that. We know he was there to buy powder cocaine. The
5 two women who were there saw him leave, but no one knows
6 what happened after that. What we know is that at some
7 point past 7:45, his phone is showing somewhere else. But
8 as we're going to see in a few moments, he's still within
9 the window that this crime occurred. You know, I don't
10 know. I don't know what connection he has to Kirk Porter
11 and Keyla Mansell, but I can tell you that there's more to
12 Jimmy Sullivan than Investigator Maltby found out, and he
13 can't rule him out. That's reasonable doubt.

14 He was there between 7:30 and 7:45. And the State
15 didn't really want to say it out loud because they kept
16 just referring it to DNA, but there was blood on his shoe.
17 And I respectfully disagree with Ms. Gary when she said
18 that the blood on the bottom of the shoe definitively came
19 back as not belonging to the victim. I think that was
20 said about the mat inside the car that Carl Westbrooks
21 drove. But Investigator Maltby's testimony was that it
22 was inconclusive on the bottom of the shoe. Inconclusive.

23 Well, the State didn't call a single forensics person
24 to say that they ruled out that the blood on the bottom of
25 the shoe did not match or match any blood found either

1 outside that door or inside that apartment.

2 Carl Westbrooks lied, the man who drove Jimmy
3 Sullivan there.

4 If the blood on Jimmy Sullivan's shoe is not from
5 this crime scene, how many crime scenes was Jimmy Sullivan
6 walking around that night? Where else is it coming from?
7 Do you know how ridiculous that is that he's somehow not
8 involved, and yet there's blood that's inconclusive from a
9 crime scene he was at moments before a murder and they
10 want to tell you he's somehow not involved? Does that
11 make sense? Ladies and gentlemen, no, it doesn't. He was
12 there. He had something to do with it, and it's not my
13 job or Raymond's job to tell you how he did it. It's
14 their job to prove this case. But what I'm telling you is
15 there's more to it, and they missed it.

16 The only two things taken were a jar and a
17 wristwatch. The wristwatch, lost, gone. No evidence that
18 linked it to Raymond or anybody else.

19 We talked about -- or Investigator Maltby talked
20 about that he tried to pull cameras from all around. We
21 heard a lot of Kirk Porter saying he went to a church. I
22 didn't hear any testimony about going to a church to find
23 cameras. Didn't hear any testimony about talking to
24 anyone from the church to see if they had cameras.
25 Wouldn't that have been nice to know?

1 We knew that there was a big party going on at
2 Crestwood Forest Apartments. We never heard any testimony
3 about any law enforcement officer speaking with anyone
4 that was there. Wouldn't it have been nice to know if
5 someone could have corroborated that Raymond Martinez was
6 there during the time that this happened? Wouldn't that
7 have been nice to know? We'll never know. That's
8 reasonable doubt.

9 The State didn't ask Investigator Maltby when he was
10 up there whether or not Kirk Porter lied because they
11 already knew the answer. They already knew the answer,
12 and that would hurt their case. So when they were up
13 there telling the story, there was no questions about like
14 was he completely honest with you at first? No. Nothing
15 like that. Because it was bad. It was bad from the
16 start. He lied to Investigator Maltby from the start, and
17 he lied to you from the start.

18 I made a big deal of Investigator Maltby about eye
19 contact, and Investigator Maltby, on two different
20 occasions, had to tell Kirk Porter during his interview
21 look me in the eyes when you're talking to me. Be a man.
22 Look me in the eyes. Why? I said, "Isn't that an
23 indicator of guilt and deception?"

24 He said, "Well, it can be."

25 Well, I've got two kids 4 and 7. I can tell you the

1 first thing that they do when they do something wrong is
2 not make eye contact with me. And I have to say the same
3 thing that Investigator Maltby told Kirk Porter. I have
4 to go down there and be like look me in the eye. Just
5 tell me what happened. And if they can't, guess what? I
6 know they're lying. He should have too. But he bought
7 into it. He bought into it hook, line and sinker, the
8 whole story. He just bought it, because Kirk Porter
9 wanted out. He wanted out.

10 Heard from a lot of people in this seat throughout
11 this trial. I'll tell you one person you didn't hear from
12 is Keyla Mansell, the ringleader, the one whose idea this
13 all was. You heard she's already been sentenced. She got
14 12 years according to Kirk Porter to voluntary
15 manslaughter. She doesn't have a choice. The State can
16 send a subpoena, they can bring her up here from prison
17 and sit her in that seat and force her to testify. Why
18 not? I can tell you one thing for sure. If it would have
19 helped their case to bring her, she would have been here.
20 So what can we take from that? She was going to say
21 something that hurt their case. You can take that however
22 you want to take it.

23 You heard all about the lack of forensics in this
24 case, and it was continuously repeated because it's
25 important. Because there's no DNA linking Raymond to this

1 crime, there's no fingerprints linking Raymond to this
2 crime, there's no eyewitnesses to Raymond Martinez
3 committing this crime other than Kirk Porter's word.

4 And another piece of information forensically that we
5 talked about during the trial is ballistics, ballistics
6 meaning guns and bullets and things like that. You heard
7 me ask Investigator Maltby are there any ballistics
8 evidence that was collected that match or that would link
9 Raymond Martinez to this crime, and he said no. Why is
10 that important? Because it exposes another Kirk Porter
11 lie. Because he got up there and he said that after this
12 crime, Raymond Martinez gave him the murder weapon. Wow.
13 That's pretty gutsy to give the murder weapon to this guy,
14 your friend. And then he testified that that's the same
15 gun that he was arrested with and that law enforcement
16 took. So what do you know from that? That means that law
17 enforcement has that gun. And you can trust Investigator
18 Maltby that when he said there were no ballistics that
19 match, that's what he meant. So he lied again. He lied
20 again.

21 Raymond Martinez had a phone, had a phone number.
22 Investigator Maltby read it out into the record. I didn't
23 see anything in Dan Kelley's fancy animation about any
24 phone evidence related to Raymond Martinez. And in this
25 day and age, even back in 2017, your digital image that

1 tracks you around is like breadcrumbs. It goes
2 everywhere. And you're going to tell me there's not a
3 single phone call, text, GPS coordinate, anything that
4 puts him anywhere near Razor Drive or talking -- talking
5 to any of these other people?

6 The evidence they put up of Robert Belcher's phone,
7 there was one name conspicuously absent from any of that,
8 wasn't there? Raymond Martinez. They didn't put up any
9 evidence about how frequently Raymond talks to Keyla,
10 Kirk. Because if there had been evidence that helps them,
11 you would have heard about it, but you didn't. You can
12 take that how you want.

13 Now, Ms. Gary put up a timeline, and it is very,
14 very, very important. Because the timeline completely,
15 again, contradicts what Kirk Porter told Investigator
16 Maltby, and it proves again that he's lying. And if you
17 can't believe what he's saying about how things happened,
18 then you can't believe of what he's saying about who was
19 with him. Now, how do we know this? Because according to
20 Kirk Porter, you drive from Crestwood to the church, he
21 testified it takes you five minutes. Investigator Maltby
22 said about the same thing.

23 He says he parks the Mercedes at the church. Now,
24 which story you want to believe is up to you, I guess.
25 Neither one of them fits because he tells Investigator

1 Maltby he was driving around for ten minutes, and then he
2 testifies he was sitting there for about five minutes. I
3 mean it's a lie, again. It's an important lie. But
4 either way, whether it's five or ten minutes, it doesn't
5 matter. Investigator Maltby said probably a little bit
6 less than a quarter mile, so I'm just going to say
7 approximately a quarter mile away.

