

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Maite Murphy, Circuit Court Judge

RECEIVED

Jan 02 2025

SC Court of Appeals

The State, Respondent,

v.

Kenneth Henry Eastwood, Appellant

Appellate Case No. 2023-001798

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-4529
adam@ruffinappeals.com

Attorney for Kenneth Eastwood

ALAN WILSON
Attorney General

MELODY J. BROWN
Senior Assistant Deputy Attorney General

DEBORAH R.J. SHUPE
Senior Assistant Deputy Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-3727

DAVID PASCOE
Solicitor, First Judicial Circuit

151 Docket Street
Orangeburg, SC 29115
(803) 533-6252

Attorneys for the State

INDEX

INDEX	i
TRIAL TRANSCRIPT.....	1
<i>JACKSON V. DENNO</i> HEARING	9
TESTIMONY	
MARTY CARRIGG	
Direct Examination by Mr. Scott	10
Cross Examination by Ms. Cornwell	26
Redirect Examination by Mr. Scott.....	38
WILLIAM MCCORMACK	
Direct Examination by Mr. Scott	39
Cross Examination by Ms. Cornwell	42
DUJUAN COUNCIL	
Direct Examination by Mr. Scott	44
Cross Examination by Ms. Cornwell	51
JAMES SHUMPERT	
Direct Examination by Mr. Scott	57
Cross Examination by Ms. Cornwell	68
Redirect Examination by Mr. Scott.....	76
ARGUMENTS BY COUNSEL.....	77
RULING BY THE COURT	83
ARGUMENTS REGARDING POLYGRAPH	85
RULING BY THE COURT	100
OPENING STATEMENT BY MR. SCOTT.....	103
OPENING STATEMENT BY MS. CORNWELL.....	109
TESTIMONY	
JEAN BURNS	
Direct Examination by Mr. Scott	116
Cross Examination by Ms. Cornwell	127
Redirect Examination by Mr. Scott.....	132

CHRISTOPHER WILLIAMS

Direct Examination by Mrs. Hunter.....	133
Cross Examination by Ms. Cornwell.....	136
Redirect Examination by Mrs. Hunter.....	139

PAUL NESBITT

Direct Examination by Mr. Scott.....	140
Cross Examination by Ms. Cornwell.....	148

MARTY CARIGG

Direct Examination by Mr. Scott.....	150
Cross Examination by Ms. Cornwell.....	167
Redirect Examination by Mr. Scott.....	186

ANDREW HAYES

Direct Examination by Mrs. Hunter.....	188
Cross Examination by Ms. Cornwell.....	192
Redirect Examination by Mrs. Hunter.....	207

BRIAN LAUDER

Direct Examination by Mr. Scott.....	208
Cross Examination by Ms. Cornwell.....	214
Redirect Examination by Mr. Scott.....	220

DUJUAN COUNCIL

Direct Examination by Mr. Scott.....	221
Cross Examination by Ms. Cornwell.....	228
Redirect Examination by Mr. Scott.....	242

JAMES SHUMPERT

Direct Examination by Mr. Scott.....	245
Cross Examination by Ms. Cornwell.....	254

WILLIAM MCCORMACK

Direct Examination by Mrs. Hunter.....	273
Cross Examination by Ms. Cornwell.....	316
Redirect Examination by Mrs. Hunter.....	338

JULIA BEGEMAN

Direct Examination by Mrs. Hunter.....	341

AMANDA WEBB

Direct Examination by Mrs. Hunter.....	345
Cross Examination by Ms. Cornwell.....	363

KELLY ROSE	
Direct Examination by Mrs. Hunter.....	376
Cross Examination by Ms. Cornwell.....	396
STATE RESTS.....	412
MOTION FOR DIRECTED VERDICT.....	413
RULING BY THE COURT	414
ADVICE OF RIGHTS.....	417
DEFENSE CASE IN CHIEF	422
TESTIMONY	
VALENCIA GOLDEN	
Direct Examination by Ms. Cornwell	422
Cross Examination by Mrs. Hunter	427
AMY DURSO	
Direct Examination by Ms. Cornwell	429
Cross Examination by Mr. Scott	441
ALAN HIRSCH	
Direct Examination by Ms. Cornwell	449
Cross Examination by Mr. Hinds.....	478
Redirect Examination by Ms. Cornwell.....	484
RENEWED ARGUMENT REGARDING POLYGRAPH	486
RULING BY THE COURT	490
DEFENSE RESTS.....	491
RENEWED MOTION FOR DIRECTED VERDICT	492
RULING BY THE COURT	492
CLOSING ARGUMENT BY MRS. HUNTER.....	493
CLOSING ARGUMENT BY MS. CORNWELL	512
REBUTTAL ARGUMENT BY MRS. HUNTER.....	547
JURY CHARGE	554

VERDICT	571
INDICTMENT	578
SENTENCING SHEET	580

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT FOR REVIEW:

COURT’S EXHIBIT 1 (UNREDACTED VIDEO OF EASTWOOD INTERVIEWS)

STATE’S EXHIBIT 5 (REDACTED VIDEO OF EASTWOOD’S FIRST INTERVIEW)

STATE’S EXHIBIT 6 (REDACTED VIDEO OF EASTWOOD’S SECOND INTERVIEW)

1 STATE OF SOUTH CAROLINA)
2) IN THE COURT OF
3 COUNTY OF ORANGEBURG) GENERAL SESSIONS
4
5 THE STATE,)
6 Plaintiffs,)
7 Vs.) CASE NO. 2020-GS-38-00943
8 KENNETH HENRY EASTWOOD,)
9 Defendant.)

10
11 NOVEMBER 6-9, 2023

12 ORANGEBURG, SOUTH CAROLINA
13

14 HONORABLE MAITE MURPHY, JUDGE

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

16 BY: CATHERINE M. HUNTER, ESQUIRE

17 THOMAS B. SCOTT, ESQUIRE

18 MARK A. HINDS, ESQUIRE

19 Attorneys for the Plaintiffs

20 BY: ASHLEY B. CORNWELL, ESQUIRE

21 Attorney for the Defendant
22
23

24 KATHERINE A. SPIRES

25 REGISTERED PROFESSIONAL REPORTER

1	<u>I N D E X</u>				
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	MARTY CARRIGG				
4	Mr. Scott	85		112	
5	Ms. Cornwell		101		
6	WILLIAM MCCORMACK				
7	Mr. Scott	114			
8	Ms. Cornwell		117		
9	DUJUAN COUNCIL				
10	Mr. Scott	119			
11	Ms. Cornwell		126		
12	JAMES SHUMPERT				
13	Mr. Scott	132		150	
14	Ms. Cornwell		143		
15	OPENING STATEMENTS				
16	Mr. Scott	189			
17	Ms. Cornwell		196		
18	JEAN BURNS				
19	Mr. Scott	202		218	
20	Ms. Cornwell		213		
21	CHRISTOPHER WILLIAMS				
22	Mr. Scott	219		225	
23	Ms. Cornwell		222		
24					
25					

1	PAUL NESBITT		
2	Mr. Scott	226	
3	Ms. Cornwell		234
4	MARTY CARRIGG		
5	Mr. Scott	236	272
6	Ms. Cornwell		253
7	ANDREW HAYES		
8	Ms. Hunter	281	299
9	Ms. Cornwell		284
10	BRIAN LAUDER		
11	Mr. Scott	300	312
12	Ms. Cornwell		306
13	DUJUAN COUNCIL		
14	Mr. Scott	313	335
15	Ms. Cornwell		320
16	JAMES SHUMPERT		
17	Mr. Scott	337	
18	Ms. Cornwell		346
19	WILLIAM MCCORMACK		
20	Ms. Hunter	365	430
21	Ms. Cornwell		408
22	JULIA BEGEMAN		
23	Ms. Hunter	433	
24			
25			

1	AMANDA WEBB		
2	Ms. Hunter	437	
3	Ms. Cornwell		455
4	KELLY ROSE		
5	Ms. Hunter	469	
6	Ms. Cornwell		488
7	KENNETH EASTWOOD		
8	The Court	509	
9	VALENCIA GOLDEN		
10	Ms. Cornwell	514	
11	Ms. Hunter		519
12	AMY DURSO		
13	Ms. Cornwell	521	
14	Mr. Scott		533
15	ALAN HIRSCH		
16	Ms. Cornwell	541/550	576
17	Mr. Hinds		548/570
18	CLOSING ARGUMENTS		
19	Ms. Hunter	586	639
20	Ms. Cornwell		604
21	JURY CHARGE		
22	The Court	646	
23	VERDICT		
24	SENTENCING		
25	Certificate of Reporter		670

E X H I B I T S				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EX</u>
1				
2				
3	S-1	Miranda	92	92/246
4	S-2	Miranda	120	121/317
5	S-3	Miranda	134	135/339
6	S-4	Miranda	138	139/344
7	S-5	Thumb drive		245
8	S-6	Thumb drive		317
9	S-7	Photo		203
10	S-8	Tax map		229
11	S-9	Tax map		229
12	S-10	Buccal swab		283
13	S-11	Photo		369
14	S-12	Photo		369
15	S-13	Photo		475
16	S-14	Photo		369
17	S-15	Photo		369
18	S-16	Swab		372
19	S-17	Photo		376
20	S-18	Photo		376
21	S-19	Photo		376
22	S-20	Photo		376
23	S-21	Photo		378
24	S-22	Photo		378
25	S-23	Photo		378

1	S-24	Photo	378
2	S-25	Photo	378
3	S-26	Photo	378
4	S-27	Photo	378
5	S-28	Photo	378
6	S-29	Photo	378
7	S-30	Photo	378
8	S-31	Photo	381
9	S-32	Photo	381
10	S-33	Photo	475
11	S-34	Photo	383
12	S-35	Photo	383
13	S-36	Photo	383
14	S-37	Photo	383
15	S-38	Photo	384
16	S-39	Photo	384
17	S-40	Photo	384
18	S-41	Photo	386
19	S-42	Photo	386
20	S-43	Photo	386
21	S-44	Photo	386
22	S-45	Photo	386
23	S-46	Photo	386
24	S-47	Photo	386
25	S-48	Photo	386

1	S-49	Photo	386
2	S-50	Photo	386
3	S-51	Photo	386
4	S-52	Photo	391
5	S-53	Photo	391
6	S-54	Photo	391
7	S-55	Photo	391
8	S-56	Photo	391
9	S-57	Photo	391
10	S-58	Photo	391
11	S-59	Photo	391
12	S-60	Swab	394
13	S-61	Swab	395
14	S-62	Photo	400
15	S-63	Photo	400
16	S-64	Swab	402
17	S-65	Heater	403
18	S-66	Swab	434
19	D-1	Photo	409
20	D-2	Photo	409
21	D-3	Photo	418
22	D-4	Photo	418
23	D-5	Photo	418
24	D-6	Photo	418
25	D-7	Photo	418

1	D-8	Photo	424
2	D-9	Photo	426
3	D-10	Photo	426
4	D-11	Photo	426
5	D-12	Photo	416
6	C-1	Thumb drive	97 97/124
7	C-2	Photos	507
8	C-3	Photos	507
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 your lunch break and return to your jury room where
2 the bailiff will show you where to go to report.
3 If you would report back at 1:45. Once we have
4 everyone together we'll begin with the trial of
5 this case.

6 Please be very mindful that it is very
7 important that you're not to discuss this case with
8 anyone or talk to anyone about this case because
9 you must make your determination of the facts based
10 upon what you hear in this courtroom through the
11 testimony that you hear. So, please do not talk to
12 anyone even amongst yourselves or do any kind of
13 independent research on this case. You are free to
14 go and we will see you at 1:45. Have a nice lunch.

15 (WHEREUPON, the jury left the courtroom
16 at 12:04 p.m.)

17 THE COURT: Are we ready to start with
18 the *Jackson v Denno*?

19 MS. HUNTER: Your Honor, I think we
20 have a couple of other pretrial matters that we
21 need to -- or however you want to do it.

22 THE COURT: I'm happy to go in what
23 order y'all wish to proceed.

24 MR. SCOTT: We can do the *Denno* hearing
25 first if you like.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 THE COURT: All right.

2 MR. SCOTT: We need Marty Carrigg.

3 THE CLERK: Raise your right hand. And
4 state your name for the record.

5 MR. CARRIGG: Marty Carrigg.

6 MARTY CARRIGG,
7 being first duly sworn, was examined and testified
8 as follows:

9 THE COURT: Your witness.

10 MR. SCOTT: Thank you. May it please
11 the Court?

12 THE COURT: Yes, sir.

13 DIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q. Good afternoon.

16 A. Good afternoon.

17 Q. Tell the Court where you're employed.

18 A. Orangeburg County Sheriff's Office.

19 Q. And how long have you worked there?

20 A. Going on 21 years.

21 Q. And what was your position with the
22 sheriff's office back in December of 2019?

23 A. I was investigator with the criminal
24 investigations division.

25 Q. Okay. And how long did you work as an

1 investigator?

2 A. Fourteen years.

3 Q. Fourteen years. Were you involved in a
4 homicide investigation that took place between
5 December 8, 2019 and December 12th of 2019?

6 A. I was.

7 Q. And who was the victim in that case?

8 A. Car-a or Care-a Hodges.

9 Q. Do you recall when her body was
10 located?

11 A. It would have been on Thursday,
12 December the 12th.

13 Q. And the following day on Friday,
14 December 13th of 2019, did you attempt to locate
15 Mr. Kenneth Eastwood?

16 A. I did.

17 Q. And were you able to locate him?

18 A. No, not at first.

19 Q. Okay. Well, tell -- how did you
20 attempt to locate him?

21 A. Myself and Investigator Hayes went out
22 to his house that morning and it was at 1189
23 Gardensgate, I believe is his address and it was a
24 fenced in property. We attempted to make contact
25 with him and no one was there.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. Okay. What did you do next?

2 A. We went back to Eutawville to
3 Fishtales.

4 Q. What is Fishtales?

5 A. It's a little club in Eutawville or
6 outside of Eutawville where I was told that he
7 sometimes frequents.

8 Q. Okay. And were you able to locate him
9 there?

10 A. Not at first.

11 Q. Okay. What happened?

12 A. We went there and spoke to, I think,
13 two of the waitresses there and --

14 Q. What happened as you were speaking to
15 the waitresses?

16 A. The Defendant came up and walked in.

17 Q. Okay.

18 MR. SCOTT: Can you help me turn his
19 microphone on or something.

20 THE DEPUTY: There you go.

21 MR. SCOTT: That's better. Thank you.
22 I'm getting old. You can see all this gray hair.
23 I have trouble hearing and these glasses.

24 Q. Okay. So while you were talking to the
25 bartenders, I believe you testified Mr. Eastwood

1 | drove up?

2 | A. He did.

3 | Q. Okay. And what did you do after

4 | Mr. Eastwood drove up?

5 | A. Myself and Investigator Hayes walked
6 | outside and greeted him. I introduced myself and
7 | Investigator Hayes. We were with Orangeburg County
8 | Sheriff's Office investigations division.

9 | Q. And what did Mr. Eastwood say?

10 | A. He said that I was expecting that you
11 | wanted to talk to me -- you were coming to talk to
12 | me.

13 | Q. He said I was expecting y'all to come
14 | talk to me, is that what you just said?

15 | A. Yeah, something to that effect.

16 | Q. Okay. And what was your response after
17 | he said that?

18 | A. Asked him if he would come to the
19 | office and he said that he would. So we brought
20 | him to the office in Orangeburg.

21 | Q. Okay. So you took him from Fishtales
22 | to Orangeburg?

23 | A. Correct.

24 | Q. Were you wearing a body cam during this
25 | encounter?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. No.

2 Q. Why not?

3 A. Didn't have any issued to us at that
4 time.

5 Q. Okay. They weren't issued to
6 investigators?

7 A. We did not have any issued to us.

8 Q. Okay. When you approached Mr. Eastwood
9 in the parking lot and identified yourselves, did
10 you detain Mr. Eastwood?

11 A. No, I did not.

12 Q. Did you handcuff him?

13 A. No.

14 Q. Prior to Mr. Eastwood stating, I was
15 expecting y'all to come see me, had you attempted
16 to ask him any questions?

17 A. I did not.

18 Q. So you testified Mr. Eastwood agreed to
19 go to the sheriff's office and speak with
20 investigators?

21 A. He did.

22 Q. And how did Mr. Eastwood get to the
23 sheriff's office?

24 A. I drove him there. Myself and
25 Investigator Hayes.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. Both of you?

2 A. Yes.

3 Q. Okay. And was Mr. Eastwood handcuffed
4 during this transport?

5 A. He was not.

6 Q. What if anything was done with
7 Mr. Eastwood's vehicle that he drove to Fishtales?

8 A. It was left at that location,
9 Fishtales.

10 Q. Okay. And did you attempt to interview
11 the Defendant at all while on the way to the
12 sheriff's office?

13 A. I did not.

14 Q. What's your best guess as to how long
15 it would take to drive from Fishtales to sheriff's
16 office?

17 A. Between 30 to 45 minutes.

18 Q. Okay. And when you say, the sheriff's
19 office, we're talking about the criminal
20 investigation division?

21 A. That would be correct.

22 Q. And that's on, is it Chestnut Street?

23 A. 1032 Chestnut Street.

24 Q. Did you and Mr. Eastwood discuss this
25 case on the way to CID?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. I did not.

2 Q. Okay. At some point did he ask you
3 what this was about?

4 A. He did. He says is this about Cara
5 Hodges.

6 Q. And what was your response?

7 A. I said, yes.

8 Q. Was that the extent of the
9 conversation?

10 A. Pretty much, yes. I did not want to
11 discuss it at all until we were at CID.

12 Q. Okay. So once you got to CID, did you
13 put him in a room that had video recording?

14 A. I did.

15 Q. And that's where you interviewed Mr.
16 Eastwood?

17 A. That's correct.

18 Q. And who participated in this interview?

19 A. Myself and Investigator Hayes.

20 Q. And was Mr. Eastwood under arrest at
21 this time?

22 A. He was not.

23 Q. Prior to interviewing Mr. Eastwood, did
24 you advise him of his Miranda rights?

25 A. I did.

1 MR. SCOTT: Sorry, Judge, we didn't get
2 to pre-mark anything.

3 (WHEREUPON, State's Exhibit Number 1
4 was marked.)

5 Q. I want to show you what's been marked
6 as State's Exhibit 1. Do you recognize that?

7 A. I do.

8 Q. And what is that?

9 A. This is Miranda rights form and a
10 waiver of rights.

11 Q. Okay. And is this the form that you
12 used with Mr. Eastwood on December 13th of 2019?

13 A. It is.

14 Q. Have there been any alterations or
15 changes?

16 A. None that I can tell, no.

17 Q. Okay. Is it substantially the same
18 condition as when you used it with Mr. Eastwood on
19 December 13th of 2019?

20 A. It is.

21 MR. SCOTT: We'd ask that this be
22 admitted for purpose of this hearing.

23 THE COURT: Any objection?

24 MS. CORNWELL: No objection.

25 THE COURT: All right. It's in.

1 (WHEREUPON, State's Exhibit Number 1
2 was entered.)