8 And Porter testified that they walked down the road.
9 Walked. Takes me, what, probably four or five minutes to
10 walk a quarter mile at a leisurely pace. And then they
11 have to wait on somebody to leave the apartment. And then
12 they walk back to where Kirk miraculously knows where to
13 pick them up in front of Rasor Drive.

14 Let's compare that to Investigator Maltby's timeline.
15 I'm starting at 7:30 because I think this is when it gets
16 important. 7:30, Juanita and Elizabeth arrive at
17 Bruster's apartment. Jimmy Sullivan's already there.
18 7:33 Sullivan leaves. 35, Juanita and Elizabeth leave.
19 7:36 the Mercedes comes back to Crestwood. 7:39 it
20 leaves, again, five minutes, two and a half mile drive,
21 which tells you what, ladies and gentlemen? That they
22 arrive at 7:44. That's the part that was missing out of
23 Ms. Gary's illustration. If it takes him five minutes to
24 get there, then they get there at 7:44.

25 At 7:46 the first call from Shelvis to Jermaine comes

1 in. No answer, straight to voicemail. 7:48 Shelvis calls
2 Tiffany. Tiffany call Rico. At some point between 7:48
3 and 7:50, that's when Rico talks to Cedric and then Cedric
4 starts to head over there. He said he was steps away.

5 We know that the Mercedes is back at Crestwood at
6 7:53. So what do we have to go backwards and do? Find
7 out when they leave, which means that they had to leave at
8 the same time that Rico was telling Cedric, between 7:48
9 and 7:50, which means that the window for this crime to
10 happen is between 7:44 and 7:48 to 7:50, a four-to-six
11 minute window. Four to six minutes.

12 Jimmy Sullivan's phone wasn't anywhere else until
13 after that. He could have been there. He could have been
14 a lookout. He could have been the scout. I don't know.
15 I don't know his involvement, but I know it's more than
16 what the State thinks.

17 Why is all that important? Because if I'm adding up
18 Kirk Porter's times and all that, from the time that he
19 gets there to the church, it takes him from door to door
20 over 25 minutes, according to Kirk Porter's testimony.
21 Five minutes to get there, ten minutes to wait, five
22 minutes to walk there, hanging out for another little bit,
23 and then miraculously knowing when to get there. His
24 entire storyline doesn't fit with what Investigator Maltby
25 discovered, and that's why the devil's in the details. He

1 may have kept his major story consistent in that it wasn't
2 me, I was the driver. You want the trigger man, that's
3 the guy over there. Oh, yeah, yeah. That's definitely
4 him. Of course he's going to keep that part consistent.
5 That's the easy part. But the lies start to fall apart
6 when you get into the details. There's your time of the
7 crime, 7:44 to 7:50.

8 So what do we have? Kirk Porter's timeline,
9 Investigator Maltby's timeline, they don't match up. They
10 don't match up. Because they don't match up, can't
11 believe a thing he says.

12 Why wasn't the whole apartment ransacked? Elizabeth
13 Gary, the prosecutor, is exactly right. It's just not
14 enough time. It's just not enough time. Because Keyla in
15 the end got him to open that door, Porter, the muscle,
16 charged in, did the deed. Sullivan, lookout scout, I
17 don't know what he was. Maybe he got scared. Maybe he
18 thought this was just a robbery. As soon as he hears a
19 shot, he takes off, and that's why he's not there. That's
20 why he's not hanging around. I don't know.

21 Now let's talk about this jar and this Ingle's video
22 that the State has done a wonderful job presenting to you
23 evidence that Raymond Martinez went inside an Ingles and
24 got change, or got cash for change. Again, if this was
25 all this case was about, we wouldn't be here talking. But

1 that's not a murder. That's not an indicator of murder.
2 Possessing something that's stolen after the fact is not
3 murder. It's just not. That in and of itself does not
4 link you to a murder. You need more. You would have
5 needed a credible witness that could have made those
6 connections. They don't have one. Porter used him. And
7 how do we know that he used him? He's done burglaries
8 before. That's what he said. That's what the State
9 brought out. He's familiar with it. This wasn't his
10 first rodeo. He's a thief, self-admitted thief. He
11 testified that he had used Coinstar machines before.
12 Investigator Maltby confirmed that. He testified that,
13 yeah, he knows that they're in grocery stores more often
14 than not, and -- but there are cameras in grocery stores.

15 Had this just been a lick, a robbery, he might have
16 walked in there by himself. Not after what he did. Not
17 after what he did.

18 So what did he have to do? He had to have a fall
19 guy. He had to have someone to put his face on there. So
20 he got his friend, someone that would trust him.

21 He told you, Porter told you that only he drives that
22 Mercedes. No one else. He's in control of that Mercedes.
23 He decides where it goes. He knew that there were
24 cameras. That's why he parks far away. But look at the
25 Ingles video. You won't see his car anywhere in the

1 frame. He parks far away, not at the closest spaces.
2 Why? Because he knows he'll be seen.

3 Even if Porter had said to Raymond, hey, man, I just
4 did this lick, go cash this out for me, that doesn't make
5 him -- that doesn't make Raymond an accessory in this
6 murder. Raymond was used by a crafty thief who admitted
7 that he would commit crimes to further his own interest.

8 Now, what I would posit to you all is that after this
9 Mercedes, controlled, driven by Kirk Porter gets back to
10 Crestwood Apartments at 7:53, what commences for the next
11 25 minutes is a shell game. Because you're going to see
12 in this grainy video that you saw a part of a car that
13 parks at 7:53, and from 7:53 to 8:15 there are cars coming
14 and going, there are people milling about. As
15 Investigator Maltby testified, you can't identify a single
16 person in it. There are people going in Building 10,
17 coming out of Building 10.

18 Ladies and gentlemen, what I'm telling is that at
19 some point Raymond Martinez goes over at that New Year's
20 Eve party, was contacted by Kirk Porter who came back
21 after murdering Jermaine Bruster and recruited to go and
22 cash this change. The State hasn't presented you one bit
23 of corroboration from any other witness other than a
24 documented liar to prove otherwise. They have to prove
25 things. Not me.

1 Kirk Porter, once a liar, always a liar. He was
2 charged with 15 charges before he entered that plea. We
3 went through it in detail. I won't go through them all
4 again. But 190 years and a couple of life sentences,
5 that's what he avoided by getting on that stand today --
6 or yesterday.

7 Investigator Picone told him you want to be the one
8 on the better end of this. And that was early on in the
9 interview before he started identifying people in a
10 lineup. He knew. From the beginning of that, he started
11 to craft this plan. Who can I throw under the bus? That
12 guy.

13 He pled guilty to voluntary manslaughter, reduced
14 from 30 years to life to two to 30 years.

15 Porter testified Keyla Mansell got 12, and don't you
16 think he's wanting better? Keyla didn't testify, but
17 Porter did. You know in his mind he's looking for better
18 than 12 years. Wouldn't a person, a thief, a burglar say
19 anything to get that kind of time after killing a man?

20 He testified, probably the only truthful thing he
21 said on that stand was the last question I asked him: You
22 want as little time in prison as possible. And he said
23 yes. I think that's the only truthful thing he said all
24 of yesterday.

25 What are some of those charges that were dismissed?

1 Attempted murders, burglaries, discharging a weapon into a
2 vehicle, armed robberies, all gone thanks to that
3 testimony. The deal's been done. He's already gotten a
4 benefit. And that provides you with all you need to know
5 about what incentive he has to lie about every single
6 detail in order to save his own skin.