3 Q. If you would -- I'm going to ask you,
4 whose handwriting is across the top of State's
5 Exhibit Number 1?

6 A. Mine.

7 Q. And what does it say?

8 A. It says, place, CID. The date being
9 12/13 of 2019 and the time being 11:50 which would
10 be 11:50 a.m.

11 Q. 11:50 a.m.?

12 A. Yes.

13 Q. Okay. And on the next line it says,
14 these are your rights, please read carefully. Did
15 you read all those to the Defendant?

16 A. I did.

17 Q. And can you read it for the Court
18 starting with, these are your rights?

19 A. It says, before we ask you any
20 questions you must understand your rights. Please
21 initial beside each sentence.

22 You have a right to remain silent,
23 anything you say can be used against you in court.

24 Number two, you have the right to talk
25 to a lawyer for advice before we ask you any

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 | questions and to have him, and I usually add her,
2 | with you during the questioning.

3 | Number three, if you cannot afford a
4 | lawyer, one would be appointed for you before any
5 | questioning if you wish.

6 | And if you decide to answer questions,
7 | which is number four, without a lawyer present, you
8 | will still have the right to stop answering at any
9 | time.

10 | Number five, you also have the right to
11 | stop answering at anytime until you talk to a
12 | lawyer.

13 | And it says, I understand my rights and
14 | the signature is Kenneth Eastwood.

15 | Q. Okay. And I notice there are blanks
16 | next to each right that says, KE, whose initials
17 | are those?

18 | A. Kenneth Eastwood.

19 | Q. And whose signature appears after the
20 | phrase, I understand my rights?

21 | A. Kenneth Eastwood.

22 | Q. All right. After advising him of his
23 | rights, did you inquire as to whether he wished to
24 | waive those rights?

25 | A. I did.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And can you read for the Court from
2 State's Exhibit Number 1, kind of the bottom half
3 of that form beginning with, waiver of rights?

4 A. It says, I have read the statement of
5 my rights and I understand what my rights are. I'm
6 willing to make a statement and answer questions.
7 I do not want a lawyer at this time. I understand
8 and know what I am doing. No promises or threats
9 have been made to me and no pressure or coercion of
10 any kind has been used against me.

11 Q. Okay. And whose signature appears
12 after that?

13 A. Kenneth Eastwood.

14 Q. And whose signatures appear at the
15 bottom as witnesses?

16 A. Mine on the left, Investigator M.
17 Carrigg, and Investigator Hayes just below
18 Mr. Eastwood's.

19 Q. Okay. Did Mr. Eastwood seem to
20 understand his rights?

21 A. He did.

22 Q. Did he appear to be under the influence
23 of drugs or alcohol?

24 A. He didn't.

25 Q. Did he appear to have any physical or

1 mental disabilities?

2 A. No.

3 Q. After Mr. Eastwood had been advised of
4 his rights and waived his rights, did you and
5 Investigator Hayes interview Mr. Eastwood?

6 A. We did.

7 Q. And was all this video recorded?

8 A. It was.

9 Q. Including the advisement of rights?

10 A. It was.

11 Q. And do you recall off the top of your
12 head kind of how long that interview was with
13 Mr. Eastwood?

14 A. Just less than an hour as I recall.

15 Q. Okay. Did you force Mr. Eastwood to
16 speak with you?

17 A. I did not.

18 Q. Did you ever threaten him?

19 A. No.

20 Q. Did you deny him any comfort such as
21 food, water or bathroom breaks?

22 A. No.

23 MR. SCOTT: Judge, I don't know how to
24 do this because I didn't have a chance to -- Your
25 Honor had this in chambers. I would like to mark

1 | this as a Court's Exhibit, Court's Exhibit 1, and
2 | this would have both the full interview from 12/13
3 | and 12/14.

4 | THE COURT: That's correct. That's
5 | what was provided to me.

6 | MR. SCOTT: And that's in lieu of
7 | playing it now.

8 | MS. CORNWELL: No objection, Your
9 | Honor.

10 | THE COURT: And the Court has reviewed
11 | the -- in full both of the interviews.

12 | MR. SCOTT: Normally, I would have had
13 | him initial that, but I just hadn't had the
14 | opportunity, so I apologize. So I would ask that
15 | that be admitted for purposes of this hearing.

16 | THE COURT: And that's without
17 | objection?

18 | MS. CORNWELL: No objection.

19 | THE COURT: All right. It's in.

20 | (WHEREUPON, Court's Exhibit Number 1
21 | was marked and entered.)

22 | Q. At some point after the conclusion of
23 | this interview, did y'all request a buccal swab
24 | from the Defendant?

25 | A. We did. I did.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And sometime after getting the buccal
2 swab from the Defendant, was he taken back home?

3 A. He was.

4 Q. And who took him back home?

5 A. I did.

6 Q. And when you took the Defendant back,
7 what time do you think it was when you took the
8 Defendant back home?

9 A. I want to say it was five something in
10 the afternoon.

11 Q. When you took him back home?

12 A. Yes.

13 Q. Okay. And what was going on when you
14 got back to the house?

15 A. A search warrant had been prepared for
16 his home and his vehicle.

17 Q. Okay. And so you -- Mr. -- you said
18 Mr. Eastwood's riding with you, you take him back
19 home, there's a search warrant being conducted at
20 his house; is that correct?

21 A. During that time period when we got to
22 the house, yes.

23 Q. Okay. And what did you and
24 Mr. Eastwood do while the search warrant was being
25 conducted?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. Just sitting in the vehicle.

2 Q. Did you have any conversations with
3 Mr. Eastwood while sitting in the vehicle?

4 A. Just a little bit. You want me to
5 elaborate?

6 Q. Yes.

7 A. Okay. I'd asked him where Ms. Hodges
8 was and he kept saying he didn't know. He didn't
9 know. So at that point, I told him that I know
10 where she is. And he said, where? And I said,
11 she's in the morgue.

12 Q. She's in the morgue?

13 A. Right.

14 Q. And what was Mr. Eastwood's response?

15 A. He said like it was -- like it shocked
16 him or he acted like it shocked him. And he said,
17 what? And I said, yes, she is dead. And he said,
18 oh, my lord. Oh, my lord. He said that
19 repeatedly. Oh, my lord.

20 Q. Okay. And during this time while
21 you're having this conversation with Mr. Eastwood,
22 is he in custody?

23 A. He is not in custody.

24 Q. Is he in handcuffs?

25 A. He is not in handcuffs.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And some time after that, does law
2 enforcement leave the Defendant's residence that
3 night?

4 A. They do leave.

5 Q. And what is done with the Defendant
6 that night?

7 A. He's left at his residence.

8 Q. Left at his residence?

9 A. Yes.

10 Q. He wasn't taken into custody or
11 anything that night?

12 A. He was not taken into custody.

13 Q. On -- I'm asking about the entire day,
14 December 13, 2019, did the Defendant ever ask for a
15 lawyer?

16 A. He did not.

17 Q. Did he ever invoke his right to remain
18 silent?

19 A. He did not.

20 Q. Did you or anyone ever threaten the
21 Defendant in order to get him to speak with you?

22 A. I did not.

23 MR. SCOTT: No further questions.

24 THE COURT: Cross-examination?

25 MS. CORNWELL: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MS. CORNWELL:

3 Q. Investigator Carrigg, you indicated
4 that you first encountered Mr. Eastwood at
5 Fishtales when y'all were there talking to other
6 people; correct?

7 A. That's correct.

8 Q. And that would have been around 10:50
9 in the morning, 11 o'clock in the morning?

10 A. Somewhere thereabouts.

11 Q. And Mr. Eastwood drove up and y'all
12 asked if he would go back to the station and speak
13 with you; correct?

14 A. Correct.

15 Q. And you didn't a body camera on you at
16 the time?

17 A. No.

18 Q. You asked him to ride with you in your
19 vehicle?

20 A. I did.

21 Q. That he wasn't allowed to take his
22 vehicle and just follow y'all?

23 A. We just asked him if he would ride with
24 us and he did. He left his vehicle.

25 Q. Is there any dash camera, video camera

1 in your vehicle?

2 A. No, there is not.

3 Q. So your vehicle -- was that your
4 personal vehicle or your sheriff's office vehicle?

5 A. My sheriff's office vehicle.

6 Q. And your sheriff's office vehicle is
7 not equipped with any sort of dash camera recording
8 device?

9 A. It is not.

10 Q. You indicated that it would take you
11 about 40 minutes to get from Fishtales to the
12 sheriff's office where you interviewed him;
13 correct?

14 A. Between 30 and 45. It's all
15 approximate.

16 Q. And it's your testimony that you didn't
17 have any conversation with my client at all, y'all
18 just rode in silence?

19 A. Well, unless we talked about something
20 else, but I make it a point not having any kind of
21 recording device not to discuss what the case is
22 about at all. I make a point of that, so, no, I
23 did not discuss the case.

24 Q. But you did say at some point while
25 he's riding he says, does this have to do with Cara

1 and you told him it did have to do with Cara?

2 A. He made the statement, is this
3 involving or have to do with Cara and I said, yes.
4 And there's nothing else discussed.

5 Q. So he didn't talk to you about -- him
6 -- how he knew Cara and how he knew y'all were
7 going to be coming to talk to him in the car ride?

8 A. Not that I recall at all.

9 Q. Once you got to the station, you read
10 him his rights, he signed his rights, and you
11 stated had a conversation with him that was
12 recorded; correct?

13 A. That's correct.

14 Q. And he was willing to speak with you,
15 didn't ask for a lawyer, didn't refuse any -- to
16 speak with you answering questions?

17 A. He was cooperative.

18 Q. And at that point in time, he told you
19 that the reason he knew y'all were coming to talk
20 to him about Cara was because Cara's dad had
21 already come to him and talked to him; correct?

22 A. I'm not sure if he came to him, but he
23 did make contact with him asking about where she
24 would be.

25 Q. And you spoke to him for about 45, 50

1 minutes in that --

2 A. Somewhere in that neighborhood, yes.

3 Q. And at the end of your questioning him,
4 you asked him if he would be willing to submit to a
5 polygraph?

6 A. That's correct.

7 Q. Is that an interrogation tactic that
8 you often use?

9 A. Pretty often, yeah, ask them if they
10 would.

11 Q. Okay. And was he agreeable to that?

12 A. He was.

13 Q. Did you ever take him to get a
14 polygraph?

15 A. I did.

16 Q. When was that?

17 A. Immediately at the conclusion of the
18 interview.

19 Q. Okay. And where was that polygraph
20 administered?

21 A. At SLED headquarters in Columbia.

22 Q. Okay. So how did Mr. Eastwood get to
23 SLED headquarters in Columbia?

24 A. He rode with myself and Investigator
25 Hayes.

1 Q. And would that have been in your county
2 issued vehicle?

3 A. That would.

4 Q. So approximately how long does it take
5 to drive to SLED headquarters from your office?

6 A. According to traffic, and I don't
7 recall four years ago, I'm going to say within just
8 less than an hour. Probably 45 minutes to an hour.

9 Q. Okay. And during that ride, none of
10 your conversation in that vehicle was recorded?

11 A. It was not.

12 Q. Did y'all continue to discuss Ms.
13 Hodges and how my client knew Ms. Hodges?

14 A. I did not.

15 Q. So it's your testimony that y'all
16 basically rode in silence for another hour?

17 A. Pretty much, yeah, unless we talked
18 about the weather. I don't recall, but I know we
19 didn't talk about the case.

20 Q. And at this point, you would agree that
21 you had told him that y'all didn't know where Cara
22 was at this point?

23 A. I don't recall telling him I didn't
24 know where. I only told him I knew where she was
25 that evening while we were sitting in the car while

1 the search warrant was being executed.

2 Q. So you don't recall telling him y'all
3 were still looking for her, y'all were trying to
4 find her and you needed his help in trying to
5 locate where she was?

6 A. I'm sorry, repeat that.

7 Q. You don't recall at any point in your
8 interview telling him that y'all were still looking
9 for her?

10 A. Not right offhand I don't recall.

11 Q. Once you take him to get his polygraph,
12 approximately how long would you say that that
13 polygraph exam took?

14 A. I'm going to say probably two and a
15 half hours. Two, two and a half hours, something
16 like that.

17 Q. Okay. And at the conclusion of that --
18 did you have the chance to watch that polygraph
19 test be administered?

20 A. Parts of it, yes.

21 Q. And at the conclusion of the polygraph,
22 Mr. Eastwood was told that he did not pass the
23 polygraph; correct?

24 A. I believe that's correct.

25 Q. And at that point, my client was taken

1 back to the sheriff's office?

2 A. I believe that's correct, yes, back to
3 the sheriff's office and then from there we went to
4 his house.

5 Q. And in the hour ride back to the
6 sheriff's office, again, is it your testimony that
7 you had no conversations with my client?

8 A. Not that I can recall.

9 Q. And when you took him back to the
10 sheriff's office, you asked if he would submit to a
11 buccal swab?

12 A. Correct.

13 Q. And told him that that was for his DNA,
14 you needed to get his DNA; correct?

15 A. That's correct.

16 Q. Did you explain to him why you wanted
17 to get his DNA?

18 A. To be honest with you, I don't recall.

19 Q. But when you took him back to
20 investigations to get his DNA, you didn't take him
21 back to the room, record your conversation about
22 talking to him about DNA, getting his consent, why
23 you would need the DNA or anything like that?

24 A. We did go back to the recorded room and
25 that's where we got the collection of his DNA. And

1 he has to sign a form where it's explained what
2 type of buccal swab it would be. That you can get
3 hair follicles, you can get blood, other things of
4 that nature, but it was just going to be a buccal
5 swab from his cheek.

6 Q. Okay. Is it your testimony that that
7 conversation with him was recorded?

8 A. I don't recall.

9 Q. During that time, did you also ask him
10 if he would be willing to consent to having his
11 home and vehicle searched?

12 A. I'm pretty sure I did, yeah.

13 Q. And did he have any problem with that?

14 A. No.

15 Q. Approximately how long would you say
16 that y'all were at the sheriff's office the second
17 time getting the DNA sample, getting him to consent
18 to the searching of his home and his vehicle?

19 A. I'm guessing within 45 minutes or so.

20 Q. During that time, did you also tell him
21 that you were going to get a written statement from
22 him?

23 A. I want to say I may have asked if he
24 wanted to give a written statement, I don't recall
25 now whether he gave one or not.

MARTY CARRIGG - CROSS-EXAMINATION BY MS. CORNWELL

1 Q. Do you recall that he told you he
2 wouldn't be able to write the statement, but if you
3 dictate it to him or did the statement himself and
4 read it to him and had him sign what his statement
5 was?

6 A. I don't recall.

7 Q. Didn't you indicate you took him back
8 to his home?

9 A. That's correct.

10 Q. And that was in your county issued
11 vehicle?

12 A. County vehicle.

13 Q. And once you arrived to the house, the
14 search was already being conducted of his home?

15 A. I think they were just arriving and
16 perhaps, yes.

17 Q. And he was not allowed to be inside of
18 his home at that time, he had to stay in the car
19 with you?

20 A. He stayed with me.

21 Q. And during the time that he was in the
22 car with you, it's your testimony that there was
23 some conversation about that you knew where Cara
24 was and that she was in the morgue?

25 A. Correct.

1 Q. And he was shocked by that?

2 A. He acted as though he were shocked.

3 Q. And at that point, he asked you what
4 happened to her?

5 A. I don't recall that question being
6 asked of me, but I told him I knew where she was at
7 and that she was in the morgue.

8 Q. Do you recall telling him that she had
9 been found strangled and beaten in the woods?

10 A. No, I don't.

11 Q. But that conversation is not recorded
12 in any way?

13 A. It would not be.

14 Q. And it indicates in your report that
15 you ended up leaving Mr. Eastwood at his home
16 around 9 p.m. that night?

17 A. That sounds about right, yes.

18 Q. So your testimony is that you picked
19 him up sometime around 11 o'clock in the morning
20 and he was not released from your custody until
21 about 9 o'clock at night?

22 A. He was not in custody during any of it,
23 but he was allowed to stay at his home which I
24 brought him back to at around 9 o'clock.

25 Q. You say that he wasn't in custody, but

MARTY CARRIGG - CROSS-EXAMINATION BY MS. CORNWELL

1 he was either in your vehicle or in the sheriff's
2 office for those --

3 A. He was with me during that time period
4 of his own volition. He was asked if he would do
5 these things and he said he would. He was never
6 forced to do anything.

7 Q. But at the same time he also couldn't
8 have just gotten out of your car and walked into
9 his house while the search was being executed;
10 correct?

11 A. While the search was being executed,
12 no.

13 Q. And since you drove him to the
14 sheriff's office and everything, he couldn't have
15 just left of his own volition, y'all would have had
16 to agree to take him wherever he wanted to go?

17 A. Correct.

18 Q. So while he was not maybe in terms
19 under arrest, he was in your custody for those ten
20 hours?

21 A. He was in my -- well, he was not in
22 custody at any time, but he was with me; correct.
23 I'm not going to tell you he's in custody because
24 he wasn't.

25 Q. Wasn't in a position where he could

1 talk to anybody else, his sister, friends,
2 coworkers, they weren't with him, he was just -- it
3 was just him and law enforcement for those ten
4 hours?

5 A. If he had of asked for his attorney or
6 anybody else he would have, but he never asked for
7 anybody.

8 Q. Okay. And of those ten hours that he
9 was with you, the only part that's recorded is the
10 45 to 50 minutes that he gave a statement to you?

11 A. That's correct. Of my interview I'll
12 say that's correct.

13 Q. At anytime during these ten hours, did
14 y'all bring him lunch, food, anything like that?

15 A. To be honest with you, I don't recall.

16 Q. Did you give him a chance to make any
17 phone calls?

18 A. If he wanted it he could have had it,
19 but I don't recall.

20 Q. You didn't offer it to him though?

21 A. I don't recall, no.

22 MS. CORNWELL: Your Honor, I believe
23 that's all the questions I have at this time.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

1 BY MR. SCOTT:

2 Q. Did he ever ask to go home --

3 A. No.

4 Q. -- before you took him home?

5 A. No.

6 Q. Okay. If he had asked to use the
7 bathroom or asked for something to drink or asked
8 for something to eat what would you have done?

9 A. Would have got him something to eat or
10 allowed him to use the restroom. He was not in
11 custody.

12 Q. Did you ever tell the Defendant that
13 night that the victim, Cara Hodges, had been
14 strangled and left in the woods?