7 As much as the State wants you to believe that these
8 inconsistencies are due to lapses in memory because of
9 marijuana use, pill use, I didn't hear any testimony about
10 how long he's been doing drugs from any sort of experts
11 on, oh, I talked to Kirk Porter, and, yeah, he's got
12 definitive memory loss from all of his drug use. That's
13 speculation on their part. That's them trying to plug
14 holes. That's them trying to put a bowl under a strainer
15 that their case is running through. Don't believe it.
16 That's what they want you to believe, but there's no
17 evidence of it.

18 He lied repeatedly. He was lying to you from the
19 beginning. He testified that he never lied to
20 Investigator Maltby. That was the first lie he told to
21 you. What did I do? Proved him to be a liar.

22 He testified that, on the stand yesterday, Martinez
23 and Belcher both had guns. Well, back on February 28,
24 2018, he told Investigator Maltby only Raymond Martinez
25 had a gun. That's significant. That's a big change.

1 That's not something little. That's something huge.
2 Changed it. Why? Because he's hoping to get as little
3 time as possible, and that sounds better. Because what
4 happens when you embellish things, ladies and gentlemen?
5 That's just another form of lying. Another form of lying.

6 He claimed he never made a connection, that the lick
7 he had done was a murder, and yet Keyla sent him the link
8 the next day. He knew. And he waffled a little bit. He
9 said, "I knew by the time I did my plea." And he said,
10 "All right. All right. I must have known before I
11 confessed."

12 Again, the devil is in the details. He's lying.
13 He's squirrely up there because he knows he's not telling
14 the truth, because if he had been telling you the truth,
15 you would have had a firm story throughout. And the only
16 thing he got firm was the fact that it wasn't him. That's
17 it.

18 He said that Raymond Martinez had tied Mr. Bruster
19 up. Investigator Maltby didn't testify that there's any
20 evidence of that. Dr. Ward didn't get up here and testify
21 that there were markings on the wrist or anything like
22 that that would indicate that somebody had been tied up.
23 No. It's another lie. It's another embellishment to make
24 him sound better, to make it sound like he's giving more
25 information than he has. More lies.

1 I think it's significant that he describes Raymond
2 Martinez as wearing all black, gray and white shoes, no
3 jacket. He didn't say he was wearing a hat. Why is that
4 significant? Because in the picture in the Ingles, he's
5 wearing a gray sweater, a hat, blue and white shoes. Now,
6 Ms. Gary says that they went back and that they were there
7 for a good bit, and it makes sense that he would change
8 clothes, which I would agree that does make sense except
9 for the fact that Kirk Porter said that Raymond Martinez
10 never left the car. He said they never got out of the car
11 once they got back to Crestwood. For 25 minutes he just
12 sat there. And if he just sat there, how is he changing
13 his clothes?

14 Now, Jermaine Bruster was wearing gray and white
15 shoes that night. Maybe Kirk Porter is remembering a
16 different pair of shoes. Maybe he was remembering a pair
17 of shoes of the man he just shot. Maybe that's more of
18 what was on his mind, not what Raymond Martinez was
19 wearing.

20 Now, you can tell out-right lies, you can tell
21 embellishment kind of lies, but there's yet another kind
22 of lie, and that's a lie by omission. Lying by not
23 telling something. And this isn't a matter of just I
24 forgot to tell you everything I ate for lunch yesterday.
25 These are serious facts about the death of a human being.

1 These are the types of things that you don't just forget.

2 So he never told Investigator Maltby that Raymond and
3 Belcher came up from behind some mailbox. He never told
4 him that fact. That was brand new.

5 He never told Investigator Maltby that Raymond told
6 him the Coinstar wasn't working. You didn't hear him
7 testify to that. Don't you think if they'd wanted to
8 corroborate Kirk Porter's testimony they would have
9 brought their lead investigator to say oh, yeah, this is
10 definitely what he told me, and this is what my
11 investigation found? But you didn't hear it because Kirk
12 Porter made it up on the stand to try to make himself
13 sound better.

14 He lied to Investigator Maltby about being at a hotel
15 all night until I had to let him hear his part, and then
16 he -- begrudgingly he's like, yeah, I said I was at a
17 hotel. Another lie.

18 It's only a trial after he's gotten his deal where
19 he's going to be sentenced after this trial does he start
20 to juice up some details. It's his time. The spotlight
21 is going to be on him, and he told you that he knows that
22 his sentence is conditioned on how he testifies. So what
23 does he do? He starts dribbling in some extras. He's
24 dishonest with you. He was dishonest with this court. He
25 lied to all of us up there on that stand. And you

1 shouldn't believe a word he says.

2 He says that after Raymond and Rob had allegedly
3 committed this terrible murder, they're just casually
4 walking behind that mailbox. Well, if I was in one of
5 their shoes, if that's really what happened, I'd have been
6 running. It just doesn't make sense what he said.

7 Kirk Porter is willing to commit crimes to further
8 his own interest. And I agree with what Mr. Gibson said,
9 that his thing about I won't lie to further my own
10 interest is yet another lie. A lie within a lie. He had
11 every motivation to lie, every incentive to lie. He's
12 been proven to be a liar, and you should not trust a
13 single thing that he has said. And if you cannot trust a
14 single thing that he has said on this witness stand or
15 trust a single thing that he said to Investigator Maltby,
16 which was the glue that held their case together, which
17 was the arrow that tried to point its way to Raymond
18 Martinez, then, ladies and gentlemen, you cannot find
19 Raymond Martinez guilty. You cannot. Because the word of
20 a liar is no word at all.

21 So beyond a reasonable doubt means that after all
22 this, the State has to have left you firmly convinced,
23 firmly convinced of Raymond Martinez's guilt, without
24 hesitation.

25 The bridge I talked about the State has to build you:

1 you wanted the Golden Gate Bridge and they gave you a rope
2 bridge, flimsy, broken, pieces falling apart, frayed,
3 boards breaking. Would you step foot on that bridge to
4 cross that gap? Are you firmly convinced that you're okay
5 to get to the other side? If you're not, you must find
6 Raymond Martinez not guilty.

7 The State's circumstantial evidence that they have
8 attempted to bring here to this court to use to find
9 Raymond Martinez guilty, if it doesn't all taken together
10 point conclusively to his guilt in this crime, you must
11 find him not guilty. If they just make him look
12 suspicious, you must find him not guilty.

13 The State's proof has failed. Their case has failed.
14 Their case is inconsistent. The glue that held it
15 together has fallen apart. And the only thing they've
16 shown as it relates to Raymond Martinez is that he's,
17 number one, a bad judge of friends, and that he went in
18 and changed out some change. That's what they've proven
19 to you as it relates to Raymond Martinez, and that's all.

20 Family's lost a loved one. Don't create another
21 injustice by allowing the State, with their lack of
22 evidence, with their inconsistent evidence, to convict
23 this man of a crime already admitted to by the two people
24 who were connected to the victim, and who had done
25 burglaries before, and used Coinstar machines before, and

1 knew where the cameras were. Don't create an injustice by
2 finding that man guilty of a crime the State has not
3 proven beyond a reasonable doubt that he has done. They
4 have not proven their case. They've not proven him guilty
5 beyond a reasonable doubt. Ladies and gentlemen, I ask
6 you at this time that after your deliberations you find
7 not guilty.

8 Thank you.

9 THE COURT: All right. Ladies and gentlemen, mine's
10 going to be about 25 minutes. I'm going to give you all a
11 very short break before I give you the charge on the law.
12 So don't discuss the case yet. It's not proper to do
13 that. So if you'll step back in your jury room and just
14 let the bailiffs know when you're ready to come back in
15 here.

16 (WHEREUPON, the jury exits the courtroom at 1:17 PM.)

17 THE COURT: All right. We'll take just five minutes.

18 (WHEREUPON, a recess is taken at 1:17 PM; proceedings
19 reconvened at 1:25 PM.)

20 THE COURT: Is the State ready?

21 MS. GARY: Yes, sir.

22 THE COURT: Defendant Belcher ready?

23 MR. GIBSON: Yes, Your Honor.

24 THE COURT: Defendant Martinez ready?

25 MR. GRUBBS: Yes, Your Honor.

1 THE COURT: All right. Bring the jury in.

2 (WHEREUPON, the jury entered the courtroom at 1:27 PM.)

3 THE COURT: All right. Ladies and gentlemen, I
4 usually come down here. I always feel like the Wizard of
5 Oz when I stand up there.

6 And as far as when we get through with this charge,
7 y'all can decide -- your lunch, as you probably saw, it
8 will be waiting on you. And y'all can just decide whether
9 you want to eat your lunch and then discuss the case, or
10 discuss the case while you're eating lunch. That's
11 totally up to you.

12 CHARGE ON THE LAW

13 THE COURT: It's my job at this time to tell you what
14 the law of this case is. All right.

15 Now, as I told you, you and I have two separate,
16 totally distinct duties. Your duty is to determine what
17 the facts of the case are. And what I mean by that is
18 you're going to be answering a question which is on the
19 verdict form as to each charge, as to each individual
20 guilty or not guilty. So that's how you're going to
21 determine the facts and indicate what the facts are.

22 Now, my job, as I told you, is to preside over the
23 trial, rule on objections. And as I said, the objections
24 are based on our court rules and our strict rules of
25 evidence, and therefore, that's -- a lot of times I have

1 to send you out so that we could make sure that we had a
2 clean record and that only things that were presented to
3 you were presented as allowed by our rules of evidence.

4 My final duty is to charge you on the law, and that's
5 what I'm doing at this point. Now, if you feel like you
6 have an opinion what the law should be and if you have a
7 feeling what the law is or anything that contradicts what
8 I'm telling you, you're to disregard that because you've
9 taken an oath that says I will apply the law the judge
10 tells me.

11 So now, in this matter we have several different
12 charges as to each defendant. We have a charge of murder,
13 burglary first degree, armed robbery, possession of a
14 weapon during the commission of a violent crime,
15 conspiracy and petit larceny. Now, I will give you
16 elements and more information about each of those charges.
17 But I tell you the fact that somebody was charged,
18 arrested, indicted, that is not evidence. That is not
19 anything for you to consider. That's merely the formal
20 process which brings a case to trial. You're to make your
21 decision based on the evidence that was presented in this
22 courtroom over the last few days.

23 And what are you to use in making that determination?
24 You will -- witnesses that presented testimony, evidence
25 that was introduced, any stipulation that counsel may have

1 had, any videos or anything like that that was presented,
2 that's the evidence that you are to consider. And as to
3 each piece of evidence, you're to give it the weight and
4 value which you feel is appropriate.

5 Now, there are multiple charges here as to each
6 defendant. And I'll go through this verdict form with you
7 in just a few minutes. But you will have a separate
8 verdict form for each defendant. And as to each
9 defendant, you'll have the charges listed. There are six
10 charges per -- six separate charges.

11 Now, you are to consider each of these charges as to
12 each individual separately. You will consider the charges
13 against one individual, then you'll go to the next charge.
14 And your decision on the first one doesn't control what
15 your decision on the second one is, or the third charge.
16 And your decision on one defendant is not controlling on
17 the other defendant. So what you must do is consider each
18 charge as to each individual separately, and you must
19 weigh the evidence and determine whether the State has met
20 its burden of proof as to each element as to that charge
21 as to that defendant.

22 So one of the kind of foundations of our criminal
23 judicial system, criminal justice system is the
24 presumption of evidence. And that is not merely some
25 legal theory that we throw out. That's a very important

1 part. That says that any individual charged with any
2 crime, no matter how serious the crime, how -- what level
3 of crime it is, they have a presumption of innocence.
4 That presumption of innocence stays with them until you
5 have removed it. And what I mean by that is that
6 presumption stays with them throughout the trial,
7 throughout your deliberations until you have found that
8 the State has met its burden beyond a reasonable doubt.
9 If you do not find that the State has met its burden
10 beyond a reasonable doubt as to any particular charge as
11 to each defendant, then that presumption stays with them.
12 It has not been removed.

13 And what is reasonable doubt? Reasonable doubt, you
14 know, we don't require that -- you know, there's nothing
15 in this world that we can determine with absolute
16 certainty. And that is not what is required of the
17 State's burden. But their burden is that they must prove
18 each element of each charge as to each defendant beyond a
19 reasonable doubt. And it's not like in a civil case, just
20 to make sure of the facts, you may have been involved in a
21 civil matter as a juror, maybe a party or TV or whatever,
22 the civil case is much less. That's by a preponderance of
23 the evidence or more likely than not. The standard here
24 in all criminal matters is, again, beyond a reasonable
25 doubt.

1 Reasonable doubt is the kind of doubt that would make
2 a reasonable person hesitate to act. Proof beyond a
3 reasonable doubt is proof that leaves you firmly convinced
4 of the defendant's guilt.

5 If, based on the consideration of the evidence,
6 you're firmly convinced that a defendant is guilty of a
7 particular charge, you must find him guilty. But on the
8 other hand, you think there's a possibility that he's not
9 guilty, then you must give the defendant the benefit of
10 that doubt and find him not guilty. Facts and
11 circumstances that merely place the defendant a grave
12 suspicion of the crime charged or merely raise a
13 speculation or conjecture is not sufficient for a
14 conviction.

15 Now, there's also two types of evidence that the
16 State can rely on in meeting their burden. And regardless
17 -- it is direct and circumstantial. Regardless of whether
18 they use direct, circumstantial or a combination of the
19 two, it's still the same burden of beyond a reasonable
20 doubt.

21 Direct evidence is when a particular piece of
22 evidence, whether it's testimony or a document, proves a
23 specific point. That's direct evidence.

24 Circumstantial evidence is when you have to prove a
25 series of facts to prove a particular point. You must

1 have maybe three things together before you go, ah-ha,
2 that's what it is. You have to look at a series of facts
3 to determine what the circumstances were.

4 The State can rely on direct, circumstantial or a
5 combination of the two. However, to the extent the State
6 relies on circumstantial evidence, all of the
7 circumstances must be consistent with each other, and when
8 taken together, point conclusively to the guilt of the
9 accused beyond a reasonable doubt. Again, if the
10 circumstances merely portray the defendants' behavior as
11 suspicious, then that proof has failed.

12 Let's talk about credibility of witnesses because
13 that's one of the tools that you will have in making your
14 decision here today. Now, you may, in making your
15 determination of the -- credibility just means
16 believability. So when you're evaluating testimony, you
17 can consider how a particular witness looked on the stand,
18 whether they had a particular bias, whether they had some
19 interest in the outcome, all of those you can consider in
20 determining whether they're believable.

21 You may accept a portion of a witness's testimony but
22 reject the remaining portion; you may accept all of a
23 person's testimony against several other witnesses, or you
24 may reject his testimony or her testimony based on other
25 witnesses. Again, you may accept one half, one portion of

1 it and reject the remaining portion of it. As to each
2 piece of evidence, you're to look at that, and you're to
3 give it the weight and value you feel is appropriate.