15 A. I did not.

16 MR. SCOTT: That's all I have.

17 THE COURT: You may step down, sir.
18 Thank you.

19 MR. SCOTT: State calls Cody McCormack.

20 THE CLERK: Please raise your right
21 hand and state your name for the record.

22 MR. MCCORMACK: William "Cody"
23 McCormack.

24 WILLIAM "CODY" MCCORMACK,
25 being first duly sworn, was examined and testified

1 as follows:

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. SCOTT:

5 Q. Just to make sure we got it right, you
6 spell your last name, M-C-C-O-R-M-A-C-K; is that
7 correct?

8 A. That is correct.

9 THE COURT: Your witness.

10 MR. SCOTT: Thank you, Judge.

11 Q. Where do you work, sir?

12 A. The Orangeburg County Sheriff's Office.

13 Q. And what's your rank?

14 A. I'm a crime scene investigator.

15 Q. Okay. Do you have a title that I can
16 call you by? Sergeant?

17 A. Investigator.

18 Q. Investigator. Gotcha. How long have
19 you worked at the sheriff's office?

20 A. Eight years.

21 Q. And what's your position with the
22 sheriff's office -- I'm sorry, you said crime scene
23 investigator. What was your position with the
24 sheriff's office back in December of 2019?

25 A. I was crime scene investigator.

1 Q. Okay. On Friday, December 13th of
2 2019, did you assist in the execution of a search
3 warrant at 1189 Gardensgate Road in Eutawville,
4 South Carolina?

5 A. That is correct.

6 Q. And is that a residence?

7 A. Yes, that is.

8 Q. And whose residence was that?

9 A. Kenneth Eastwood's.

10 Q. Was Mr. Eastwood present during some or
11 all of this search warrant?

12 A. Yes, he was present.

13 Q. When you saw Mr. Eastwood, where was
14 he?

15 A. Initially he was waiting with
16 Investigator Carrigg outside. At various points,
17 we did have him come inside to secure his dog. He
18 initially moved it from the second story down to
19 the garage type area and then moved it back up for
20 us. And he also unlocked two gun safes for us.

21 Q. Was he in handcuffs?

22 A. No, he was not.

23 Q. And what was your role in the execution
24 of this search warrant?

25 A. To process the scene and document it

1 with digital photography.

2 Q. Did you take any pictures of the
3 Defendant that night?

4 A. Yes, I did.

5 Q. And can you tell the Court how that
6 came about?

7 A. We were talking with him in the dining
8 room, kind of kitchen/living room area, and we
9 asked if he wouldn't mind taking off his shirt to
10 see if there was any injuries that might be
11 consistent with the incident we were investigating.

12 Q. Did Mr. Eastwood agree to do so?

13 A. Yes, he did.

14 Q. And what, if anything, did you observe
15 when Mr. Eastwood took his shirt off?

16 A. There were was some scratches on the
17 right side of his chest.

18 Q. And were these scratches brought to
19 Mr. Eastwood's attention?

20 A. Yes, they were.

21 Q. And what was his response?

22 A. He advised us that it was caused by a
23 cat.

24 Q. Did Mr. Eastwood seem reluctant to
25 speak to you about these scratches?

1 A. No, he didn't.

2 Q. Did you or any other law enforcement
3 officer threaten or coerce Mr. Eastwood in order to
4 get him to explain these scratches?

5 A. No, we didn't.

6 Q. At the conclusion of the search
7 warrant, did law enforcement -- did y'all leave
8 Mr. Eastwood's residence?

9 A. Yes, we did.

10 Q. And what was done with Mr. Eastwood?

11 A. He was left at his residence.

12 Q. Okay.

13 MR. SCOTT: That's all the questions I
14 have.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MS. CORNWELL:

18 Q. Mr. McCormack, when you indicated that
19 y'all asked for him to take his shirt off to see if
20 there were any injuries consistent with what you
21 were investigating, was that conversation recorded
22 in any way?

23 A. No, it wasn't.

24 Q. Is there any video or anything in the
25 execution of that search warrant?

1 A. No, there's not.

2 Q. And to your knowledge, when you were
3 taking the photographs, was that before or after
4 Investigator Carrigg had told him that Cara was
5 dead?

6 A. I can't answer. I know like he was
7 outside in the vehicle at the beginning with
8 Investigator Carrigg. What they talked about in
9 the vehicle, I'm not sure of.

10 MS. CORNWELL: Thank you, Your Honor.

11 THE COURT: Any redirect?

12 MR. SCOTT: No, Your Honor.

13 THE COURT: You may step down, sir.

14 Thank you.

15 You may call your next witness.

16 MR. SCOTT: State call Dajuan Council.

17 THE CLERK: And may I have you to place
18 your left hand on the bible, please and raise your
19 right hand. Thank you. And state your name for
20 the record.

21 MR. COUNCIL: Dajuan Council.

22 DUJUAN COUNCIL,

23 Being first duly sworn, was examined and testified
24 as follows:

25 THE COURT: Your witness.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 MR. SCOTT: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MR. SCOTT:

4 Q. Where are you employed?

5 A. Orangeburg County Sheriff's Office.

6 Q. And what's your current position with
7 the sheriff's office?

8 A. Lieutenant.

9 Q. And how long have you worked at the
10 sheriff's office?

11 A. Approximately five years.

12 Q. And what was your position with the
13 sheriff's office back in December of 2019?

14 A. Criminal investigator.

15 Q. Were you involved in the homicide
16 investigation of Cara Hodges in December of 2019?

17 A. I was.

18 Q. And more specifically, were involved in
19 the interview of Mr. Kenneth Eastwood on December
20 14th of 2019 following his arrest for the charge of
21 murder?

22 A. Yes.

23 Q. And where did this interview take
24 place?

25 A. Chestnut Street at the CID office.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And who was present for this interview?

2 A. Myself and Lieutenant Shumpert.

3 Q. And was this interview audio and video
4 recorded?

5 A. Yes.

6 Q. Prior to interviewing Mr. Eastwood, did
7 you advise him of his Miranda rights?

8 A. I did.

9 Q. Okay.

10 (WHEREUPON, State's Exhibit Number 2
11 was marked.)

12 Q. I want to show you what's been marked
13 as State's Exhibit Number 2. Do you recognize
14 that?

15 A. I do.

16 Q. And what is that?

17 A. That is the Miranda warning sheet that
18 we read and they read and they sign, Miranda
19 warning.

20 Q. Is this the form that you used with Mr.
21 Eastwood on December 14th of 2019?

22 A. I did.

23 Q. And is it in substantially the same
24 condition as it was back then?

25 A. It is.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. Okay. No alterations or changes?

2 A. No.

3 MR. SCOTT: We'd ask just for purposes
4 of this hearing that State's Exhibit Number 2 be
5 admitted.

6 MS. CORNWELL: No objection.

7 THE COURT: All right. It's in.

8 (WHEREUPON, State's Exhibit Number 2
9 was entered.)

10 Q. Lieutenant Council, there's some blanks
11 across the top of State's Exhibit 2, can you tell
12 us what those say?

13 A. In the place -- the place would be
14 Chestnut Street which is the CID office. The date,
15 12/14/2019. The time is 5:30 p.m. -- 5:37 p.m.,
16 I'm sorry.

17 Q. And whose handwriting is that?

18 A. That is mine.

19 Q. Okay. And on the next line it says,
20 these are your rights. Please read carefully. Did
21 you read all those to the Defendant?

22 A. I did.

23 Q. Can you read those for the Court
24 starting with, these are your rights?

25 A. These are your rights. Before we ask

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 -- before we ask you any questions, you have -- you
2 must understand your rights.

3 Number one, you have the right to
4 remain silent, anything you say can be used against
5 you in court.

6 Number two, you have the right to talk
7 to a lawyer for advice before we ask you any
8 questions and have him or her with you during
9 questions.

10 Number three, if you cannot afford a
11 lawyer one would be appointed for you before any
12 questions if you wish.

13 Number four, if you decide to answer
14 questions without your lawyer present, you will
15 still have the right to stop at any time.

16 Number five, you also have the right to
17 stop answering at anytime until you talk to your
18 lawyer.

19 And it says, I understand my rights.
20 The signature is Mr. Kenneth Eastwood.

21 Q. And whose initials appear next to all
22 five of those rights?

23 A. KE would be Mr. Kenneth Eastwood.

24 Q. And what's at the bottom of the form,
25 is that a waiver of rights?

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 A. It's the waiver of rights, yes.

2 Q. And whose signature appears after the
3 waiver of rights?

4 A. That would be Mr. Kenneth Eastwood as
5 the signature and witness would be mine.

6 Q. Can you read the waiver of rights into
7 the record, please?

8 A. Sure. Waiver of rights. I have read
9 this statement of my rights and I understand what
10 my rights are. I am willing to make a statement
11 and answer questions. I do not want a lawyer at
12 this time. I understand and know what I'm doing.
13 No promise, threats have been made to me and no
14 pressure or coercion of any kind has been used
15 against me.

16 Q. And you said that was Kenneth
17 Eastwood's signature after that?

18 A. Correct.

19 Q. All right. After Mr. Eastwood had been
20 advised of his rights and waived his rights, did
21 you interview Mr. Eastwood?

22 A. I was present during that interview,
23 yes.

24 Q. Okay. Who else was present?

25 A. Lieutenant Shumpert.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And was all of that interview recorded?

2 A. It was.

3 Q. And did that include the advisement of
4 Miranda rights?

5 A. Yes.

6 Q. Okay.

7 MR. SCOTT: And I would like the record
8 to reflect that that interview is contained on
9 Court's Exhibit Number 1, interview from 12/14/19
10 and we'd ask that Court's Exhibit 1 be admitted for
11 purposes of this hearing.

12 THE COURT: Without objection?

13 MS. CORNWELL: No objection, Your
14 Honor.

15 THE COURT: All right. It's in.

16 (WHEREUPON, Court's Exhibit Number 1
17 was entered, again.)

18 Q. Do you recall approximately how long
19 that interview was?

20 A. Maybe 20, 25 minutes, approximately.

21 Q. Did you ever force Mr. Eastwood to
22 speak with you?

23 A. I did not.

24 Q. Did you ever threaten him?

25 A. No, I didn't.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. Did you deny him any comfort such as
2 food, water or bathroom breaks?

3 A. Did not.

4 Q. The footage that is on that interview,
5 you said it was 20 to 25 minutes, is that the
6 extent of law enforcement's conversations with
7 Mr. Eastwood on December 14th of 2019?

8 A. It is.

9 Q. And at the conclusion of this
10 interview, where was Mr. Eastwood taken?

11 A. He was taken to the Orangeburg County
12 jail.

13 Q. Okay. And when he was transported,
14 where was he arrested, do you remember that day,
15 12/14/19?

16 A. He was arrested at his home in
17 Eutawville.

18 Q. Okay. And he was placed in handcuffs,
19 I assume?

20 A. He was.

21 Q. And driven to the Orangeburg County
22 Detention or CID?

23 A. CID office on Chestnut Street, yes.

24 Q. All right. Do you remember who
25 transported him?

DUJUAN COUNCIL - CROSS-EXAMINATION BY MS. CORNWELL

1 A. I do not. I don't recall at this time,
2 no.

3 Q. Did you have any conversations with
4 Mr. Eastwood from the time he was arrested until
5 during the transport to CID?

6 A. I did not.

7 Q. Okay.

8 MR. SCOTT: That's all I have, Your
9 Honor.

10 THE COURT: Cross-examination?

11 CROSS-EXAMINATION

12 BY MS. CORNWELL:

13 Q. Investigator Council, when -- were you
14 the one that got the arrest warrant in this case?

15 A. I was.

16 Q. And that's the arrest warrant that was
17 served on Mr. Eastwood at his home?

18 A. Yes, ma'am.

19 Q. And when making the arrest of
20 Mr. Eastwood, you informed him of what was in the
21 warrant and what the charges were?

22 A. His warrant was read to him and served
23 by I can't recall who served the warrant on him,
24 but he was read his warrant.

25 Q. And what he was read was that based on

1 investigation by the Orangeburg County Sheriff's
2 Office, the Defendant, Kenneth Henry Eastwood, did
3 or on about December 8, 2019, violate Section
4 16-3-10 of the Code of Laws of South Carolina,
5 murder, in that he did kill the victim, Cara
6 Hodges, with malice aforethought by strangling the
7 victim and placing her body in a wooded area. This
8 incident occurred 1189 Gardensgate Road in
9 Orangeburg County and the victim was found on
10 12/12/2019 in a wooded area of Orangeburg County
11 approximately five miles from the Defendant's
12 residence. The Defendant gave specific details of
13 the crime with an independent witness on 12/14/19
14 that were not made public. An interview of the
15 witness was video recorded and the witness gave a
16 written statement. That's what he was told;
17 correct?

18 A. That was what is written on the
19 warrant, yes, ma'am.

20 Q. And the warrant indicates that a
21 statement of my client was given to an independent
22 witness; is that correct?

23 A. Yes, ma'am.

24 Q. And in your report, you indicate that
25 the manager called in and said that my client came

1 in to resign from his job because law enforcement
2 knows that he did it?

3 A. That was -- yes, ma'am, that was
4 reported from the manager.

5 Q. Okay. And so based on that, you got
6 the arrest warrant, y'all gathered around 11
7 o'clock that morning to make the arrest?

8 A. I don't recall the time, but it sounds
9 -- it was before noon.

10 Q. Okay.

11 A. I was called before noon, so, yes.

12 Q. And when y'all went and made the arrest
13 of my client at his home, was that arrest recorded
14 on body cam, dash cam footage, is there any footage
15 of the arrest being made at his home?

16 A. I was not provided a body cam at that
17 time, so I don't believe it was recorded on a body
18 cam.

19 Q. Approximately how many officers went to
20 assist in the arrest of my client at that time?

21 A. It's a team, approximately anywhere
22 between seven and nine deputies, approximately,
23 could have been more.

24 Q. Okay. And you are unaware of whether
25 or not any of them had body cam or dash cam footage

1 | regarding this arrest?

2 | A. I'm unaware of the body cam.

3 | Q. When my client was taken back to the
4 | sheriff's office, it was not in your vehicle?

5 | A. I don't recall transporting him. I
6 | think he was transported in a marked patrol unit.
7 | I'm not sure, but I don't recall transporting him.

8 | Q. Okay. And when you arrived at my
9 | client's home, was the independent witness that
10 | indicated that he had come up to the IGA early that
11 | morning; correct?

12 | A. Correct.

13 | Q. And was distraught; correct?

14 | A. I wouldn't say distraught. What was
15 | relayed to me was that he came up to the IGA and
16 | spoke with the manager and said what he said to the
17 | manager.

18 | Q. Okay. And when y'all went to his house
19 | to get him, did he appear to be under the influence
20 | of alcohol?

21 | A. I don't recall whether he was under the
22 | influence of alcohol or not.

23 | Q. So it is possible that he was under the
24 | influence of alcohol when you picked him up?

25 | A. I don't recall him being under the

1 | influence of alcohol, it's possible.

2 | Q. When you took him back to the sheriff's
3 | office and had the interview with him, you
4 | basically told him that you already knew what
5 | happened and what he did; is that correct?

6 | A. I did?

7 | Q. In that interview that's what was told
8 | to him?

9 | A. I did not say that, no.

10 | Q. When you were present in the interview,
11 | was that what was said to him?

12 | A. I believe what was said to him is,
13 | let's go ahead and get it off your chest. I
14 | believe that's what was said to him.

15 | Q. Okay. He had already been informed
16 | that y'all had spoken to the person at IGA?

17 | A. I don't believe we informed him of that
18 | other than him reading the warrant or him being --
19 | that warrant being read to him about the
20 | independent witness. I don't believe that's true.

21 | Q. And when you first started talking to
22 | him you asked if he would go ahead and tell you
23 | what happened to get it off his chest. And at
24 | first he didn't want to, he said, not right now; is
25 | that correct?

DUJUAN COUNCIL - CROSS-EXAMINATION BY MS. CORNWELL

1 A. Being while present, of course, I did
2 not ask any questions in that interview. While
3 present, I believe, he was told just go ahead and
4 get it off your chest. At first he was hesitant
5 and then he talked.

6 Q. But he indicated he was tired and he
7 wanted to wait. And then after further discussion,
8 he came forward and gave a statement, does that
9 sound about right?

10 A. Sounds about right.

11 Q. And then at the end of the interview
12 when you asked, you know, or when Lieutenant
13 Shumpert asks, is there anything else that you need
14 from us right now, his response was, I just need to
15 get some sleep. Do you recall that?

16 A. Yes, I do recall that.

17 Q. You also asked him if he would write a
18 statement?

19 A. Yes, I believe my saying to him was
20 this is what I need you to do. I was getting
21 prepared to have him to write a statement and
22 Lieutenant Shumpert stopped.

23 Q. And he told you that he wouldn't have
24 been able to write a statement anyway because he
25 was shaking like a leaf?

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 A. I believe something to that effect.

2 MS. CORNWELL: I believe that's all the
3 questions I have. Thank you, Your Honor.

4 THE COURT: Any redirect?

5 MR. SCOTT: No, Your Honor.

6 THE COURT: You may step down, sir.

7 Thank you.

8 MR. SCOTT: State calls James Shumpert.

9 THE CLERK: And state your name for the
10 record, please.

11 MR. SHUMPERT: James Shumpert.

12 JAMES SHUMPERT,
13 being first duly sworn, was examined and testified
14 as follows:

15 THE CLERK: Thank you.

16 THE COURT: Your witness.

17 MR. SCOTT: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. SCOTT:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Can you tell the Court where you're
23 employed?

24 A. Orangeburg County Sheriff's Department.

25 Q. And how long have you worked there?

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 A. Twenty-four years.

2 Q. And what's your position with the
3 sheriff's office?

4 A. Lieutenant of criminal investigations.

5 Q. And was that your position back in
6 December of 2019?

7 A. Yes, sir.

8 Q. And were you involved in the
9 investigation of the homicide of Cara Hodges back
10 in December of 2019?

11 A. Yes.

12 Q. And I want to direct your attention to
13 Saturday, December 14th of 2019, did you respond to
14 Eutawville that day?

15 A. I did.

16 Q. Were you present when Mr. Eastwood was
17 arrested?

18 A. I was.

19 Q. And where was he arrested?

20 A. At his residence.

21 Q. And was that in Orangeburg County?

22 A. Eutawville, Orangeburg, yes, sir.

23 Q. Okay. And after advising Mr. Eastwood
24 -- or excuse me, after arresting Mr. Eastwood at
25 his residence, did you advise him of his Miranda

1 rights?

2 A. I did.

3 Q. And how did you go about doing that?

4 A. A card that I keep in my wallet.

5 Q. Do you have that card on you?

6 A. I do.

7 Q. Can I see it?

8 MR. SCOTT: Can I get this marked?

9 (WHEREUPON, State's Exhibit Number 3
10 was marked.)

11 Q. I want to show you what's been marked
12 as State's Exhibit Number 3. Do you recognize
13 that?

14 A. Yes, sir.

15 Q. And what is that?

16 A. That's a copy of my card, of my Miranda
17 warnings.

18 Q. It's a copy of your card?

19 A. Yes, sir.

20 Q. Is it an exact copy?

21 A. It is.

22 MR. SCOTT: Your Honor, we would ask
23 that this be admitted for purpose of this hearing?

24 MS. CORNWELL: No objection, Your
25 Honor.

1 THE COURT: All right. It's in.

2 (WHEREUPON, State's Exhibit Number 3
3 was entered.)