4 One of the things also in talking about witnesses,
5 let's talk about expert witnesses. In this particular
6 case there was the use of someone that was designated as
7 an expert witness. And that gives a person the ability to
8 testify about a particular opinion or conclusion that they
9 had, okay, based on their experience, their education,
10 their training, and therefore, they can testify about
11 those conclusions in their fields.

12 Just because someone is designated as an expert does
13 not necessarily mean that you must accept that, even if
14 it's not contradicted. You still, just like any other
15 piece of evidence, you're to give it the weight and the
16 value which you feel is appropriate.

17 Now, another kind of very important foundation of our
18 criminal justice system is a person's Fifth Amendment
19 right. And what that means is that the fact that a
20 defendant did not testify is merely the exercise of his
21 constitutional right. The defendants in this matter have
22 no burden whatsoever, and the fact that a person exercises
23 their right not to testify cannot be used against them.
24 In fact, that's not something for you to consider or even
25 to discuss in your deliberations, because the defendants

1 have no burden. You must concentrate on the proof that
2 was presented, and the fact that somebody exercised their
3 constitutional rights is not something that should be used
4 against them.

5 Now let's talk about some statements -- prior
6 inconsistent statements. Now, there's been evidence
7 presented that witnesses may have made prior statements
8 which are not consistent with their testimony. You may
9 use this evidence to decide whether to believe the
10 witness. You may also use the evidence of the earlier
11 contradictory statement to determine the truth of those
12 statements. It's up to you to decide whether to believe
13 the earlier statement or the testimony given at trial. If
14 a witness is shown to have knowingly testified
15 untruthfully, then you may consider this in determining
16 whether the truth of the witness's testimony as to other
17 matters, you may reject all the testimony except a portion
18 of it. Again, give it the weight and value which you feel
19 is appropriate.

20 All right. So those are some general tools you will
21 have in making your evaluation. Now let me talk to you a
22 little bit about what is required generally about the
23 burden of proof as to criminal liability.

24 In order to establish criminal liability, criminal
25 intent is required. For example, the mental state

1 required to be proven by the State for a particular crime
2 might be purpose, intent, knowledge, recklessness or
3 criminal negligence. Criminal intent must be proven by
4 the State beyond a reasonable doubt.

5 Criminal intent is always a matter that must be
6 determined by the jury from the circumstances surrounding
7 the situation. You know, there's no way that you can
8 determine that with mathematical certainty. There's no
9 scientific way to determine the criminal intent of a
10 person, so therefore, they must rely on the circumstances
11 that existed at the time. And that's for you to determine
12 what the intent at the time was. It can be established by
13 inference in the same way any other fact is to be proven.
14 Criminal intent is a mental state, a conscious wrongdoing,
15 and it's up to you to determine what the defendant
16 intended to do based on the circumstances shown to have
17 existed. Criminal intent can arise from action or failure
18 to act, it may arise from negligence, recklessness, or an
19 indifference to duty or to consequences that is considered
20 by the law to be the equivalent of criminal intent.

21 Now, throughout this trial, there were information,
22 there were evidence about statements alleged to have been
23 made by one or more of the defendants prior to trial.
24 Those were admitted into evidence. While the Court has
25 determined that the statements were admissible, it's up to

1 you to make the ultimate decision to determine whether or
2 not the defendant made the statement. If the defendant
3 did make the statement, you must determine whether the
4 statements were made by the defendant voluntarily and of
5 his own free will. This means that the statement was not
6 caused by pressure, force, fear, threats, coercion,
7 intimidation or hope or promise of leniency or reward of
8 any kind.

9 In determining whether a statement is voluntary, you
10 should consider both the characteristics of the defendant
11 and the details of the questioning. Some of the factors
12 that you can consider are the age of the defendant, the
13 defendant's education or lack of education, his mental
14 ability or capacity, his IQ or intelligence, his
15 background and environment, the place and length of the
16 detention if there was a detention, the nature of the
17 questioning, and the advice or lack thereof to the
18 defendant of his constitutional rights including but not
19 limited to the right to remain silent, that any statement
20 could be used against him in a court of law, the right to
21 have a lawyer present, that if he could not afford a
22 lawyer, a lawyer could be appointed to represent him and
23 he could stop making the statement at any time. You must
24 carefully consider all of the surrounding circumstances
25 before you give any weight to this alleged statement.

1 The State has the burden of proof beyond a reasonable
2 doubt that the alleged statement was voluntary. If you
3 determine it was, you may give the statement any further
4 consideration that you deem appropriate for the weight and
5 value which you feel is appropriate. If you determine the
6 alleged statement was not the free and voluntary statement
7 of the defendant, then you should not consider the
8 statement at all.

9 Now, a person -- now talk about prior records of
10 witnesses. A person who has a past criminal record is
11 competent to testify during trial. A past record does not
12 affect his or her ability to testify. It can only be used
13 -- it can be considered by you if at all in determining
14 his or her believability. Remember, you're the sole judge
15 of the facts of the case, and believability of the witness
16 is something that you are to make the determination on.

17 Now I want to talk to you a little bit about a
18 premise which has been established by the law in this
19 state, and that is the hand of one is the hand of all. If
20 a crime is committed by two or more people who are acting
21 together in committing a crime, the act of one is the act
22 of all. Where two or more people acting with a common
23 plan or intent are present at the commission of a crime,
24 it does not matter who actually commits the crime. A
25 person who joins with another to commit an unlawful act is

1 criminally responsible for everything done by the other
2 person which happens as a probable or natural consequence
3 of the acts done in carrying out the common plan and
4 purpose. If two or more people are together, they're
5 acting together, assisting each other in committing the
6 offense, the act of one is the act of all, or sometimes as
7 we say the hand of one is the hand of all. Prior
8 knowledge that a crime is going to be committed without
9 more is not sufficient to make a person guilty of that
10 crime. Mere knowledge that another person is going to
11 commit a crime, even if the defendant is present when the
12 crime is committed, is not sufficient to convict the
13 defendant as a principal.

14 Guilt as a principal is shown by actual or
15 constructive presence at the scene as a result of a prior
16 arrangement, therefore, a finding of prior arrangement,
17 plan or common scheme is necessary for a finding of guilt
18 as a principal. However, mere presence at the scene of a
19 crime is not sufficient to convict one as a principal on
20 the theory of aiding and abetting. Intent is also a
21 necessary element where there must have been a common
22 design or intent to commit the crime, and the crime must
23 have been committed pursuant thereto with a person aiding
24 and abetting by some overt act.

25 "Intent" means intending the result which actually

1 occurs, not accidentally or involuntarily. Intent may be
2 shown by acts and conduct of the defendant and other
3 circumstances from which you may naturally and reasonably
4 infer intent. The burden for purpose of this theory, like
5 everything else, is on the State beyond a reasonable
6 doubt.

7 Now, at this time I'm going to actually discuss with
8 you the actual elements of each of the crimes being
9 charged. All right. And I'm just going in the order that
10 were listed. There's no particular reason for the order.

11 The first one is the charge of murder. As you can
12 see, the elements of murder is the killing of another
13 person with malice aforethought.

14 Malice is hatred, ill will or hostility towards
15 another person. It is the intentional doing of a wrongful
16 act without just cause or excuse and with the intent to
17 inflict an injury or under the circumstances that the law
18 will infer is an evil intent.

19 Malice aforethought does not require that malice
20 exist for any particular length of time before the act is
21 committed, but malice must exist in the mind of the
22 defendant just before and at the time the act is
23 committed, therefore, there must be a combination of the
24 previous evil intent and the act.