4 Q. I'm going to give you your card back so
5 you don't lose it.

6 A. Yes, sir.

7 Q. Did you advise Mr. Eastwood of his
8 Miranda rights there on scene after he was arrested
9 at his residence?

10 A. Yes, sir.

11 Q. You said you used that card?

12 A. Yes, sir.

13 Q. Can you read that for the Court?

14 A. It says, suspect's rights Miranda
15 warning. You have the right to remain silent.
16 Anything you say can and will be used against you
17 in a court of law. You have the right to talk to
18 an attorney, have him or her present with you while
19 being questioned. If you can't afford to hire an
20 attorney, one would be appointed to represent you
21 before any questions if you wish. You can decide
22 at anytime to exercise the rights and not answer
23 any questions or make any statements. Do you
24 understand each of these rights I have explained to
25 you? Have these rights in mind, do you wish to

1 talk to us now?

2 Q. And after arresting Mr. Eastwood and
3 advising him of his Miranda rights, did you attempt
4 to question him there at his house?

5 A. No, I did not.

6 Q. What did you do next?

7 A. He was transported back to Orangeburg
8 to CID.

9 Q. Did you transport him?

10 A. No, I did not.

11 Q. Do you know who transported him?

12 A. I believe Pauline Wood-Jones
13 transported him. I believe that's who transported
14 him.

15 Q. Would she have any familiarity with
16 this case?

17 A. Not that I know of, no, sir.

18 Q. Okay. Once at CID, was Mr. Eastwood
19 advised of his Miranda rights again?

20 A. Yes, he was.

21 Q. By who?

22 A. Investigator Council.

23 Q. And after the Defendant was advised of
24 his Miranda rights by Investigator Council did you
25 assist with the interview of Mr. Eastwood?

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 A. I did.

2 Q. Did you ever threaten Mr. Eastwood in
3 order to get him to speak with you?

4 A. No, I did not.

5 Q. Did you ever coerce him to get him to
6 speak with you?

7 A. No, I did not.

8 Q. Were Mr. Eastwood's statements to you
9 and Investigator Council voluntarily given?

10 A. Yes.

11 Q. Did you have any concerns about his
12 cognitive abilities?

13 A. No, I did not.

14 Q. Did you -- did Mr. Eastwood seem to
15 understand and appreciate the setting and the
16 environment that he was in?

17 A. Yes.

18 Q. Did he appear to be under the
19 influence?

20 A. No, not at the time that I could tell.

21 Q. Okay. And where was Mr. Eastwood taken
22 at the conclusion of that interview on December
23 14th?

24 A. To the detention center.

25 Q. Okay. And on the following day,

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 December 15, 2019, did you have a conversation with
2 Mr. Eastwood?

3 A. I did.

4 Q. And where did this conversation take
5 place?

6 A. I believe it took place at 1032
7 Chestnut when we went to the office.

8 Q. Okay. And how did Mr. Eastwood get to
9 the office?

10 A. I transported him.

11 Q. And why did you want to have
12 Mr. Eastwood transported to the office on December
13 15, 2019?

14 A. It was a follow-up. I wanted to know
15 exactly -- we spoke about clothes. The young lady
16 clothes and I wanted to know where the clothes was
17 at.

18 Q. After bringing Mr. Eastwood to CID, did
19 you advise him of his Miranda rights?

20 A. Yes, I did.

21 MR. SCOTT: Can I get this marked?

22 (WHEREUPON, State's Exhibit Number 4
23 was marked.)

24 Q. I want to show you what's been marked
25 as State's Exhibit Number 4. Do you recognize

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 that?

2 A. Yes, sir.

3 Q. And what is that?

4 A. This is the Orangeburg County Sheriff's
5 Office Criminal Investigation Division Miranda
6 form.

7 Q. Okay. And is that the exact form you
8 used with Mr. Eastwood on December 15, 2019?

9 A. Yes, sir, it appears to be so.

10 MR. SCOTT: We would ask that for
11 purposes of this hearing that State's Exhibit 4 be
12 admitted into evidence.

13 MS. CORNWELL: No objection, Your
14 Honor.

15 THE COURT: All right. It's in.

16 (WHEREUPON, State's Exhibit Number 4
17 was entered.)

18 Q. Can you read for the Court what's
19 across the top, the fill in the blanks?

20 A. Okay. It says place, 1032 Chestnut
21 Avenue; date 12/15/2019; time 3:30 p.m.

22 Q. Okay. And then are those -- after that
23 there's five Miranda rights?

24 A. Correct.

25 Q. And did you read those to Mr. Eastwood?

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 A. Yes, I did.

2 Q. Okay. And after you read each of those
3 rights, what did you have Mr. Eastwood do?

4 A. Initial by each one.

5 Q. And then at kind of midway down where
6 it says, I understand my rights, whose signature is
7 that?

8 A. Mr. Eastwood.

9 Q. And then at the bottom of page is a
10 waiver of rights, whose signature appears after
11 that?

12 A. Mr. Eastwood's in the signature.

13 Q. And then whose signatures appears as
14 witnesses?

15 A. There appear to be Emanuel McDuffy and
16 then mine next to his.

17 Q. Okay. Yours is on the right?

18 A. Correct.

19 Q. Okay. Did you ever threaten or coerce
20 Mr. Eastwood to speak with you on December 15th of
21 2019?

22 A. No, sir.

23 Q. And do you have an idea how long this
24 interview was on December 15, 2019?

25 A. About maybe five minutes, if that long.

1 Because I know it took the duration from me going
2 from the jail to the office back to the jail was a
3 total of less than 15 minutes.

4 Q. And how do you know that?

5 A. I checked the time with the jail when I
6 checked him out and when I returned him back to the
7 jail. So it was, like, I think, like,
8 approximately 11 minutes for the whole total trip.

9 Q. Okay. You checked him out recently?

10 A. Recently as --

11 Q. With the jail, with the records?

12 A. Yeah, I checked with the jail. It was
13 about a month ago, two months ago.

14 Q. Okay. And at the conclusion of this
15 interview what was done with Mr. Eastwood?

16 A. He was returned back to jail. Again,
17 myself and I can't remember who, we went down
18 country what we call Holly Hill and Eutawville. We
19 attempt to locate the clothes in some dumpsters
20 that he said he left at one of the Hot Spot's
21 either in Holly Hill and Eutawville.

22 Q. Okay. And I kind of skipped over that.
23 What did he tell you during the interview at CID?

24 A. He put them in a dumpster. He don't
25 know which one, it could be either at the Hot Spot

1 in Holly Hill or Eutawville.

2 Q. Okay. And you attempted to go locate
3 those clothes?

4 A. I did.

5 Q. Did you find any clothes?

6 A. I did not.

7 Q. Was this interview recorded?

8 A. It should have been, I believe, but I
9 can't locate it.

10 Q. Okay. You've attempted to locate it?

11 A. I did.

12 Q. And it was never provided to the
13 solicitor's office; correct?

14 A. No.

15 Q. Okay. And when you spoke with
16 Mr. Eastwood on the 15th, did you have to threaten
17 or coerce him to get him to speak with you?

18 A. No, I did not.

19 Q. Did he speak with you freely and
20 voluntarily?

21 A. He did.

22 Q. He had just spent the night in jail, I
23 guess?

24 A. Yes.

25 Q. So did you have any concerns about his

1 cognitive abilities that day on December 15th of
2 2019?

3 A. No, sir.

4 Q. Okay. And this would have been in the
5 afternoon, 3:30 p.m.?

6 A. Correct, yes, sir.

7 MR. SCOTT: That's all the questions I
8 have.

9 THE COURT: Cross-examination?

10 MS. CORNWELL: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. CORNWELL:

13 Q. Lieutenant Shumpert, you were part of
14 the group that went to Mr. Eastwood's home and made
15 the arrest on him?

16 A. Yes, ma'am.

17 Q. And you indicated that you were the one
18 that transported him back to CID?

19 A. No, I did not that day.

20 Q. Not that day?

21 A. No.

22 Q. Do you know who did?

23 A. As I told the Solicitor, I believe it
24 was Wood-Jones.

25 Q. And were you wearing body cam that day?

1 A. No. I wasn't issued one during that
2 time.

3 Q. Approximately how many officers were
4 there to effect the arrest on my client?

5 A. I can't recall. I really can't.

6 Q. Would you say that there were several
7 officers there?

8 A. Yes. Yes, ma'am.

9 Q. To your knowledge, were any of them
10 wearing body cams?

11 A. Not to my knowledge.

12 Q. Do any of them have dash cam footage of
13 Mr. Eastwood's arrest at his home?

14 A. I believe the county cars are not
15 equipped with dash cams.

16 Q. So to your knowledge there's no video
17 of my client being arrested in his home?

18 A. Not to my knowledge.

19 Q. Based on your report, it looks like
20 y'all got together around 11 o'clock that morning
21 to -- met at DNR and y'all were waiting on the
22 arrest warrants to go and make that arrest of Mr.
23 Eastwood; is that correct?

24 A. If that's correct. If that's what the
25 report says, yes, ma'am.

1 Q. Okay. And during that time while
2 you're standing by, you met with my client's
3 sister?

4 A. Yes.

5 Q. And told her that you were wanting her
6 help in securing her brother; correct?

7 A. Yes, ma'am.

8 Q. And at that time, she informed you that
9 she had recently spoken with him that morning, that
10 she knew he was at his house and that he had been
11 -- that he was intoxicated last time she talked to
12 him he was in his home, he could not leave his home
13 because he didn't have a vehicle and she didn't
14 understand why y'all needed her to go over there;
15 correct?

16 A. I don't recall the contents of that
17 conversation, but I do remember speaking to her.

18 Q. Okay. Do you remember telling her that
19 if she didn't cooperate y'all would also arrest
20 her?

21 A. I can't recall nothing like that.

22 Q. And you wrote a report about going and
23 making the arrest at his home; correct?

24 A. I wrote a supplemental to what
25 happened, but I believe I did wrote a report.

1 Q. And certainly the reasons that you
2 write reports is because it's very important to
3 remember these details of things such as an arrest;
4 correct?

5 A. Correct.

6 Q. And it's important to put those details
7 in your report in situations like this where four
8 years later you're having to recall things from a
9 long time ago?

10 A. Correct.

11 Q. And so your testimony here is, you
12 don't remember the details of the conversations
13 that you had with my client's sister prior to
14 making his arrest?

15 A. I mean, if it's in my report, it's
16 there, but I don't recall what you stated. If it's
17 documented, it's there.

18 Q. When my client was taken into custody
19 at his home, were you aware that he was intoxicated
20 and suffering the effects of wine?

21 A. I'm sorry, say that again.

22 Q. When you made the arrest of my client's
23 home, you were aware that he was under the
24 influence of alcohol, he had been drinking wine
25 prior to y'all coming to his house?

1 A. No, ma'am, I can't remember that. I
2 believe his sister was the one that did get him to
3 come out if I remember correctly, but I don't
4 remember him drinking no wine.

5 Q. And you don't remember being told by
6 the sister that he had been drinking wine?

7 A. I can't remember that. She could have
8 said it, I just don't remember that.

9 Q. Okay. And when you reviewed,
10 obviously, this arrest was made subsequent to an
11 independent witness giving a statement to law
12 enforcement?

13 A. You will have to ask Lieutenant Council
14 about that, he's the one that obtained the
15 warrants.

16 Q. Okay.

17 A. I wasn't privy to that conversation.

18 Q. Okay. During your interview, you told
19 him that you already knew what happened, that y'all
20 had already spoken to the guy at the IGA, do you
21 recall telling him all that in your interview him?

22 A. Again, if it's on video if I said that,
23 I probably did. I mean, I can't remember.

24 Q. Okay. And so you told him you already
25 knew what was going on, but you needed him to say

1 | it, you wanted him to give a statement; is that
2 | correct?

3 | A. Again, if that's what you are saying,
4 | I'm telling you, I can't remember exactly what I
5 | said to him at that time. But I do recall that I
6 | -- we do need to find out what was going on.

7 | Q. Do you recall him telling you that at
8 | that time he did not wish to give a statement?

9 | A. I do remember that.

10 | Q. And you continued to tell him that he
11 | needed to give a statement?

12 | A. I told him he needed to get it off his
13 | chest.

14 | Q. And once you had taken the statement
15 | from him, do you remember asking him if he needed
16 | anything else from y'all?

17 | A. Do he need anything from us?

18 | Q. Yeah. I think you had brought him and
19 | extra bottle of water and was there anything else
20 | that y'all need from --

21 | A. Probably so.

22 | Q. -- and he just said I needed some
23 | sleep?

24 | A. Yeah, he did say he needed sleep;
25 | correct.

1 Q. You indicate that there was also a time
2 that you interviewed him on the 15th?

3 A. Yes, ma'am.

4 Q. And that would be the next day?

5 A. Correct.

6 Q. And you indicate that really the only
7 thing that y'all talked about in that interview was
8 where he claimed he dumped the clothes?

9 A. Correct.

10 Q. And that's all that was discussed
11 during that meeting?

12 A. That's all I recall. Like I said,
13 again, I met with him very briefly in the attempt
14 of that interview or interrogation, however you
15 want to say it, was to locate the victim clothes.

16 Q. And you don't have any audio or video
17 recording of that statement?

18 A. I looked for it, no, ma'am.

19 Q. You indicated that you looked at
20 records from the jail, do you have those records
21 with you?

22 A. No, I called.

23 Q. In your report, you indicate that when
24 you were interviewing him the first time that he
25 stated that he used a cord from an electrical

1 heater to strangle her from the back, that he
2 thought she passed out, he didn't realize she was
3 dead until the next morning, that's in your report?

4 A. If it's in my report those are his
5 words.

6 Q. So that should have been seen in the
7 video as well and heard in the video?

8 A. It should be.

9 Q. And you indicate that you -- y'all got
10 there about 11 o'clock based on your report to make
11 the arrest, the Miranda form that he signed on the
12 14th, the day of the arrest was at 5:37 p.m., so
13 there was several hours that he was in your custody
14 before giving that statement; correct?

15 A. In my custody?

16 Q. In law enforcement's custody?

17 A. I'm not familiar with the times on the
18 statements. All I can tell you is that he was
19 arrested at his residence and he was immediately
20 transported to our office.

21 MS. CORNWELL: I believe that's all the
22 questions I have, Your Honor.

23 THE COURT: Any redirect?

24 MR. SCOTT: Just very briefly.

25 REDIRECT EXAMINATION

1 BY MR. SCOTT:

2 Q. Did law enforcement have concerns on
3 December 14, 2019 after y'all got that murder
4 warrant, did y'all have concerns going to the
5 Defendant's house and just knocking on the door and
6 arresting him?

7 A. Yes.

8 Q. What were your concerns?

9 A. He had a -- from my understanding, he
10 had a collection of a whole bunch of weapons and
11 ammunition.

12 Q. And is that why y'all called his
13 sister?

14 A. Correct.

15 Q. To see if she could help, I guess, get
16 him to come outside voluntarily?

17 A. Yes.

18 Q. Okay.

19 MR. SCOTT: That's all I have.

20 THE COURT: You may step down, sir.

21 Thank you.

22 MR. SHUMPERT: Thank you.

23 THE COURT: You may call your next
24 witness.

25 MR. SCOTT: We have no further

1 witnesses, Your Honor.

2 THE COURT: Any witnesses from the
3 Defense?

4 MS. CORNWELL: No, Your Honor.

5 THE COURT: Parties care to make any
6 arguments?

7 MR. SCOTT: Is it my motion or her
8 motion? I guess, Your Honor, you've watched the
9 videos, those were provided to you, you watched
10 them this weekend, I don't -- and I'm sorry, I gave
11 my list to your clerk of all the various
12 statements.

13 THE COURT: Would you like a copy?

14 MR. SCOTT: That's okay. Thank you.
15 The statement to Investigator Carrigg in the
16 parking lot at Fishtales on Friday, December 13,
17 2019, Investigator Carrigg testified after he
18 approached him and said -- introduced himself.
19 According to Investigator Carrigg, the Defendant
20 says, I was expecting y'all to come see me. I
21 think it's clear the Defendant wasn't in custody at
22 that point. And we would ask that that statement
23 be admitted. It was freely and voluntarily given.

24 After that, the Defendant was taken to
25 CID at the Orangeburg County Sheriff's Office. He

1 was advised of his Miranda on video that Your Honor
2 has watched. I think it appears from that video
3 from that statement that the Defendant knowingly
4 and intelligently waived his Miranda rights. I
5 think it's clear that he was not coerced into
6 giving any sort of statement there at CID on
7 Friday, December 13, 2019.

8 The next statement, Your Honor, would
9 be outside of the Defendant's residence that Friday
10 night while the search warrant was being executed.
11 When Investigator Carrigg -- or when the Defendant
12 continued to deny where Ms. Hodges' whereabouts and
13 Investigator Carrigg finally told the Defendant, I
14 know where she is, she's in the morgue. And at
15 that point, the Defendant made some comments
16 expressing disbelief.

17 That same night, I don't think there's
18 any doubt that he was still under his Miranda
19 rights from that conversation with Investigator
20 Carrigg in their vehicle. Later that night, the
21 Defendant is inside of his house being photographed
22 when he says those scratches were caused by the
23 cat. I mean, again, law enforcement left him there
24 at his residence not too long after that. I don't
25 think he was in custody. He had already been

1 | advised of his Miranda rights.

2 | Investigator McCormack testified that
3 | they didn't have to twist his arm in order to get
4 | him to explain those scratches or anything in that
5 | regard.

6 | Statement to law enforcement the next
7 | morning on December 14th at CID, this time the
8 | Defendant was actually advised of his Miranda
9 | rights twice. He was advised verbally at his
10 | residence after he was arrested by Investigator --
11 | he was advised verbally by Investigator Shumpert
12 | after he was arrested. Investigator Shumpert
13 | testified he used that Miranda card. There's no
14 | evidence he was -- that there was any conversation
15 | with the Defendant on the way to CID.

16 | Once they were at CID, he was advised
17 | of his Miranda rights on video by Investigator
18 | Council. The Defendant waived his rights. I don't
19 | think there's anything involuntary about that
20 | statement to Investigator Council and Lieutenant
21 | Shumpert.

22 | And then, finally, we have the
23 | interview on Sunday, December 15, 2019.
24 | Investigator Shumpert testified this was a very
25 | short encounter. He picked the Defendant up from

1 jail, took him back to jail after the interview, so
2 the interview, I believe his testimony today was
3 like 11 or so minutes. Nonetheless, Investigator
4 Shumpert still advised him of his Miranda rights
5 again. So this would have been the fourth time in
6 the last three days the Defendant had been advised
7 of his Miranda rights.

8 I don't think there's anything
9 involuntary about these. He wasn't coerced. I
10 think the most Ms. Cornwell asked Investigator
11 Shumpert about was when the Defendant said I don't
12 want to talk at this moment, Investigator Shumpert
13 said, you need to get this off your chest and that
14 was it.

15 And we would ask that all of these
16 statements come in.

17 THE COURT: Response, Ms. Cornwell?

18 MS. CORNWELL: Thank you, Your Honor.
19 May it please the Court. It's our position that
20 the statement given on the 14th should not be
21 allowed to come in. It's our position that my
22 client was under the influence of alcohol when he
23 gave that statement. That he had indicated to law
24 enforcement when he was first interviewed that he
25 did not wish to give a statement. Law enforcement

1 continued to coerce him into making a statement at
2 that time.

3 It is clear based on video that he is,
4 you know, not fully cognizant and does appear to be
5 under the influence of alcohol. He also at the
6 very end indicates that he hasn't slept, that he
7 needs sleep. I think given those factors with his
8 age that he did not want to give a statement to law
9 enforcement at the time. He indicated so to law
10 enforcement that he did not wish to give a
11 statement.

12 Law enforcement did not respect those
13 wishes, continued to interrogate him and coerce a
14 statement out of him. That statement was not
15 voluntarily made. He had been in custody of law
16 enforcement for at least ten hours the night
17 before, had not slept at all during that night, was
18 under the influence of alcohol.

19 When law enforcement did take him into
20 custody, he was basically told that, you know, he
21 had strangled the girl and put her in the woods.
22 When asked to make a statement about that, he
23 indicated that he did not wish to do that, do so at
24 the time and yet they continued to make him give a
25 statement. Based on the involuntary nature of that

1 statement, we do not believe that that statement
2 should be allowed into evidence.

3 Tangentially to the *Denno* motion, I
4 also have an argument regarding the trustworthiness
5 of the statement and the fact that there is no
6 evidence to corroborate any of what is in his
7 statement. Obviously, there's the rule of corpus
8 delicti that Your Honor is aware of.

9 In addition to the corpus delicti, our
10 United State's Supreme Court and two decisions
11 released on the same day would be *Smith v. United*
12 *States* and *Oppen v. United States*, they announced a
13 rule regarding the trustworthiness of statements
14 which requires the corroboration of the confession
15 itself rather than just the fact that a crime
16 occurred. That underneath the trustworthiness
17 rule, the government may not introduce a confession
18 unless it provides substantial independent evidence
19 which would tend to establish the trustworthiness
20 of the confession.

21 In this case, I think that in addition
22 to the involuntary nature of the statement and
23 based on the fact that the interrogation tactics of
24 the ten hours prior to him giving this alleged
25 confession that he was in law enforcement's

1 custody, he was told that he failed polygraphs,
2 that DNA was going to be found, that he was, you
3 know, at that time told that she was dead. That he
4 was distraught. He was under distress. He made
5 the statement on the 13th under this duress without
6 sleep, under the influence of alcohol and there has
7 been no corroboration or evidence of any
8 corroboration that his statement was truthful or
9 trustworthy.

10 In fact, I believe that what we have is
11 DNA evidence. The DNA shows that there is no DNA
12 that supports what he indicates as far as the
13 manner that he strangled her, what he used to
14 strangle her, how he transported the body. DNA is
15 not corroborated from any of that. And based on
16 that trustworthiness, not only do we believe the
17 statement was involuntary, but it is also not
18 trustworthy and based on that should not come in.

19 THE COURT: Thank you, Counsel.
20 Considering the evidence that has been presented to
21 this juncture and I've also had the opportunity to
22 review the videotapes of the statements given to
23 law enforcement, I do find that the statements are
24 voluntary and admissible.

25 In looking at the statements on the

1 14th, specifically, although, your statement is
2 that he was under the influence of alcohol, in
3 viewing the videotape, he certainly does not appear
4 to slur his words in any way. He dose not appear
5 to fall over from being sleepy or intoxicated in
6 any way. That would be a question of the weight of
7 the statement, not the admissibility of the
8 statement for you to argue to the jury.

9 Also, in reviewing each of the Miranda
10 forms, the Defendant was provided the Miranda
11 warnings and agreed to talk to law enforcement and,
12 therefore, his statements are voluntary and will be
13 submitted to the jury.

14 And, of course, certain -- both sides
15 are aware of the Supreme Court opinion which came
16 out last -- this past September, the *State verses*
17 *Miller* case where it's the recognition of the
18 voluntariness is a legal question and it's
19 unnecessary going forward for the trial courts to
20 submit the question of voluntariness to the jury.

21 The parties that may still challenge
22 the confessions reliability during the course of
23 the trial; however, the voluntariness issue would
24 be a legal question for the court to determine
25 based upon the totality of the circumstances and I

1 do find that he was given his Miranda rights and
2 each of the statement was voluntary in nature.

3 Now let's move to the portions of the
4 videos that are to be admitted as far as the court
5 is concerned. I have concerns regarding the
6 polygraph testing being introduced as evidence.
7 And the, State, what is your position as to that I
8 would find that that testimony would not be
9 admissible, but I will allow both parties to argue
10 their positions on that.

11 MS. HUNTER: Your Honor, yes. We would
12 be providing a redacted version of the statement
13 from that statement that occurred on December 13th
14 of 2019 with Investigator Carrigg. Your Honor, at
15 the very end of the first statement there is
16 mention of going to take a polygraph and we would
17 be ending the video before any mention of the
18 polygraph. Because under our court's rules, I
19 think it would be error to allow in any mention of
20 the polygraph. I think it confuses the jury and
21 we're asking for it to not be allowed.

22 THE COURT: Ms. Cornwell?

23 MS. CORNWELL: Thank you, Your Honor.
24 May it please the Court. The issue of the
25 polygraph as Your Honor is aware was brought up in

1 *State v. Wright*. In that case, the appellant,
2 Mr. Wright, wanted to get into the fact that he
3 agreed to submit to a polygraph, but did not want
4 the results of the polygraph to come in. The court
5 in *Wright* did find that, you know, because the
6 appellant did not suggest at trial nor appeal what
7 limitation could have been placed on the disclosure
8 limit the prejudice that they agreed with the trial
9 courts not allowing any evidence of polygraph into
10 evidence.

11 However, in that court, they did
12 caution that officers encouraging conduct regarding
13 polygraphs and the fact that, you know, those are
14 -- those do go to the reliability, the
15 trustworthiness and the weight of the confession.
16 That when it comes to voluntariness and the
17 reliability of those confessions, based on
18 information given, once a client -- or once a
19 defendant has been told that he failed a polygraph
20 can be problematic.

21 In *State v. Samuel* which is the
22 appellate court case that I just gave the court
23 this morning, that is a case where the trial court
24 judge determined that a statement was voluntary.
25 However, upon argument of defense counsel, it

1 indicated that the only part of the statement that
2 will be allowed to come in is that the officer
3 Mirandized him. Based on that statement after the
4 Mirandizing where the investigator says, you know,
5 you lied, you failed on a polygraph, that is
6 ultimately what was prompted the confession in that
7 case.

8 When defense counsel argued, well, we
9 want the evidence that he agreed to take a
10 polygraph to come into evidence, but we can't get
11 into that because of the inadmissibility of the
12 polygraph, you know, we have a problem with that
13 and the trial court agreed with the defense at the
14 time and precluded the statement from coming in at
15 all.

16 The Court of Appeals indicated that
17 that was error in the trial court's reliance on the
18 assertion that the polygraph evidence per se
19 inadmissible. What they specifically state is
20 that, you know, the trial court does not abuse its
21 discretion in admitting the post-polygraph
22 confession into evidence. Although, appellant's
23 polygraph results showed deception, he wanted to
24 admit it to show his post-polygraph confession was
25 not voluntary beyond a reasonable doubt.

1 And while recognizing the authority
2 against admitting the evidence of the polygraph
3 examinations and the potential prejudice the
4 appellant, the court indicated some flexibility to
5 the general rule and stated that the appellant did
6 suggest at trial nor on appeal what limitation
7 could have been placed on disclosure to limit
8 prejudice to the appellant.

9 Without some limitation, the only
10 inference the jury could have reasonably drawn from
11 learning appellant's confession was followed
12 closely after a deceptive polygraph was that the
13 confession was truthful and that the answers in the
14 polygraph were untruthful. And that would have
15 served to bolster the appellant's confession rather
16 than persuade the jury to the alleged coercion.

17 They further indicated that after
18 suggesting in *Wright* the polygraph evidence could
19 potentially be admissible in trial if sufficient
20 safeguards were in place to limit the possible
21 prejudice to the defendant. The Supreme Court
22 further explained in *Council* that the results of
23 the polygraph examination are generally not
24 admissible because of the reliability is
25 questionable. But in light of the adoption of the

1 South Carolina Rules of Evidence admissibility of
2 polygraph evidence should be analyzed under Rule
3 702 and 403 and the *Jones* factors.

4 Based on that, they found that the
5 statement of polygraph evidence is per se
6 inadmissible is incorrect and the trial court
7 should conclude an analysis pursuant to *Council* to
8 determine the evidence *Finney* and then also do the
9 403 analysis.

10 In this case, there is an abundance of
11 evidence that my client willingly submitted to a
12 polygraph. That he gave a statement denying any
13 knowledge that anything that had happened to this
14 girl after he fell asleep. That he was asked if he
15 would take a polygraph. For the purpose of him
16 giving a polygraph was an interrogation tactic.
17 That he volunteered. He went up. He was given a
18 polygraph for over two hours. And then after over
19 two hours of giving this polygraph, he was told
20 that he failed the polygraph.

21 The results of the polygraph that he
22 indicates -- that were indicated that he failed
23 were simply two questions, do you know where Cara
24 is now? No. Do you know for sure where Cara is
25 now? No. Yet he was not given any of that

1 information, he was basically just told you failed
2 the polygraph. He was then taken back to law
3 enforcement where he was continued to be
4 interrogated. He was given DNA samples and asked
5 to consent to searches of his home and his vehicle.
6 He voluntarily does all of that.

7 While he's at the house, still in
8 custody of law enforcement, at some point law
9 enforcement finally tells him, we know where she
10 is, she's in the morgue. She's dead. That he is
11 shocked by this and from there, I think there's
12 going to be some testimony or some disagreement on
13 exactly what was said to him after because he says,
14 you know, well, what happened? And I believe we
15 would be able to present testimony at that point he
16 was told, she was strangled, beaten and dumped in
17 the woods.

18 That from there, he is taken inside his
19 home where he has to give photographs of injuries
20 -- or alleged injuries to assist in the
21 investigation of this. And that's where the
22 scratch marks come in and he indicates, you know,
23 the cat scratched me.

24 He then goes to work the next morning.
25 He walks there after not sleeping all night because

1 he is in shock from this realization that this poor
2 girl is dead. He talks to a manager. Tells his
3 manager that he's not going to be able to work
4 today and that he probably won't be back. The
5 statement from is that he says, well why? And he
6 says, well, Orangeburg County took me to take a
7 polygraph and DNA and I didn't do well. And then
8 the question is, well, why didn't you do well? And
9 at that point he says, I did it and he gives the
10 statement to Mr. Lauder.

11 Mr. Lauder indicates that my client was
12 -- came across as duressed. That he was very upset
13 and that at that point Mr. Lauder tells him, well,
14 you need to call and confess. And my client's
15 statement at that time was, well, I need to wait
16 until the DNA comes back. Once the DNA comes back,
17 then I'll know, then I'll confess.

18 So, again, he is -- it shows that he is
19 waiting on some evidence to support what he now
20 believes could possibly be true after being told
21 from law enforcement that he's failed a polygraph,
22 that they're going to get his DNA, that, you know,
23 they're going to prove these injuries that he's the
24 one that did this.

25 Based on that, I believe that it is

1 incumbent that all of his statement comes in
2 including the fact that he willingly agreed to a
3 polygraph, that he took the polygraph, that he was
4 told he failed the polygraph and it wasn't until
5 after he was told he failed the polygraph that he
6 was informed that she was dead and the
7 circumstances that surrounded her death.

8 I think that in *Wright* there was no
9 reasonable alternative to the jury. In this case,
10 what I have submitted to the Court is that I want
11 everything to come in. And if that means that the
12 State wants to put up the polygraph examiner to
13 testify and to tell the results of the polygraph, I
14 don't have a problem with that. In fact, I would
15 like for that to be the case. I think that under a
16 403 analysis, it does not -- it is extremely
17 relevant particularly when it comes to the
18 reliability and trustworthiness of this statement.
19 The fact that it's an interrogation tactic and the
20 fact that, you know, that polygraph was initially
21 told to him as a failure and that's kind of what
22 prompted the disclosures.

23 That based on the fact that there is no
24 prejudice to the State, we are stipulating that
25 there's no prejudice to my client. It's relevant.

1 It is, you know, not going to be confusion of the
2 facts of the jury because what it's going to show
3 is that why, one, he was in custody for ten hours.
4 The jury sees 49 minutes of an investigation and
5 they're left to wonder, well, what else is going on
6 in this nine other hours that he is with law
7 enforcement, you know.

8 We have to be able to explain, well, he
9 was driven an hour to Columbia. He's done a two
10 hour polygraph. He's driven an hour back. He's
11 remaining in police custody this whole time. These
12 are interrogation tactics they're using. He's
13 being told the results of these interrogation
14 tactics to try to lead to a confession. Then he's
15 told he's got to give DNA. His got to give all
16 this other stuff. That all of that information is
17 going to assist the trier in fact in understanding
18 why he's with law enforcement for so long.

19 The fact that he was more than willing
20 to submit to these things. That he was cooperative
21 and that the results of the polygraph that were
22 given to him are misleading and deceptive. Because
23 after two hours of a polygraph and the only two
24 questions that even showed attempted deception are
25 whether or not he knows where she is. That that

1 will go to assist the trier in fact in the fact
2 that this evidence was -- that he didn't just
3 suddenly come up to his coworker and say, hey,
4 guess what? I did it.

5 That he responded after being
6 questionable why, you know, why don't you think
7 you're going to be able to work here anymore?
8 Well, because I took a polygraph and they're
9 getting DNA and I didn't do well. You know, well,
10 why didn't you do well? I did it. I think that it
11 will help assist the trier of facts in
12 understanding why he would make this statement to
13 his coworker. It also indicates why he is giving
14 the confession that he does to law enforcement.

15 The vulnerability and the vulnerable
16 state he was in. We have a witness that's going to
17 testify regarding these statements and how these
18 statements can come about and the reliability and
19 the trustworthiness of them based on information
20 that's being told to these people in a moment of
21 vulnerability such as when alcohol is used, such as
22 when sleep deprivation is involved, that being
23 given information such as the fact that they failed
24 a polygraph can have a strong indication of what
25 prompts these false confessions.

1 Given that that is our trial strategy,
2 that that is what we need to be able to put in
3 front of the jury to explain to the jury the
4 trustworthiness of the statement, the reliability
5 of the statement and how the statement actually
6 came about is relevant. It is not confusing the
7 issues and it is assisting the triers of fact which
8 is that 403 analysis.

9 I believe the State according to *Wright*
10 indicates that it's not inadmissible just because
11 it's a polygraph particularly when looking at the
12 *Council* factors, looking at the 403 analysis, that
13 it would assist the trier in fact, it is not going
14 to be prejudicial against my client, in fact, it's
15 going to bolster his defense in the statement as to
16 why he would give this, what the State is going to
17 say is an uncoerced confession to a coworker as
18 well as to law enforcement the very next day.

19 Again, we think that the reasonable
20 alternative and the limitation is that, you know,
21 instead of just saying, oh, well, he submitted to a
22 polygraph and not getting any of the results are
23 not, you know, saying anything, that we allow it
24 all to come in and that way the jury can hear
25 everything in his entirety, they can make the

1 consideration of whether or not they believe in the
2 trustworthiness and the reliability of the
3 statement after the interrogation tactics given by
4 police. To say that polygraphs are inadmissible
5 per se is not correct and that was in *State v.*
6 *Samuel*. And to say that you can't provide any
7 evidence of a failed polygraph is volitive of my
8 client's rights to a complete defense.

9 In this case, by not allowing him to
10 present this evidence of polygraph and how it can
11 be factored into this confession that he gave is
12 not allowing him to present a complete defense on
13 the reliability and the voluntariness of the
14 statement. That by allowing law enforcement to
15 continue to give these polygraph examinations in
16 criminal investigations and then say, but you can't
17 bring it in to court in any way to show
18 voluntariness, to show anything, well, that's
19 problematic in and of itself.

20 If the court's not going to allow any
21 conversation or any discussion about polygraphs to
22 come into a court in front of a jury at anytime
23 then law enforcement should be prohibited from
24 using that type of interrogation tactic. Because
25 my client should be able to defend against this

1 type of interrogation tactic. The way we do that
2 in this case, when you examine on a case by case
3 basis under the 403 and 702 is that, you know,
4 there is no prejudice to the State, there's no
5 prejudice to my client.

6 It gives the trier of fact the ability
7 to examine all of the evidence in the case.
8 Everything's prompted this alleged confession.
9 Everything that led up to this confession. The
10 length of time that he was in law enforcement's
11 custody. The fact that, you know, these statements
12 that he made came after this lengthy interrogation.
13 And based on that, the limitation is that the State
14 gets to show -- to put the polygrapher on the
15 stand, the State gets to introduce the results of
16 the polygraph and we get to make our arguments from
17 there.

18 So there is no prejudice. It does not
19 come under *Wright* where the court said, well, you
20 didn't give us any options. Here we're giving you
21 the option. We're saying bring it on. Let's put
22 it all in and it's going to assist the trier of
23 fact. We can make our arguments to the jury.
24 They'll have a full detail of exactly what happened
25 in this case and they'll be able to make their

1 ruling based on all of the facts of the case and
2 not just some of the facts.

3 So, again, there's no prejudice. It
4 falls under the admissible standards and the 403
5 analysis as well as the 702. Everything can come
6 in and we do not want anything to be redacted
7 because we do want to be able to ask about the
8 polygraph.

9 THE COURT: Any response?

10 MS. HUNTER: Yes, Your Honor. Your
11 Honor, I emailed the Court copies of *State v.*
12 *Wright* and *State v. McGuire*. In *Wright*, the
13 defense sought the admission of the polygraph and
14 this failure to that exam to show that he -- that
15 the confession was voluntary, that was their
16 attempt.

17 Your Honor, the differences in this are
18 that, you know, she's talking about that there --
19 that the Defendant was interrogated after the
20 polygraph. Well, that's not correct, Your Honor.
21 He came back and gave a buccal swab and the search
22 warrant. But, I mean, the conversation that he has
23 where he eventually confesses is not until after he
24 has gone into the IGA where he works and told a
25 coworker about it. I don't believe anyone at the

1 IGA interrogated him. And then after they report
2 to law enforcement, he comes into law enforcement
3 and that is where he then gives a confession. So
4 it's not like polygraph, immediately taken back for
5 another round with law enforcement and the
6 confession comes at that point in time.

7 Your Honor, he was not under arrest at
8 the time of the polygraph. He had not been
9 arrested. I understand they're saying that he was
10 -- that he kept on being interrogated and he was in
11 custody and all these -- that he was there for a
12 substantial amount of time. However, Your Honor,
13 he was not under arrest.

14 Ms. Cornwell's referring to the *Samuel*
15 case. Your Honor, that is not about the underlying
16 merits. That case is about whether or not the
17 decision is immediately appealable.