25 Malice aforethought may be either expressed or

1 inferred. The terms "expressed" and "inferred" do not
2 mean different kinds of malice, but merely the manner in
3 which malice may be shown to exist, that is, either by
4 direct evidence or inference from the facts and
5 circumstances which have been proven.

6 Express malice is shown when a person speaks words
7 which express hatred or ill will for another, or when the
8 person prepared beforehand to do the act which is later
9 accomplished.

10 If the facts are proven beyond a reasonable doubt
11 sufficient to raise an inference of malice to your
12 satisfaction, this inference would be simply an
13 evidentiary fact to be taken into consideration by you
14 along with other evidence in the case, and you must give
15 it the weight which you feel is appropriate.

16 All right. And then the next charge is armed
17 robbery. The elements of armed robbery are the taking of
18 personal property from another person with the intent to
19 permanently deprive the person of the property. The
20 carrying away of the personal property must have been done
21 by violence or by putting the owner of the property in
22 fear of violence and armed with a deadly weapon during the
23 robbery.

24 Now, let me kind of define some of these terms for
25 you. Property is in the presence of a person if it's

1 within the person's reach, inspection, observation or
2 control so that the person couldn't, if not overcome with
3 violence or prevented by fear, keep possession of the
4 property.

5 As to the next element, intent must be to permanently
6 deprive the owner of the property to keep the property for
7 the defendant's own use. The slightest removal of the
8 property or the complete possession of the property, even
9 for an instant by the defendant, is sufficient to show a
10 taking and carrying away of the property. The taking and
11 carrying away of the property must have been done with
12 violence or by putting the owner of the property in fear
13 of violence.

14 A deadly weapon is an article, instrument or
15 substance which is likely to cause death or great bodily
16 harm. Whether an instrument has been used as a deadly
17 weapon depends on the facts and circumstances of each
18 case. The following are examples of instruments which may
19 be deadly weapons: a pistol, shotgun, rifle, dirk,
20 dagger, knife, sling shot, metal knuckles, razor,
21 gasoline, firebomb, Molotov cocktail and lighter fluid. A
22 gun may be a deadly weapon even if it is not operational.

23 This is burglary. They're very specific. And
24 these requirements are what have been established by our
25 law to be proven. The burglary is the entering of a

1 dwelling without consent with the intent to commit a crime
2 in the dwelling and it must be one of the following,
3 either 1, 2, and it must be one of the following to
4 constitute burglary first degree: either occurred in the
5 nighttime, or the person was armed with a deadly weapon,
6 or caused physical injury to a person not participating in
7 the crime, or uses or threatens the use of a dangerous
8 instrument, or displayed what is or appears to be a knife,
9 pistol, revolver, rifle, shotgun or other firearm.

10 Just to kind of give you some definitions on that, a
11 dwelling is any building or portion of a building in which
12 a person ordinarily sleeps.

13 Also, the State does not have to prove that force was
14 used to gain entry. If a person enters a building by
15 using deception, artifice, trick or misrepresentation to
16 get the consent to enter, this is an entry without
17 consent.

18 As to the second element, the defendant intended to
19 commit a crime, either a felony or misdemeanor, at the
20 time of the entry. The mere entry into a dwelling without
21 consent is not burglary. If the intent to commit a crime
22 is formed after the entry, it is not burglary. On the
23 other hand, if the defendant intended to commit a crime at
24 the time of the entry, it is a burglary even if the intent
25 was abandoned after the entry. It does not matter that

1 the intended crime was not completed.

2 Intent may be shown by acts and conducts of the
3 defendant and any other circumstances which you naturally
4 and reasonably infer intent.

5 Finally, the State must prove beyond a reasonable
6 doubt one of the listed elements that are up there: A, B,
7 C, D or E.

8 For nighttime, the law defines that as a period
9 between sunset and sunrise during which there is not
10 enough daylight to recognize a person's face except by
11 artificial light or moonlight.

12 So those are the specific elements of burglary.

13 Now elements of possession of a weapon during the
14 commission of a violent crime. First, I will tell you
15 that for you to find a defendant guilty of this particular
16 charge, you must have also found him guilty of actually
17 committing a violent crime. And I will say for the
18 purpose of our law, violent crimes would be murder, armed
19 robbery or burglary. So, again, they have to be found
20 guilty of one of these violent crimes before they can be
21 found guilty of possession of a weapon during a violent
22 crime.

23 And, again, the elements of this are that the
24 defendant was in possession of a firearm or visibly
25 displayed what appeared to be a firearm and this is during

1 the commission of a violent crime.

2 And just to make sure the definition for this one, a
3 firearm is any machine gun, automatic rifle, revolver,
4 pistol or any weapon which is designed or may be readily
5 converted to expel a projectile.

6 In order to find the defendant guilty of a weapon
7 [sic] during a violent crime, then, again, you must find
8 either committing a violent crime. And this also is to be
9 on the same burden as everything else with beyond a
10 reasonable doubt.

11 Now, the next charge is conspiracy. Elements of
12 conspiracy is the defendant or defendants combined with
13 one or more persons for the purpose of committing an
14 unlawful act or of committing a lawful act by unlawful
15 means.

16 In order to find the defendants guilty of conspiracy,
17 there must be a mutual understanding, agreement or common
18 intention and plan. Mere passive knowledge of or consent
19 to the criminal conduct of another is not enough to make a
20 person a conspirator. There must be guilty knowledge and
21 participation. Similarly, the mere fact that the
22 defendant may have associated with another person or met
23 with another person and discussed common aims and interest
24 does not necessarily establish proof of existence of a
25 conspiracy or that the defendant was involved in a

1 conspiracy.

2 On the other hand, it's not necessary that the
3 agreement be a formal one, that it be in writing, that the
4 persons hold a meeting, expressly state the terms of the
5 common plan or that the agreement be stated in words
6 between them. The agreement of criminal conspiracy may
7 come into being through an implied mutual understanding.
8 The willful, intentional and knowing adoption by two or
9 more persons of a common plan is sufficient.

10 No overt acts need to be shown to establish
11 conspiracy. The gist of the crime is the unlawful
12 combination or agreement. You may consider evidence of
13 specific overt acts done in furtherance of the conspiracy
14 to determine existence, scope and duration of the
15 conspiracy, but the crime is the agreement itself.

16 Once an agreement has been reached, the crime of
17 conspiracy has been committed. No further action needs to
18 take place. The conspiracy may be shown by circumstantial
19 evidence and the conduct of the parties. Conspiracy is an
20 ongoing or continuing crime.

21 In order to convict the defendant of conspiracy, the
22 State must prove beyond a reasonable doubt not only the
23 defendant knew of the unlawful conduct, but that the
24 defendant agreed to combine with other person or persons
25 for the purpose of accomplishing the unlawful conduct.

1 It's not necessary that the defendant know the
2 identity and role of all the other conspirators. It is
3 sufficient to prove that the defendant knew or had reason
4 to know the scope of the conspiracy and that he had reason
5 to believe that his own interests were dependent upon the
6 success of the venture. Once the existence of a
7 conspiracy has been proven, evidence establishing beyond a
8 reasonable doubt the connection of a defendant to the
9 conspiracy, even if the connection is slight, is
10 sufficient to convict him of knowing participation in the
11 conspiracy.

12 Now, the final charge which I'll give you the
13 elements of is petit larceny. Now, a lot of times you may
14 hear this referred to as simple larceny. And this is the
15 carrying away of a person's property against the will or
16 without the consent of the other person with the intent to
17 permanently deprive the owner of the property, and the
18 value of the property has a value of \$2,000 or less. And
19 like I said, this is sometimes referred to as simple
20 larceny as opposed to grand larceny which is more than
21 \$2,000.