18 Further, Your Honor, there's no -- she
19 also continues talking about how he was under
20 duress, that is when he was talking to the
21 coworker, that is not our understanding of the
22 facts. And when she talks about that he says that
23 when the DNA comes back that's when he will
24 confess. His DNA does come back underneath her
25 fingernails. And, Your Honor, he confesses before

1 those results, before they get DNA analysis
2 obviously.

3 THE COURT: All right. Thank you,
4 Counsel. Considering the arguments that have been
5 presented to the Court; first, Ms. Cornwell, you
6 discussed the trustworthiness of his statements, I
7 should have addressed that earlier, the
8 trustworthiness of the statements. They are
9 corroborated by the evidence of what is ultimately
10 would be evidence in this case. So the
11 trustworthiness of his statements are sufficient to
12 be admissible at least at this juncture upon proper
13 showing when the testimony comes up.

14 And in considering whether or not to
15 admit the polygraph examination results, the court
16 must consider a 702 analysis. In the *Samuel* case,
17 the issue again was interlocutory appeal, but also
18 the fact that the court deemed that polygraph
19 examination and testimony was per se and admissible
20 without following through with the 702 analysis.

21 In looking at the 702 analysis, the
22 court must look at the existing evidence which was
23 presented to the court. And regarding the
24 testimony regarding polygraph examinations, whether
25 or not such testimony would help the trier of fact,

1 whether it's based on sufficient facts or data and
2 whether it's the product of reliable principles and
3 methods and whether those principle and methods are
4 reliably applied.

5 In this case, there's been no such
6 testimony that would present to this court that
7 such testimony is reliable, that it is based upon
8 and supported sufficiently by scientific, technical
9 or other reliable specialized knowledge and it
10 would not assist the trier of fact to determine an
11 issue in fact in this case because it's not based
12 on sufficient facts and data.

13 Further, in looking at the 403
14 analysis, I find that the testimony of the
15 polygraph examination would be more prejudicial
16 than probative and would confuse the issues before
17 the jury. Again, I do find that this case is
18 analogous to the *State verses Wright* opinion and
19 that it would possibly bolster the confession of
20 the Defendant. You are certainly free to argue to
21 the jury that the Defendant cooperated with the
22 State in giving his statements if that is your
23 trial strategy. However, the 403 analysis, I do
24 not find that it would be more probative than
25 prejudicial in that matter.

1 Further, in the case of -- in *State*
2 *verses Council*, the US Supreme Court was cited and
3 it found that per se rule against admission of
4 polygraph evidence does not violate the Defendant's
5 right to present relevant evidence in his defense
6 as guaranteed by the United States Constitution.
7 So that portion of the video will be redacted. And
8 your witnesses are to be advised not to mention the
9 polygraph examination.

10 MR. SCOTT: Thank you, Your Honor.

11 THE COURT: All right. It is 1:45 now,
12 we have the issue of the pictures?

13 MS. HUNTER: With the pictures, we have
14 one.

15 MR. SCOTT: We thought we could take
16 the pictures up at the end of the day because I
17 don't think we'll get to those today.

18 THE COURT: Okay.

19 MS. HUNTER: And, Your Honor, we do
20 have one other issue. It's not something that
21 we're going to come across today hopefully either.
22 But when the victim's body went for pathology, they
23 took some swabs of the victim's thighs, they took
24 some fingernail clippings and a CSC kit. When the
25 evidence all was transferred, it inadvertently --

OPENING STATEMENT BY MR. SCOTT

1 MS. CORNWELL: No, Your Honor.

2 THE COURT: Solicitor, you may proceed.

3 MR. SCOTT: May it please the Court?

4 THE COURT: Yes, sir.

5 MR. SCOTT: Ms. Cornwell.

6 OPENING STATEMENT

7 BY MR. SCOTT:

8 In December of 2019, 35-year old Cara
9 Hodges was strangled to death by that man, Kenneth
10 Eastwood. And after he strangled Cara Hodges, he
11 dumped her body in the woods and left her there to
12 rot. Now what the State of South Carolina is
13 asking you to do this week is hold that man
14 accountable and responsible for his actions in
15 December of 2019.

16 And as you've heard, my name is Tommy
17 Scott, I'm the deputy solicitor here in Orangeburg.
18 Seated at the State's table, two of our assistants,
19 Catherine Hunter and Mark Hinds. Seated behind the
20 State's table are several family members of Cara
21 Hodges. And I point them out to you today, ladies
22 and gentlemen, because just as today is Mr.
23 Eastwood's day in court, it's also Cara Hodges'
24 family's day in court.

25 Now, before we talk anymore about the

OPENING STATEMENT BY MR. SCOTT

1 facts in this case, I want to briefly talk about a
2 couple of points of law and I promise to be brief.
3 Because at the end of the trial, Judge Murphy is
4 going to instruct you on what the law is. And it
5 goes without saying, that if anything I say differs
6 from what Judge Murphy tells you, you take the law
7 according to Judge Murphy. Because just as you are
8 the sole finders of fact in this case, Judge Murphy
9 determines the law.

10 The first point of law I want to talk
11 about is what the Defendant's been charged with,
12 murder. And while murder might be the most heinous
13 crime a person can commit, it has one of the
14 shortest and simplest definitions of any crime on
15 our books. Murder is the unlawful killing of
16 another with malice aforethought either expressed
17 or implied. That's it. The unlawful killing of
18 another with malice aforethought either expressed
19 or implied.

20 And the key to that phrase, ladies and
21 gentlemen, is the word "malice" and malice has
22 multiple definitions. Malice can be a depraved
23 heart. A person bent on mischief. An intent to do
24 serious bodily injury. That's what malice is. And
25 there's no time limit for malice. All it has to do

OPENING STATEMENT BY MR. SCOTT

1 | is exist right before the act is committed.

2 | Premeditation is not an element of murder.

3 | The last point of law I want to talk
4 | about is the burden of proof in this case. The
5 | State, as in all cases, has the burden of proof.
6 | It's the State's responsibility to prove the
7 | Defendant guilty. We must convince you, the jury,
8 | of the Defendant's guilt and we must convince you
9 | by proof beyond a reasonable doubt. And that means
10 | exactly as it sounds. It's not proof beyond all
11 | doubt, it's not proof beyond any doubt, it's proof
12 | beyond a reasonable doubt.

13 | And what that means is after hearing
14 | all the evidence, if you are firmly convinced of
15 | the Defendant's guilt, then it's your
16 | responsibility to find him guilty. And, likewise,
17 | if you're not firmly convinced of the Defendant's
18 | guilt, it's your responsibility to find him not
19 | guilty. I submit after hearing all the evidence in
20 | this case, you will be much, much more than just
21 | firmly convinced of Mr. Eastwood's guilt.

22 | Let's talk about a few of those facts
23 | just to kind of give you a roadmap of where we're
24 | going. As I told you the victim's name, Cara
25 | Hodges, she was 35 years old. She was from North

OPENING STATEMENT BY MR. SCOTT

1 Carolina. She had come down to Eutawville, South
2 Carolina to visit with her father. You'll probably
3 hear evidence that she didn't have the best
4 relationship with her father, but she came down to
5 visit him. Probably had been in town for about a
6 week. Her father, Mr. Kenneth Horner, who is no
7 longer with us, he liked to go to a bar in
8 Eutawville or outside of Eutawville called
9 Fishtales.

10 And while Ms. Hodges was in town in
11 Eutawville visiting with her father, she and her
12 father would go to Fishtales. Mr. Kenneth Eastwood
13 goes by the nickname "KC," he would also go to
14 Fishtales. On Sunday, December 8, 2019, Cara and
15 her father went to Fishtales. At some point her
16 father left, Cara began hanging out with the
17 Defendant, Kenneth Eastwood. They had something to
18 drink, probably too much to drink, and at some
19 point that night, the two of them left Fishtales
20 together. Cara Hodges would never be seen again
21 alive.

22 Two days later on that Tuesday, Cara
23 Hodges' father reports her missing to the sheriff's
24 office. Two days after that on Thursday, Cara
25 Hodges' body is found in a wooded area outside of

OPENING STATEMENT BY MR. SCOTT

1 Eutawville. She's naked and her body is literally
2 there rotting.

3 Police respond that Thursday to where
4 Ms. Hodges' body has been found. There are
5 witnesses who say that she was last seen leaving
6 Fishtales with Mr. Eastwood, so they go looking for
7 Mr. Eastwood that Friday. They find Mr. Eastwood.
8 Mr. Eastwood's cooperative. He says, yeah, I'll
9 talk to you about Cara Hodges. And they go to
10 Orangeburg County Sheriff's Office and Mr. Eastwood
11 gives a statement. Keep in mind, police have not
12 told him that Cara Hodges is dead. They say we're
13 looking for Cara Hodges.

14 The Defendant, he gives a statement, a
15 video statement. That's what, this is now Friday,
16 December 13th, she was last seen alive that Sunday,
17 so now Friday, December 13th. And at the
18 conclusion -- or he's interviewed and the Defendant
19 says, I left the bar with her. We went back to my
20 house. I woke up and she was gone. That's what he
21 tells law enforcement. He agrees to give a DNA
22 sample to law enforcement and they take him back
23 home to his house. We're now into that Friday
24 night.

25 Well, police also get a search warrant

OPENING STATEMENT BY MR. SCOTT

1 for his house. And when they take him back home,
2 they're serving that search warrant. And they kind
3 of have to stay outside while the police are, you
4 know, doing their thing, taking pictures, whatever.
5 The Defendant continues to deny knowing where Ms.
6 Hodges is. And, finally, the investigator says, we
7 know where she is, she's in the morgue. They never
8 tell her -- tell him how she died. That she was
9 strangled. They never tell him where she was
10 found. In the woods. But they leave the Defendant
11 that night. They leave him at his home. And the
12 police leave.

13 The next morning, Mr. Eastwood, he goes
14 to his place of employment, the IGA grocery store,
15 and he tells his supervisor, I won't be in to work
16 today. In fact, I probably won't be in anytime in
17 the future. And the supervisor says, why? And the
18 Defendant tells the supervisor, I'm being
19 investigated for that girl that's missing. And the
20 supervisor says, well, why would they be
21 investigating you? Why are they -- why are they
22 after you? And he tells the supervisor, because I
23 did it. I strangled her and dumped her body.

24 The Defendant then leaves the IGA. The
25 supervisor calls law enforcement. Law enforcement

OPENING STATEMENT BY MR. SCOTT

1 responds. They meet with that supervisor. And
2 then they go and they get a murder warrant for the
3 Defendant, Mr. Kenneth Eastwood. And later that
4 same day, they arrest Mr. Eastwood. They take him
5 to the same interview room he was in the day
6 before. They advise him of his Miranda rights.
7 They take a statement from him. And he tells law
8 enforcement, on video, I did it. I choked her.

9 That's just some of the evidence you're
10 going to hear in this case. As jurors, we only ask
11 that you do a few things. Listen to the evidence
12 as you hear it from this witness stand. At the end
13 of the trial, listen to the law when Judge Murphy
14 instructs you on the law. And then when it's time
15 for you to deliberate, use your common sense and
16 reach a verdict that tells us what happened to Cara
17 Hodges. And I submit that if you do those things,
18 you will find the Defendant, Kenneth Eastwood, is
19 guilty of murder. Thank you.

20 THE COURT: Counsel?

21 MS. CORNWELL: Thank you, Your Honor.
22 May it please the Court?

23 THE COURT: Yes, ma'am.

24 OPENING STATEMENT

25 BY MS. CORNWELL:

OPENING STATEMENT BY MS. CORNWELL

1 Beyond a reasonable doubt. That's the
2 burden of proof that the State is required to prove
3 their case to you. Beyond a reasonable doubt and
4 they're not going to be able to do that. The judge
5 is going to instruct you at the end of this case
6 exactly what beyond a reasonable doubt means. And
7 as Mr. Scott said, if there's anything that I tell
8 you that is different from what the judge tells you
9 on the law, you should always listen to the judge
10 on the law.

11 But what the judge is going to advise
12 you on the standard of beyond a reasonable doubt is
13 that reasonable doubt and proof beyond a reasonable
14 doubt is something that leaves you firmly convinced
15 in a person's guilt. And if you are not firmly
16 convinced, if you think that there could be another
17 possibility, that it could be possible that Mr.
18 Eastwood did not commit this crime, then you must
19 resolve that doubt in Mr. Eastwood's favor and find
20 him not guilty. Because that's what he is. He's
21 not guilty of murdering Cara Hodges.

22 And Mr. Eastwood sits at this table
23 today an innocent man. And he will continue to sit
24 at that table throughout this trial an innocent
25 man. Unless at the end of this trial, you go back

OPENING STATEMENT BY MS. CORNWELL

1 in your juror room to deliberate and after hearing
2 all the testimony from the stand and reviewing all
3 the evidence that's presented to you, you are
4 convinced beyond a reasonable doubt that the State
5 has met their burden of proof in proving to you
6 that Kenneth Eastwood killed Cara Hodges on
7 December 8, 2019. But they're not going to be able
8 to do that.

9 There are two things that the State
10 said in their opening statement that I agree with.
11 One, is that Cara Hodges was brutally murdered.
12 She was brutally murdered. She was strangled. She
13 was dumped in the woods and she was left to rot.
14 The other thing is that, yes, my client said he did
15 it. So why are we hear? Well, the reason that
16 we're here is because, again, Mr. Eastwood is an
17 innocent man. He came before you today and said he
18 was not guilty, that he did not commit this crime.

19 And during the course of this trial,
20 you're going to get to hear testimony about this
21 interrogation that police put on this 68-year old
22 man. And the tactics that they used and the length
23 of time that they kept him. And the things that
24 were said to him. Some things you'll get to see on
25 video. Most you won't. Because those are the

OPENING STATEMENT BY MS. CORNWELL

1 | things that they don't want you to see.

2 | You're then going to get to review
3 | evidence. Forensic evidence, DNA evidence, autopsy
4 | evidence. None of that forensic evidence is going
5 | to point to my client. Because Mr. Eastwood did
6 | not kill Cara Hodges. During the course of their
7 | investigation, law enforcement spoke to my client
8 | and talked to him for hours, upon hours, upon
9 | hours. They fed him information. They took
10 | advantage of him when he was in a vulnerable state
11 | or he couldn't trust his memory, so instead, he
12 | trusted law enforcement.

13 | And at the end of this interrogation,
14 | they take him home and they show him that they're
15 | searching his home and that they're taking pictures
16 | of him and they're taking buccal swabs of him and
17 | after all this, they leave him. And then the next
18 | day they come and arrest him and he gives this
19 | statement.

20 | It's going to be up to you to listen to
21 | the statement. To the details that are given or
22 | the lack of details given and to use your common
23 | sense as to whether or not what he says he did,
24 | makes sense. Matches the evidence is even
25 | possible. And I'm going to submit to you that it

OPENING STATEMENT BY MS. CORNWELL

1 | does not. And when you hear all the testimony and
2 | you see all the evidence and you apply your common
3 | sense in what you know what happened in the real
4 | world, what you know is possible, you're going to
5 | see that the evidence does not match the statement.

6 | Well, Ashley, why would somebody say
7 | that they did something if they didn't do it?
8 | There are a lot of reasons and you're going to get
9 | to hear about some of those reasons. You're also
10 | going to get to see some of the interviews and some
11 | of the tactics that law enforcement used. And
12 | you're going to see how that time a 68-year old
13 | man, someone who trusted law enforcement, someone
14 | who is vulnerable and can't necessarily trust their
15 | own memories because of alcohol and because of
16 | other factors would acquiesce to what he's been
17 | told and will give them the statement that they
18 | want to give.

19 | And once law enforcement gets this
20 | statement you're going to hear, that's the end of
21 | it. Case closed. They're not going to look any
22 | further. They're not going to look at any other
23 | evidence. Not going to look into any other
24 | suspects. They've got the confession that they
25 | wanted and they're done.

OPENING STATEMENT BY MS. CORNWELL

1 There is actually a third thing that I
2 agree with what the State said and that that is not
3 only is this Mr. Eastwood's day in court, but it is
4 the family of Cara Hodges day in court. And Cara
5 Hodges deserved better than what law enforcement
6 gave her. They took a complaint, they found a
7 suspect, they convinced the suspect to confess and
8 they closed the case. They didn't consider
9 anything else that could be possible. They were
10 done. And that's what the State wants you to do.
11 The State wants you to sit here and hear that he
12 said he did it, so he must have done it, so we'll
13 find him guilty and we'll go home.

14 That's not justice. That's not justice
15 for Cara and it's certainly not justice for Mr.
16 Eastwood. Because Mr. Eastwood did not kill Cara
17 Hodges. And despite the testimony that may say
18 that he did, the evidence is going to be presented
19 to you is going to show that he could not have
20 committed this crime and that he did not commit
21 this crime. And this statement that they're
22 wanting you to rely so heavily on was a falsely
23 made confession as a result of interrogation
24 tactics and vulnerabilities of my client, they
25 tricked him into making a statement that was not

OPENING STATEMENT BY MS. CORNWELL

1 true.

2 And once you've heard the evidence --
3 once you've heard the testimony and seen the
4 evidence and applied your every day knowledge and
5 your common sense to what you've seen and what
6 you've heard, I am confident that you will agree
7 with me that Mr. Eastwood could not have been the
8 person that killed Cara Hodges. And as a result,
9 you're going to have no choice but to find the
10 State has failed to meet their burden of proof,
11 they failed to prove beyond any doubt, let alone a
12 reasonable doubt, that Mr. Eastwood at 68 years old
13 killed 35-year old Cara Hodges and you will have no
14 choice but to find him not guilty. Because that's
15 what he is, he is not guilty of killing Cara
16 Hodges.

17 THE COURT: You may call your first
18 witness.

19 MR. SCOTT: Thank you, Your Honor.
20 State calls Jean Burns.

21 THE CLERK: State your name for the
22 record.

23 MS. BURNS: Jean Burns.

24 JEAN BURNS,
25 being first duly sworn, was examined and testified

JEAN BURNS - DIRECT EXAMINATION BY MR. SCOTT

1 as follows:

2 THE COURT: You may have a seat, ma'am.

3 Thank you. Your witness.

4 MR. SCOTT: Thank you.

5 DIRECT EXAMINATION

6 BY MR. SCOTT:

7 Q. Good afternoon.

8 A. Good afternoon.

9 Q. Tell the jury where you're from.

10 A. Where I'm from or where I work?

11 Q. Where you're from?

12 A. I am from Eutawville, South Carolina.

13 Q. Okay. And back in December of 2019,
14 where were you working?

15 A. JB Fishtales.

16 Q. JB Fishtales?

17 A. Yes.

18 Q. Okay. And what is Fishtales?

19 A. It's a bar.

20 Q. It's a bar?

21 A. It is.

22 Q. Okay. And where is Fishtales located?

23 A. Eutaw Springs off of Old Highway 6.

24 Q. Okay. And how long have you worked at
25 Fishtales?

JEAN BURNS - DIRECT EXAMINATION BY MR. SCOTT

1 A. Almost ten years.

2 Q. And what do you do at Fishtales?

3 A. I'm a bartender.

4 Q. Okay. And I just want to show you a
5 picture. I want to show you what's been marked as
6 State's Exhibit 7. Do you recognize that?