22 So those are the elements that must be proven by the
23 State beyond a reasonable doubt for that charge and all of
24 the other charges.

25 Now, at this point I'm going to go over the verdict

1 form with you. And this is the verdict form that you will
2 have back in your jury room. And it gives you a very
3 specific outline of what you need to do.

4 Now, the top part is just the caption of the case,
5 indictment number. And then you will -- you'll have to
6 answer each of the questions. And each of the questions
7 must be answered unanimously. That means all 12 of you
8 must agree on the answer. And your answer in each case
9 will need to be either guilty or not guilty. As to
10 Mr. Belcher, do you find that the State has met its burden
11 on the charge of murder, then you would check "guilty."
12 If you found that the State has not met its burden on that
13 one, you would check "not guilty." Then you would go to
14 the next one.

15 The next one is armed robbery. And you make the same
16 analysis whether the State has met its burden on that one,
17 guilty, not guilty if you find the State has not met its
18 burden.

19 Then you would go to the next one which is burglary
20 first degree.

21 Then you would go to the second page, and Number 4,
22 that's the possession of a weapon during the commission of
23 a violent crime, but only if you found him guilty of one
24 of the violent crimes previously noted.

25 Then you'd make the analysis as to conspiracy and the

1 same analysis as to petit larceny.

2 Once you have completed, Madam Forelady, then you
3 would -- after you answered each of the questions, you
4 would sign this and date it. Okay?

5 Then the verdict form for Defendant Raymond Martinez
6 is the same. It has the same, 1, for murder, 2, armed
7 robbery, burglary. Let you do the same analysis there
8 separately from that of Mr. Belcher. Then you would go to
9 the second page the same way. And when you've completed,
10 you would sign and date that.

11 Once you have reached a verdict, you'll let the
12 bailiffs know. They'll give you the information about
13 what you need to do. That's what you're doing is you're
14 answering, determine the facts, will be answering the
15 questions on these two verdict forms.

16 Now, again, your decision must be unanimous. It
17 should not be based on any bias, any prejudice, any
18 sympathy, any emotion, anything outside the evidence.

19 Once you get back to your jury room, you may have
20 questions. If you have questions, that's one of your role
21 -- that's one of your jobs as the foreperson is to write
22 that question on a piece of paper, date and sign it. And
23 you'll give that to the bailiff. Well, the bailiff will
24 then bring that to me, and I can respond in one of two
25 ways. I may -- sometimes is that I can write out the

1 answer on the sheet of paper and send it back to you after
2 I've consulted with the attorneys, of course. But
3 sometimes it may require me to bring you back out and
4 discuss it further kind of as a charge.

5 Now, I will tell you we cannot answer facts, you
6 know. We cannot answer factual questions. And if
7 something is not in the record, we cannot tell you what
8 that would have said or what that -- a lot of times like,
9 well, what about the document that was referred to? You
10 only can consider what has been placed into evidence.

11 Now, I believe there's been several items that were
12 placed into evidence that are on DVDs or CDs. We have a
13 laptop that we can send back there with you if you need
14 that. You just need to let us know, and you can listen to
15 it or watch back there.

16 Now let me talk to my alternate. You have played
17 just as an important role as everybody else here, but
18 you're not allowed to participate in the deliberation.
19 But, you know, it's important that you were here because
20 if something -- in fact, before the trial started we had a
21 situation where we had to let one of the jurors go. And
22 if we'd gotten down to less than 12, then we would not
23 have been able to complete the trial. So your role is
24 very important even though we kick you out of here at the
25 end. But we do appreciate your service in this as well.

1 As I said, do whatever you want to as far as the
2 lunch, if you want to wait until after you've had lunch.
3 Anyway, y'all just decide that.

4 Okay. I'm going to send you back in there but I'm
5 going to have to tell you one more time you can't discuss
6 the case, and this is why. I need to make sure I haven't
7 left anything out or if I said something incorrectly. And
8 if I have, I won't go through all of that again. Don't
9 worry. I'll just bring you back in and clear up whatever
10 I messed up. But otherwise, I will send the -- I will
11 send the bailiff in, and the bailiff will indicate that
12 it's time to begin your deliberations. They'll be
13 bringing these exhibits back with the two verdict forms
14 and then grab the alternate, and at that time you can
15 finally begin discussing the case.

16 So at this time if you'd go back to your jury room
17 and wait for further signal.

18 (WHEREUPON, the jury exits the courtroom at 2:04 PM.)

19 THE COURT: All right. Exceptions to the charge from
20 the State?

21 MS. GARY: Your Honor, no new exceptions. We would
22 just renew our prior exception.

23 THE COURT: Okay. Exceptions from Belcher?

24 MR. GIBSON: Renew my request for the accomplice
25 charge, Your Honor.

1 THE COURT: All right. Exceptions from Martinez?

2 MR. GRUBBS: Just to join Mr. Belcher, Your Honor.

3 THE COURT: All right. Make sure we have all

4 exhibits there. Don't go far.

5 (WHEREUPON, a recess is taken at 2:05 PM; the jury starts
6 deliberations; Court's Exhibit Numbers 6 and 7 were marked
7 for identification; proceedings reconvened at 3:35 PM.)

8 JURY QUESTIONS

9 THE COURT: All right. Back on the record. We're
10 going to bring them in.

11 And here's the thing that -- well, wait until they
12 come in here.

13 (Pause in proceedings.)

14 THE COURT: All right. Here's kind of where we are.
15 We have -- they were not able to open up Exhibits 41, 42
16 and 43. We're not sure if they wanted all of them, but
17 we've gotten all three of them back from them. We've been
18 able to set this up on my computer, and therefore set it
19 up up there so they can see it from there. What I can do
20 is just turn my computer around, and if they need to
21 manipulate it, they can put it up here.

22 Okay. Now, in the meantime, they sent another note
23 which I've marked as Court's Exhibit 7 that says: What's
24 the textbook definition of "murder" and "malice"? Since
25 we're already going to have them in here, I can just pull

1 up and recharge them on that particular . . .

2 MR. GIBSON: Haven't they been provided the written
3 copy of that?

4 THE COURT: No. They never asked for it.

5 MR. GIBSON: Oh, they didn't.

6 THE COURT: They said -- acted like they were going
7 to at first, but then they never did.

8 MR. GIBSON: Oh, okay.

9 THE COURT: So I can read that to them.

10 All right. Here's the thing that we've got to kind
11 of figure out is with them coming in here to listen to
12 them, we don't want them to see the defendants go back in
13 there. So we can do this. We can either have them sent
14 back there before I do all this, or we can have them -- I
15 can charge them and say go back in your jury room, we'll
16 set this up, clear the courtroom of everybody. That way
17 it won't look like they're not here for any reason.

18 Let's do this. I can charge them on the murder
19 charge, tell them what we're going to do and say step back
20 in your jury room. We'll set everything up, have the room
21 cleared except for the clerk of court and then they can
22 come back and they won't notice that anybody's absent.

23 MR. GIBSON: Excellent. Thank you, Your Honor.

24 THE COURT: Okay. All right. Does that work for
25 everybody?

1 MS. GARY: Yes, sir.

2 THE COURT: Okay. Bring the jury in when they're
3 ready.

4 (WHEREUPON, the jury entered the courtroom at 3:40 PM.)

5 THE COURT: All right. I've had two separate
6 requests I'm going to address. One is I've got a note
7 that says: What's the textbook definition of "murder" and
8 "malice"? And also have -- I know that y'all attempted --
9 that y'all wanted to look at a couple of exhibits that
10 were on the DVDs and that didn't work out. So we're going
11 to have to probably run it here in the courtroom but we
12 will do it in a way that it's only y'all in here so y'all
13 can discuss it and all that. And I'll tell you how we're
14 going to do that in just a minute.

15 Let me address the first one is what's the textbook
16 definition of "murder" and "malice." What I thought I
17 would do is I'll just read the charge that I previously
18 did strictly on murder.

19 Okay. The State must prove beyond a reasonable doubt
20 that the defendants killed another person with malice
21 aforethought.

22 Malice is hatred, ill will or hostility towards
23 another person. It is the intentional doing of a wrongful
24 act without just cause or excuse and with an intent to
25 inflict an injury or under circumstances that the law will

1 infer an evil intent.

2 Malice aforethought does not require that the malice
3 exists for any particular length of time before the act is
4 committed, but malice must exist in the mind of the
5 defendant just before and at the time the act is
6 committed, therefore, there must be a combination of the
7 previous evil intent and the act.

8 Malice aforethought may be either expressed or
9 inferred. These terms "expressed" and "inferred" do not
10 mean different kinds of malice, but merely the manner in
11 which malice may be shown to exist, that is, either by
12 direct evidence or by inference from the facts and
13 circumstances which are proved.

14 Express malice is shown when a person speaks words
15 which express hatred or ill will for another or when the
16 person prepared beforehand to do the act which was later
17 accomplished.

18 If facts are proved beyond a reasonable doubt
19 sufficient to raise an inference of malice to your
20 satisfaction, this inference would be simply an
21 evidentiary fact to be taken into consideration by you
22 along with other evidence in the case, and you may give it
23 such weight as you determine it should receive.

24 So that's the definitions presented to you.

25 All right. As far as the -- and what we've got,

1 we've got all three DVDs here. And what I will do is I'm
2 going to ask y'all -- I hate to do this but this is just
3 the way we need to do it. I'm going to ask that you step
4 back in your jury room. I'm going to clear the courtroom
5 except for the bailiff and the clerk to make sure
6 everything is set up properly. Then they will step out
7 and then y'all are in here by yourself, there's nothing
8 being recorded like that, and y'all can look at it and
9 discuss it and do whatever you need to do. And then when
10 y'all are through with that process or need any help with
11 the computer, then y'all just knock on the door and the
12 clerk will come in here and do that but only for that
13 purpose. And you'll be using this one so it will be up on
14 the big screen. Does that work for you? All right.

15 If you'll step back in your jury room, let us set
16 everything up. And this should just take a minute or two.

17 (WHEREUPON, the jury exits the courtroom at 3:44 PM.)

18 THE COURT: All right. Any exception to that from
19 the State?

20 MS. GARY: No, sir.

21 THE COURT: Belcher?

22 MR. GIBSON: No, Your Honor.

23 MR. GRUBBS: No, Your Honor.

24 MR. GIBSON: There is another issue, Judge, and
25 Mr. Grubbs is bringing it up with me, address it. They

1 can hear.

2 THE DEPUTY: We're sending them downstairs.

3 THE COURT: Oh, okay.

4 MR. GRUBBS: Rather than the defendants being in the
5 upstairs holding, we just figure it's better for them to
6 be sent downstairs while they're in here.

7 THE COURT: Okay. That's a good point then.

8 (WHEREUPON, a recess is taken at 3:44 PM; Court's Exhibit
9 Number 8 was marked for identification; proceedings
10 reconvened at 4:40 PM.)

11 THE COURT: Without going into what they did, it's my
12 understanding that they looked at a couple, Teresa came in
13 and exchanged one of the DVDs, and in the middle of that
14 they said in reference to the highlighted phone calls on
15 the T-Mobile sheet, three numbers, who do the phone
16 numbers belong to? And I respond to that without giving
17 y'all -- said: You must determine that just based on the
18 evidence presented. It's not up to us to answer factual
19 questions.

20 And then I think just verbally they asked if they
21 could have the -- just that portion printed. And I told
22 them that that was -- the way the exhibit was presented
23 they -- I just said sent word back, no, you'll have to
24 just rely on that.

25 And then they indicated as they were walking out that

1 they had another question. I just figured I'd have all of
2 y'all in here for that.

3 Any objection to any of that from the State?

4 MS. GARY: No, sir.

5 THE COURT: Belcher or Martinez?

6 MR. GIBSON: No, sir.

7 MR. GRUBBS: No, Judge.

8 (Pause in proceedings.)

9 THE COURT: We have another question here. I don't
10 know if y'all want to review it. And we may want to bring
11 your clients in for this one.

12 MS. GARY: I'm sorry. I couldn't hear you.

13 THE COURT: I said we may want to bring the clients.
14 I'll just let y'all read it.

15 MS. GARY: Oh, okay.

16 THE COURT: We probably want them.

17 (Pause in proceedings; Court's Exhibit Number 9 was marked
18 for identification.)

19 THE COURT: Back on the record. This is now Court's
20 Exhibit 9.

21 We received another note that says: Deliberation
22 have a timeline? If we were to find the defendants guilty
23 on the lesser charges, does that mean they are guilty for
24 murder?

25 I believe that the response to this is have them come

1 in here, tell them that they can have as much time as they
2 need and that they are to consider each charge as to each
3 individual separately, make a determination of that and
4 indicate that on the verdict form.

5 Anything else from the State?

6 MS. GARY: No objection from the State.

7 THE COURT: From Belcher?

8 MR. GIBSON: No objection, Your Honor.

9 MR. GRUBBS: No objection, Your Honor.

10 THE COURT: All right. Bring them in.

11 (WHEREUPON, the jury entered the courtroom at 4:49 PM.)

12 THE COURT: All right. Sorry about the mix-up there
13 and stop you in mid tracks, but I just needed to make sure
14 -- any time I respond to questions, especially one that's
15 more significant, I like to make sure to discuss it with
16 the attorneys and so forth.

17 So I received a note, says: Does deliberation have a
18 timeline? No. That is up to you. You can spend as much
19 time as you need to that you feel is appropriate in making
20 your decision.

21 The second part of that question is: If we were to
22 find the defendants guilty on the lesser charges, does
23 that mean they're guilty for murder? And as I indicated
24 in my original charge, you're to take each charge against
25 each defendant, deliberate on that and render a verdict on

1 that charge, then go to the next charge and make a
2 decision on each of those independently. I think that
3 should answer your question there.

4 So at this time, just continue your deliberations in
5 your jury room. If you have any other questions, then
6 just write them down on bigger pieces of paper.

7 JURY FOREPERSON: I'm sorry.

8 THE COURT: No. That's fine. I'm just kidding.

9 JURY FOREPERSON: I will.

10 THE COURT: All right. Thank you.

11 (WHEREUPON, the jury exits the courtroom at 4:51 PM.)

12 THE COURT: All right. Any exception from the State?

13 MS. GARY: No, sir.

14 THE COURT: Belcher?

15 MR. GIBSON: No, Your Honor.

16 THE COURT: And Martinez?

17 MR. GRUBBS: No, Your Honor.

18 THE COURT: All right. Just hang tight.

19 (WHEREUPON, a recess is taken at 4:51 PM; Court's Exhibit

20 Number 10 was marked for identification.)

21 THE COURT: All right. Back on the record.

22 We have the next question: In reference to the last
23 question regarding the jury's decision on individual
24 charges, how does the hand of one is the hand of all apply
25 to separate charges?