7 A. I do.

8 Q. And what is that?

9 A. That's the bar.

10 Q. Is that a fair and accurate depiction
11 of Fishtales?

12 A. It is.

13 MR. SCOTT: We'd ask that State's
14 Exhibit 7 be admitted into evidence.

15 MS. CORNWELL: No objection.

16 THE COURT: All right. It's in.

17 (WHEREUPON, State's Exhibit Number 7
18 was entered.)

19 MR. SCOTT: Can I publish it, Your
20 Honor?

21 THE COURT: Yes, sir.

22 Q. You said this was located on Old
23 Highway No. 6?

24 A. It is.

25 Q. Okay. What days of the week was

1 | Fishtales open back in December of 2019?

2 | A. We were open seven days a week.

3 | Q. And do you recall the general hours of
4 | operation?

5 | A. It was normally 11 to 12 through the
6 | week and 11 to probably 2, 2:30 on the weekends.

7 | Q. And does Sunday count as a weeknight or
8 | weekend night?

9 | A. A weekend.

10 | Q. So it would have been open until 2 or 3
11 | on Sunday?

12 | A. Yes.

13 | Q. Okay. And how many days a week did you
14 | typically work?

15 | A. In 2019, I worked pretty much every
16 | day.

17 | Q. Okay. All right. Back in December of
18 | 2019, did you know the Defendant, Kenneth Eastwood?

19 | A. I did.

20 | Q. Okay. And how did you know him?

21 | A. He was a patron that came into the bar
22 | on a regular basis.

23 | Q. Okay. And what name did you know him
24 | by?

25 | A. KC.

JEAN BURNS - DIRECT EXAMINATION BY MR. SCOTT

1 Q. KC. And how long do you think you had
2 known the Defendant prior to December of 2019?

3 A. About five years.

4 Q. And how often would you see the
5 Defendant?

6 A. Pretty much every day.

7 Q. Would you see him anywhere other than
8 Fishtales?

9 A. No. Well, the IGA that was up at the
10 corner, the grocery store.

11 Q. The IGA grocery store?

12 A. Yes.

13 Q. And why would you see him there?

14 A. He was employed there.

15 Q. He worked there?

16 A. Yes.

17 Q. And back in December of 2019, did you
18 know where the Defendant lived? What street he
19 lived on?

20 A. I did. It was Gardensgate.

21 Q. Gardensgate. Okay. Do you know who he
22 lived there with?

23 A. As far as I know he was there by
24 himself.

25 Q. And you said the Defendant worked at

1 the IGA?

2 A. Yes.

3 Q. And that's in Eutawville?

4 A. It is.

5 Q. Do you know what he did there?

6 A. He was a stocker.

7 Q. Okay. Back in December of 2019, did
8 you know Ken Horner?

9 A. I did.

10 Q. And who is Mr. Horner?

11 A. Mr. Horner was a good friend. He was
12 also a patron -- a regular patron that came in.

13 Q. And how often would he come to
14 Fishtales?

15 A. He was there every day as well.

16 Q. And do you know where he lived?

17 A. He lived off of Rodeo.

18 Q. That's a street in Eutawville?

19 A. Yes, it is.

20 Q. Is Mr. Horner still alive?

21 A. No, he's not.

22 Q. Were the Defendant and Mr. Horner
23 friends back in December of 2019?

24 A. Yes.

25 Q. Back in December of 2019, did you have

1 the opportunity to meet Mr. Horner's daughter, Cara
2 Hodges?

3 A. I did.

4 Q. And when did you first meet her?

5 A. It was on a Friday.

6 Q. And do you know where she was from?

7 A. All I knew she was from North Carolina.

8 Q. And do you know why she came to
9 Eutawville?

10 A. I can tell you why she told me she
11 came.

12 Q. Well, we can't get into what other
13 people say.

14 A. Right.

15 Q. Do you know how long she had been in
16 town?

17 A. She had just arrived that afternoon or
18 that morning, of Friday.

19 Q. And can you describe Cara like how tall
20 she was? How much you think she weighed? What
21 color hair she had?

22 A. She had red hair. She was probably
23 between 5'1" to 5'2". Very petite. Maybe 110, 115
24 pounds.

25 Q. All right. Let me turn your attention

1 to Sunday, December 8, 2019. Were you working that
2 day?

3 A. I was.

4 Q. Did you see Mr. Horner and his daughter
5 there at Fishtales that day?

6 A. I did.

7 Q. Did they arrive together?

8 A. They did.

9 Q. And when they arrived was Mr. Eastwood
10 there?

11 A. No.

12 Q. Did Mr. Eastwood come in later?

13 A. Yes.

14 Q. And at some point, did the Defendant
15 and Cara Hodges begin to interact?

16 A. Yes.

17 Q. And can you just kind of tell the jury
18 what you saw them doing?

19 A. They were just basically kind of having
20 a conversation, talking, you know, discussing at
21 that point going to get something to eat.

22 Q. And what time would this have been on
23 that Sunday do you think?

24 A. That probably would have been between 3
25 and 4.

1 Q. Okay. And prior to that day, had you
2 ever seen Cara and the Defendant talking?

3 A. No.

4 Q. Okay. And so were they drinking inside
5 of Fishtales that afternoon when you say they were
6 talking about going to get something to eat, had
7 they been drinking up until that point?

8 A. Cara had. Mr. Eastwood ordered a glass
9 of wine.

10 Q. A glass of wine?

11 A. Yes.

12 Q. Was that typical for him?

13 A. Yes.

14 Q. Okay. And so -- I mean, what happened
15 next? They ordered a glass of wine, Cara ordered
16 some other drinks, they talked about going to get
17 something to eat, tell the jury what happened next.

18 A. They left probably around, I'd say
19 around 6 and they were gone for about two hours,
20 two and a half hours and then they came back to
21 Fishtales.

22 Q. When they left Fishtales was Mr. Horner
23 still there?

24 A. When they left?

25 Q. Yes.

JEAN BURNS - DIRECT EXAMINATION BY MR. SCOTT

1 A. He was just getting ready to leave,
2 yes.

3 Q. Okay. So they left Fishtales and came
4 back you said two and a half hours later,
5 Mr. Horner was gone at that point, I guess?

6 A. He was.

7 Q. Okay. And when they came back to
8 Fishtales, can you describe their interaction back
9 at the bar?

10 A. They were just -- they seemed like they
11 had known each other for a while which, you know, I
12 knew they hadn't, but, you know, they were just
13 very bubbly, very active.

14 Q. When you say, "active," what do you
15 mean?

16 A. They were like playing around the bar,
17 dancing around, you know, drinking.

18 Q. Okay. Had you ever seen Mr. Eastwood
19 dancing in Fishtales prior to that day?

20 A. No.

21 Q. You say that was out of charter for
22 him?

23 A. It was very much.

24 Q. When they came back two and a half
25 hours later after going to get something to eat,

1 did they have anything else to drink at Fishtales?

2 A. Yes.

3 Q. And what were they drinking?

4 A. They were drinking a multiple of shots.

5 Mr. Eastwood had ordered wine, but he was doing
6 some shots.

7 Q. Do you remember what kind of shots they
8 ordered?

9 A. It was different ones. It was tequila.
10 I know it was tequila. It was a shot that we had
11 it was called "Creamsicle."

12 Q. So you described them as dancing around
13 the bar, did anybody appear to be intoxicated to
14 you?

15 A. They both did.

16 Q. They both did. At some point, did
17 anyone end up on the floor?

18 A. Yes.

19 Q. Who?

20 A. They both did.

21 Q. They both did?

22 A. Yes. They were dancing around the pool
23 table that sits in the middle of the bar and they
24 fell over.

25 Q. Okay. When they came back to Fishtales

1 and they're dancing and they're falling over,
2 they're doing shots, how long do you think they
3 stayed at Fishtales?

4 A. About four hours. They left at 11:30
5 that night.

6 Q. They left Fishtales?

7 A. Yes.

8 Q. Okay. And did they leave together?

9 A. Yes.

10 Q. And whose vehicle did they leave in?

11 A. Mr. Eastwood's.

12 Q. Did you see Cara again that night?

13 A. No.

14 Q. Did you see her again the next day or
15 later that week?

16 A. No.

17 Q. Did you have any conversations with
18 Mr. Horner on that Monday, December 9th, or
19 Tuesday, December 10th?

20 A. Yes.

21 Q. Did you tell Mr. Horner who you saw his
22 daughter leaving with?

23 A. Yes.

24 Q. The person that you know as KC who left
25 Fishtales bar with Cara Hodges on the night of

JEAN BURNS - CROSS-EXAMINATION BY MS. CORNWELL

1 December 8, 2019, is he in the courtroom today?

2 A. Yes, he is.

3 Q. Can you identify him for the jury?

4 A. He's sitting right there.

5 Q. In the navy jacket?

6 A. Yes.

7 Q. Thank you. Please answer any questions

8 Ms. Cornwell has.

9 THE COURT: Cross-examination?

10 MS. CORNWELL: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. CORNWELL:

13 Q. Ms. Burns, how are you doing today?

14 A. I'm good. Thank you.

15 Q. I know we spoke briefly on the phone
16 last week, but I'm Ashley Cornwell and I represent
17 Mr. Eastwood. You indicated that you'd known Mr.
18 Eastwood for about five years prior to this
19 incident?

20 A. Yes.

21 Q. And how would you describe his character?

22 A. He's very -- always been very
23 respectful, very calm, laid back. I mean, he's
24 never shown any aggression anywhere.

25 Q. So in the time that you've known Mr.

1 Eastwood, did you ever see him get angry with
2 anybody?

3 A. No.

4 Q. Did you ever see him lash out at
5 anybody?

6 A. No.

7 Q. Ever see him act violent towards
8 anybody in any way?

9 A. No.

10 Q. You said you knew that Mr. Eastwood
11 worked at the IGA?

12 A. Yes.

13 Q. And that you saw him about every day
14 when you worked at Fishtales?

15 A. I did.

16 Q. Would he often come to Fishtales when
17 y'all were opening up and kind of try to help out
18 and offer any assistance that he could?

19 A. He did.

20 Q. So he always tried to be very helpful?

21 A. Yes.

22 Q. And you had indicated that you met Cara
23 a few days prior when she had come into Fishtales
24 with her father?

25 A. Yes.

1 Q. And Mr. Eastwood would have been around
2 during that time as well?

3 A. Yes.

4 Q. And Mr. Eastwood and Mr. Horner were
5 friends; correct?

6 A. Yes.

7 Q. Did you ever see them get angry with
8 each other or having any cross words with each
9 other?

10 A. You know, they had little spats like
11 most people do, but it was nothing aggressive or
12 angry, you know.

13 Q. Never saw him try to physically assault
14 Mr. Horner or anything of that nature?

15 A. No, not at all.

16 Q. And you never saw him get in an
17 argument with Mr. Horner about his daughter;
18 correct?

19 A. No.

20 Q. On the night of the 8th, you indicated
21 that my client came in, do you recall about what
22 time Mr. Eastwood came over to the Fishtales bar
23 that night?

24 A. The first time or this second time?

25 Q. The first time?

1 A. I would say it was between 3 and 4.
2 You know, an exact time I can't tell you, but it
3 was between 3 and 4. It was in the earlier part of
4 the day.

5 Q. And Mr. Horner and Cara were already
6 there?

7 A. Yes.

8 Q. And they all kind of started talking
9 and hanging out with each other at that point?

10 A. Yes.

11 Q. And at that point, Cara had already
12 been drinking?

13 A. She had.

14 Q. And I believe you indicated that my
15 client got a glass of wine?

16 A. Yes.

17 Q. Was that his typical order?

18 A. It was.

19 Q. And at some point they leave and then
20 they come back?

21 A. Yes.

22 Q. And they continue drinking?

23 A. Yes.

24 Q. And I believe when you spoke with law
25 enforcement, they asked you on a scale of 1 to 10

1 | how drunk Mr. Eastwood was when he left and you
2 | said he was about 12?

3 | A. Yes.

4 | Q. And despite that, y'all let him drive
5 | home that night?

6 | A. We tried to encourage him not to drive,
7 | but, you know, that's something that's really we
8 | can't prevent.

9 | Q. And when he left with Ms. Hodges, did
10 | they seem to be getting along and still having a
11 | good time?

12 | A. They were. Yeah.

13 | Q. And you talked about Cara's size and
14 | weight and petiteness, you would agree that my
15 | client is also of a smaller stature?

16 | A. Yes.

17 | Q. And you indicated that after the 8th,
18 | you had conversations with Mr. Horner about Cara
19 | leaving the bar with Mr. Eastwood?

20 | A. Yes.

21 | Q. Did you ever have any conversations
22 | with Mr. Eastwood about Cara and where she was or
23 | what happened to her once he woke up the next day
24 | and discovered she was gone?

25 | A. I don't recall having any conversation

JEAN BURNS - REDIRECT EXAMINATION BY MR. SCOTT

1 with him. I was listening to conversations while I
2 was at work, you know, between him and --

3 MR. SCOTT: I'd object to any hearsay.

4 THE COURT: Sustained. Just be careful
5 about your questions.

6 Q. You overheard my client talking to
7 Mr. Horner about Cara?

8 MR. SCOTT: Again, I would object to
9 hearsay.

10 MS. CORNWELL: Your Honor, he elicited
11 the conversation about them talking about Cara --

12 MR. SCOTT: I did not elicit any
13 conversation. I asked her if she had spoken with
14 him.

15 THE COURT: Objection sustained.

16 Q. Ms. Burns, based on what you know of my
17 client, would you have thought that he was the type
18 of person that could kill somebody?

19 A. In my opinion, no.

20 MS. CORNWELL: That's all the questions
21 I have, Your Honor.

22 THE COURT: Any redirect?

23 REDIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q. But you testified he was out of charter

1 | that night; correct?

2 | A. He was.

3 | Q. Thank you.

4 | MR. SCOTT: No further questions.

5 | THE COURT: You may step down, ma'am.

6 | Thank you. You may call your next witness.

7 | MS. HUNTER: State calls Sergeant Chris
8 | Williams.

9 | THE CLERK: State your name.

10 | MR. WILLIAMS: Christopher Williams.

11 | CHRISTOPHER WILLIAMS,
12 | being first duly sworn, was examined and testified
13 | as follows:

14 | THE COURT: Your witness.

15 | MS. HUNTER: Thank you, Your Honor.

16 | May it please the Court?

17 | THE COURT: Certainly.

18 | DIRECT EXAMINATION

19 | BY MS. HUNTER:

20 | Q. Sergeant Williams, can you tell the
21 | jury where you work?

22 | A. Santee Police Department.

23 | Q. How long have you worked there?

24 | A. Nine months.

25 | Q. So you weren't working there in 2019,

1 | so can you tell them where you were working in
2 | December of 2019?

3 | A. Orangeburg County Sheriff's Office.

4 | Q. And how long had you worked for the
5 | sheriff's department?

6 | A. Six years.

7 | Q. And what was your position?

8 | A. I was a road deputy. I was responsible
9 | for answering calls for service.

10 | Q. Okay. So you're talking about you
11 | responded to calls for service. I want to talk to
12 | you about a call that you responded to on December
13 | 10, 2019. Do you remember being called out the
14 | night of December 10th to 252 Rodeo Drive in
15 | Eutawville?

16 | A. Yes, ma'am.

17 | Q. And why were you called to respond?

18 | A. I was called to respond to a missing
19 | persons.

20 | Q. And who did you meet with when you got
21 | to Rodeo Drive?

22 | A. Kenneth Horner.

23 | Q. And who did he report is missing?

24 | A. A Ms. Cara Hodges.

25 | Q. And when you got there, did you speak

1 with anyone else about Cara being missing?

2 A. I spoke with Cara's mom over the
3 telephone and that was only because she had just
4 recently came to Eutawville.

5 Q. So were you calling to get more details
6 about Cara?

7 A. Yes, ma'am.

8 Q. Okay. And were you able to get a
9 description of the victim?

10 A. I was. The victim was listed as a
11 white female, last seen wearing a purple long
12 sleeve shirt, boots, blue jeans and numerous
13 tattoos all over her body. One in specific which I
14 believe was used to identify her had the name "Big
15 Pooh" written on her lower back.

16 Q. And after you took that missing person
17 report, what else did you do?

18 A. I contacted Orangeburg County
19 communication center, I had her listed in the NCIC.
20 I then advised dispatch to put out a countywide and
21 surrounding county bolo in reference to her being a
22 missing persons.

23 Q. Thank you.

24 MS. HUNTER: No further questions.

25 THE COURT: Cross-examination?

1 CROSS-EXAMINATION

2 BY MS. CORNWELL:

3 Q. Deputy Williams, when you responded to
4 Rodeo Drive and met with Mr. Horner and he reported
5 her missing, at that point, did you get any
6 information as to where she had been or who she had
7 been with?

8 A. I did.

9 Q. Okay. And how did Mr. Horner know that
10 information?

11 A. Because he had been with her and the
12 man he listed as KC which was a friend of his the
13 night that he last saw her on December 8th, I
14 believe.

15 Q. And he indicated that he had spoken to
16 Mr. KC?

17 A. That night and the next day, yes,
18 ma'am.

19 Q. And that -- based on this conversation,
20 you don't have to say what was said in the
21 conversation, when he first talked to KC, was he
22 concerned about her whereabouts?

23 A. Was KC concerned about or was her
24 father?

25 Q. Mr. Horner?

1 A. Mr. Horner did not seem concerned per
2 what he told me that day with his initial
3 conversation.

4 Q. Okay. And so it wasn't until a couple
5 of days later that he finally became concerned?

6 A. Yes, ma'am. The 10th when I took the
7 report, yes, ma'am.

8 Q. Did you attempt to make contact with my
9 client that night?

10 A. I did not. I did not have an actual
11 address for him or a phone number for him at that
12 particular time.

13 Q. You also indicated that you spoke with
14 Ms. Hodges' mother over the phone?

15 A. Yes, ma'am.

16 Q. And was there any part of that
17 conversation that would have been important to your
18 investigation into the missing persons regarding
19 Ms. Hodges' tendencies, whereabouts, what could
20 have happened?

21 A. I don't investigate. I take the
22 initial report and then forward that information
23 up. If you want to talk about investigations,
24 you'd have to talk to the follow-up investigators
25 because I don't actually do investigations.

1 Q. Okay. During the course of taking this
2 report, were you able to learn whether or not Ms.
3 Hodges had any problems with her father?

4 MS. HUNTER: Objection, Your Honor.

5 THE COURT: Basis of your objection?

6 MS. HUNTER: Your Honor, I think if she
7 wants to know about any issues that she would need
8 to call Mr. Horner to the stand and ask him these
9 questions, but, otherwise, it would be hearsay.

10 THE COURT: Your position?

11 MS. CORNWELL: I believe he's deceased.
12 This isn't going to the truth of the matter
13 asserted, it's just part of the investigation and
14 laying the foundation for the investigation.

15 THE COURT: He's testified that he
16 didn't investigate.

17 MS. CORNWELL: He took a report and I'm
18 just asking about information that he's got in his
19 report.

20 THE COURT: Can you repeat the
21 question?

22 MS. CORNWELL: Sure.

23 Q. During the course of your investigation
24 in speaking, were you able to determine whether or
25 not there were any issues that Ms. Hodges had with

1 her father?

2 A. No, ma'am.

3 Q. Were there any concerns regarding drug
4 and alcohol abuse?

5 A. Not at that time, no, ma'am.

6 Q. You say, not at that time, were you
7 able to determine whether or not there had been a
8 history of drug and alcohol abuse with Ms. Hodges?

9 A. There was an allegation there was, yes,
10 ma'am.

11 Q. And this was all information that you
12 input into the missing person's report?

13 A. In my initial report that I took to be
14 forwarded over, yes, ma'am.

15 MS. CORNWELL: I believe that's all the
16 questions I have, Your Honor.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MS. HUNTER:

20 Q. Sergeant Williams, she -- Ms. Cornwell
21 initially asked you about whether or not you
22 investigated. When you spoke with Mr. Horner and
23 you got the name KC, did you get a full name?

24 A. No, ma'am, I just got the name Kenneth.

25 Q. Thank you.

PAUL NESBITT - DIRECT EXAMINATION BY MR. SCOTT

1 THE COURT: You may step down, sir.

2 Thank you.

3 MR. WILLIAMS: Yes, ma'am.

4 THE COURT: You may call your next
5 witness.

6 MR. SCOTT: Thank you, Your Honor. The
7 State calls Paul Nesbitt.

8 THE CLERK: Place your left hand on the
9 bible, please, and raise your right hand. State
10 your name for the record.

11 MR. NESBITT: Paul Nesbitt.

12 PAUL NESBITT,
13 being first duly sworn, was examined and testified
14 as follows:

15 THE CLERK: Thank you. You may have a
16 seat.

17 THE COURT: Your witness.

18 MR. SCOTT: Thank you.

19 DIRECT EXAMINATION

20 BY MR. SCOTT:

21 Q. Good afternoon.

22 A. All right.

23 Q. Tell the jury where you live.

24 A. I live 2353 Old Highway 6, Cross, South
25 Carolina.

1 Q. And what county is that in?

2 A. Berkeley County.

3 Q. And how far away do you live from
4 Orangeburg County?

5 A. Ten yards.

6 Q. Ten yards?

7 A. I would say.

8 Q. And how far away do you live from
9 Eutawville?

10 A. Ten miles.

11 Q. And how long have you lived in that
12 area?

13 A. All my life, 67 years.

14 Q. And what type of work do you do or have
15 you done in the past?

16 A. I worked at the Charleston Naval
17 Shipyard and Santee Cooper maintenance department.

18 Q. Okay. And are you familiar with a road
19 called June Court?

20 A. Yes.

21 Q. And how are you familiar with that
22 road?

23 A. I have some property down that road
24 about a quarter of a mile down June Court to the
25 right of it about four and a half acres.

1 Q. Four and a half acres. And what do you
2 use that property for?

3 A. Mostly deer hunting.

4 Q. Okay. And what county is that road in?

5 A. I think that's Orangeburg County.

6 Q. Orangeburg County?

7 A. Yeah.

8 Q. Okay. And what type of road is June
9 Court?

10 A. June Court is a rocky dirt road.

11 Q. Okay. Is June Court near County Line
12 Road?

13 A. Yes, it's right off of County Line
14 Road.

15 Q. Okay. So they actually intersect?

16 A. Right. That's Highway 59 which is
17 considered County Line Road.

18 Q. Okay. And how would you describe the
19 area, this hunting land that you have on June
20 Court?

21 A. Mostly wooded pine area.

22 Q. Okay. And how many -- is it secluded?

23 A. I think it's probably about one house
24 that lives within a two mile area.

25 Q. Okay. I want to show you two exhibits,

1 I think you've seen these before. Do you recognize
2 State's Exhibit 8?

3 A. Yes.

4 Q. And what is that?

5 A. That's the -- my property is right on
6 the corner.

7 Q. Is this a tax map that kind of reflects
8 your property?

9 A. Yes, it is.

10 Q. Okay. And do you recognize State's
11 Exhibit Number 9?

12 A. Yes, that's the road that my four and a
13 half acres is on.

14 Q. Okay.

15 MR. SCOTT: Your Honor, we would ask
16 that State's Exhibits 8 and 9 be admitted into
17 evidence.

18 THE COURT: Any objection?

19 MS. CORNWELL: No objection, Your
20 Honor.

21 THE COURT: All right. They're in.

22 (WHEREUPON, State's Exhibit Numbers 8
23 and 9 were entered.)

24 MR. SCOTT: Can I have the witness step
25 down?

1 THE COURT: Yes, sir. Mr. Nesbitt, you
2 can step around and answer questions down there.

3 Q. Let me get a yardstick so you can
4 point. All right. Using this yardstick, can you
5 point out Highway Number 6 or Old Highway Number 6?
6 And make sure the juror behind you can see as well.

7 A. Highway 6 is this line, highway right
8 here.

9 Q. Okay. And which way would Eutawville
10 be?

11 A. This way.

12 Q. Okay. And then where is County Line
13 Road?

14 A. This road, County Line Road, Highway
15 59.

16 Q. And I guess they call it County Line
17 Road because it separates Orangeburg and Berkeley?

18 A. Yes. This is Berkeley County. This is
19 Orangeburg County.

20 Q. Okay. And where do you live?

21 A. I live right there.

22 Q. Okay. And then can you tell us where
23 June Court is?

24 A. This is June Court right here.

25 Q. Okay. And if you came down June Court,

1 | how would you get to your property?

2 | A. Coming from my house, I come down 59.
3 | Come down June Court. There's another dirt road,
4 | wooded, and my property is right here.

5 | Q. Okay. Let me show you State's Exhibit
6 | Number 9. What -- is this a close-up version of
7 | that map?

8 | A. Yes.

9 | Q. Okay. Can you point out June Court
10 | again?

11 | A. This is June Court here.

12 | Q. Okay. And where is your property?

13 | A. Down this road here. At the end of
14 | this road right here.

15 | Q. Right up in there?

16 | A. Yes.

17 | Q. That's all your property?

18 | A. Yep.

19 | Q. And there's -- you said this is
20 | basically a dirt road?

21 | A. Yeah.

22 | Q. Okay. All right. You can have a seat.
23 | Let's talk about December 12th of 2019 which would
24 | be a Thursday. Did you drive down June Court that
25 | day?

1 A. Yes.

2 Q. And why did you drive down June Court
3 that day?

4 A. Like I said, I normally use it for
5 hunting, so I go down there and put some corn out.
6 In the afternoon I normally go and just check to
7 see if the corn's still there so I can set up to go
8 kill one.

9 Q. Kill a deer?

10 A. Deer.

11 Q. I got you. And on December 12th of
12 2019, what if anything did you notice while driving
13 on your property?

14 A. When I rode down June Court and went on
15 to my property, at the end of the road, I saw a
16 body. Then I stopped and I got out and I took a
17 picture of it. Then I got back in my vehicle and
18 backed out of there. Then I rode back to my -- to
19 the neighbor house right in that area, try to talk
20 to somebody because I was in shock. Then I called
21 9-1-1. Then I came back to the end of the road, my
22 property, and I wait for the police to get there.

23 Q. Was anybody riding with you that day?

24 A. No.

25 Q. Okay. And when you saw this body in

1 the woods, was it to the left or to the right?

2 A. It was to the left of me, that road.

3 Q. Okay. And was it in the roadway? Was
4 it in the woods or what?

5 A. It was off about five yards.

6 Q. Was it hard for you to see?

7 A. No.

8 Q. Can you describe the body? Was it a
9 white person?

10 A. A white person. Dressed in a light
11 color. Either -- I really thought it was naked,
12 but I didn't get close enough to see, but it was a
13 white person.

14 Q. Okay. And I guess the body was laying
15 on the ground?

16 A. Yes.

17 Q. Could you tell if it was face up or
18 face down?

19 A. It was face up.

20 Q. Okay. Did you approach the body?

21 A. No.

22 Q. And you said you took a picture of it?

23 A. Yes.

24 Q. And why did you think you needed to
25 take a picture of it?

1 A. You know, to make sure I saw what I
2 saw. When I left, I wanted to make sure I saw what
3 I saw.

4 Q. And did the police respond?

5 A. Yes.

6 Q. Did you have to show them where the
7 body was?

8 A. I just point to the end -- tell them at
9 the end of the road. I didn't go back with them.

10 Q. You didn't want to go back with them?

11 A. No, sir.

12 Q. Did you remain on scene and cooperate
13 with law enforcement?

14 A. Oh, yeah.

15 Q. Thank you, Mr. Nesbitt. Please answer
16 any questions Ms. Cornwell has.

17 THE COURT: Cross-examination?

18 CROSS-EXAMINATION

19 BY MS. CORNWELL:

20 Q. Afternoon, Mr. Nesbitt.

21 A. All right.

22 Q. About what time was this when you went
23 to look at your property and found the body?

24 A. That was about 4 o'clock, somewhere
25 around about that time.

1 Q. And about how long did it take for law
2 enforcement to get out there?

3 A. I would say an hour.

4 Q. And you said that you didn't go back
5 down towards the body with law enforcement?

6 A. No, ma'am.

7 Q. And I imagine at no point in time did
8 you ever touch the body or anything like that?

9 A. No, ma'am.

10 Q. Thank you, Mr. Nesbitt.

11 MS. CORNWELL: That's all the questions
12 I have.

13 THE COURT: Any redirect?

14 MR. SCOTT: No, Your Honor.

15 THE COURT: You may step down,
16 Mr. Nesbitt. Thank you.

17 MR. SCOTT: Can he be excused?

18 THE COURT: Any objection?

19 MS. CORNWELL: No, Your Honor.

20 THE COURT: You're free to go, sir.

21 MR. SCOTT: And can Ms. Jean Burns be
22 excused too?

23 THE COURT: Any objection as to her?

24 MS. CORNWELL: No, Your Honor.

25 THE COURT: They're both excused. You

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 | may call your next witness.

2 | MR. SCOTT: Thank you, Your Honor.

3 | State calls Marty Carrigg.

4 | THE COURT: Before you have a seat, the
5 | clerk will swear you in.

6 | THE CLERK: State your name again for
7 | the record.

8 | MR. CARRIGG: Marty Carrigg.

9 | MARTY CARRIGG,
10 | being first duly sworn, was examined and testified
11 | as follows:

12 | THE COURT: Your witness.

13 | MR. SCOTT: Thank you Your Honor.

14 | DIRECT EXAMINATION

15 | BY MR. SCOTT:

16 | Q. Good afternoon.

17 | A. Afternoon.

18 | Q. Make sure you talk into that
19 | microphone, okay. Where are you employed?

20 | A. Orangeburg County Sheriff's Office.

21 | Q. And how long have you worked at the
22 | sheriff's office?

23 | A. Right at 21 -- almost 21 years.

24 | Q. And back in December of 2019, what was
25 | your position with the sheriff's office?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. I was a criminal investigator.

2 Q. And how long did you work as a criminal
3 investigator with the sheriff's office?

4 A. About 14 years.

5 Q. On December 12th of 2019, were you
6 called out to an area off County Line Road?

7 A. I was.

8 Q. And what was the nature of that call?

9 A. I received at about 5:20 that afternoon
10 a call from dispatch saying that a body had been
11 discovered in the area of June Court.

12 Q. And you responded there?

13 A. I did.

14 Q. Okay. And what time of day was it when
15 you arrived on scene?

16 A. I was contacted about 5:20, so I'd say
17 within an hour I was there. So probably about
18 6:20, 6:15.

19 Q. Okay. And can you describe that area
20 off June Court?

21 A. It's a wooded area, two-rut road going
22 back up into it. Probably quarter of a mile, half
23 mile, something like that. It's a little ways back
24 up in there. You wouldn't be able to see anything
25 if you just rode by there you wouldn't see where

1 | this person's body was found.

2 | Q. Okay. Well, Mr. Nesbitt saw it; right?

3 | A. He drove back there.

4 | Q. Okay. You're saying you have to drive
5 | back there to see it?

6 | A. You have to drive back there to see it.
7 | Just driving by you would not see.

8 | Q. I understand. What did you observe
9 | when you arrived on scene?

10 | A. A white female, naked. And, of course,
11 | I had a conversation before I got there and was
12 | told that's what they had found. But it was a
13 | white female, had sort of reddish hair, auburn hair
14 | and she was naked as I stated and she was lying as
15 | I recall, I think, face up.

16 | Q. Okay. Was the appearance of the
17 | deceased individual consistent with any missing
18 | person's reports taken by the sheriff's office in
19 | the recent past?

20 | A. Yes. Actually, before I got there,
21 | when I contacted our chief who was on scene, he
22 | told me that he had found the missing person's
23 | report from two days earlier where a person met --
24 | pretty much matching that description, white female
25 | with auburn hair and there would be some

1 distinctive tattoos.

2 Q. Did crime scene respond to the
3 location?

4 A. They did.

5 Q. Did the coroner's office respond?

6 A. They did.

7 Q. Let me ask you, when you cleared the
8 scene of where the body was located, where did you
9 go?

10 A. When I cleared the scene, I stopped
11 back by because I received information of a
12 possible person that she was last seen with. So I
13 stopped by the place this person supposedly worked.
14 This would be a person known as KC and he would
15 have worked at the IGA. So I stopped by there and
16 spoke with the manager there, a Ms. Heatley, I
17 believe it was, and she told me that they did have
18 a KC that worked there as a stock person and gave
19 me information on him, his name was Kenneth
20 Eastwood.

21 Q. Okay. And after meeting with Ms.
22 Heatley, where did you go?

23 A. I went back to the CID office here in
24 Orangeburg and I ran a DMV information for South
25 Carolina for Mr. Eastwood. And I made an inquiry

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 with SLED for information on Ms. Cara Hodges.

2 Q. Okay. Did you find a Kenneth Eastwood
3 like in DMV or whatever?

4 A. I did.

5 Q. Okay. And the following morning on
6 Friday, December 13th, what if anything did you do?

7 A. After meeting at the office around
8 8:30, the decision was made that we would go out
9 and try to locate Mr. Eastwood as well as --

10 Q. Where did you go?

11 A. I went to 1189 Gardensgate Road and
12 attempted to make contact with Mr. Eastwood.

13 Q. That was his address?

14 A. Correct.

15 Q. Is that in Orangeburg County?

16 A. It is.

17 Q. Who did you go there with?

18 A. Investigator Andy Hayes.

19 Q. And can you describe the Defendant's
20 residence for the jury?

21 A. I believe it was a two -- well, it was
22 a fenced in location. There were a couple of dogs
23 out in the yard. Wouldn't let just anybody walk
24 up. I think it was a two-story residence. We did
25 try to make entry and I knocked on the door and

1 | didn't get any response.

2 | Q. You say, make entry, what did you try
3 | to enter?

4 | A. Well, I made entrance through the gate
5 | with the dogs. We distracted them and I got to the
6 | door. Tried to make contact with anybody there.
7 | Did not make any contact with anyone and I didn't
8 | see a vehicle in the yard.

9 | Q. Okay. And what did you do next?

10 | A. Investigator Hayes and myself, we
11 | responded back to the Fishtales bar to see if we
12 | might speak to anyone there.

13 | Q. Okay. And let me just ask you because
14 | I know I'll forget, how far is the Defendant's
15 | residence on Gardensgate to the IGA?

16 | A. To the IGA, I believe it's about two
17 | and a half miles.

18 | Q. Okay. And how far is it from the
19 | Defendant's residence to June Court where the body
20 | was located?

21 | A. As I recall, I think it's nearly six
22 | miles.

23 | Q. Okay. All right. So you couldn't find
24 | the Defendant at his residence so you went to
25 | Fishtales; is that pat you testified to?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. Correct.

2 Q. Was Mr. Eastwood at Fishtales when you
3 arrived there?

4 A. He was not.

5 Q. And who did you speak with at
6 Fishtales?

7 A. I'm trying to remember.

8 Q. And you don't have to remember their
9 name, but who did you speak with?

10 A. Two bartenders. One of them I think
11 testified earlier.

12 Q. And what happened as you're at
13 Fishtales and you're speaking to the bartender?

14 A. Actually, Mr. Eastwood drove up.

15 Q. And how did -- was anybody with him
16 when he drove up?

17 A. No one was with him.

18 Q. What did you do after Mr. Eastwood
19 pulled up at Fishtales?

20 A. Well, myself and Investigator Hayes, we
21 stepped outside and introduced yourselves. And as
22 I introduced myself to him, he said, well, I was
23 looking for y'all to come to talk to me.

24 Q. He said I was looking for y'all?

25 A. I was expecting y'all to come talk to

1 me.

2 Q. And what did you say to Mr. Eastwood?

3 A. Well, like I say, I introduced myself
4 and asked him if he would come to the office and
5 talk to us. And he agreed to do so. And he got in
6 my vehicle and myself and Investigator Hayes
7 brought him back to the CID office in Orangeburg.

8 Q. Okay. Was Mr. Eastwood handcuffed?

9 A. He was not.

10 Q. Okay. And he voluntarily agree to go
11 back to CID with you?

12 A. He voluntarily agreed to come back to
13 CID.

14 Q. Okay. How far would you say it is from
15 Fishtales to Orangeburg County CID?

16 A. Approximately 30 to 45 minutes.

17 Q. Okay. And at any point during that
18 trip, did you discuss this case with Mr. Eastwood?

19 A. I did not discuss it with him, but he
20 made a statement, he said is this in reference to
21 Cara Hodges? And I said, yes, it is. And we
22 didn't discuss it any further at that point.

23 Q. And why didn't you want to discuss it
24 there in your car?

25 A. I don't have a -- well, I do have now,

1 I didn't have then, a body camera or any type of
2 means for recording anything and I wanted to come
3 back to the office where we would have an interview
4 room which is recorded visually and audibly.

5 Q. So you didn't attempt to question him
6 at all in your car or anything like that?

7 A. I did not.

8 Q. Okay. Up until this point, have you
9 even told the Defendant that Cara Hodges' body had
10 been found?

11 A. I did not.

12 Q. Once you arrived at the sheriff's
13 office, where did you meet with Mr. Eastwood?

14 A. Well, he was taken to the interview
15 room. And at the interview room, I provided him
16 with his Miranda warnings in writing and verbally.

17 Q. And does this room have recording
18 capabilities?

19 A. It does.

20 Q. And was your interaction with Mr.
21 Eastwood recorded?

22 A. It was.

23 Q. I want to show you what's been marked
24 as State's Exhibit Number 5. Do you recognize
25 that?

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 A. I do.

2 Q. And I'm showing you a thumb drive; how
3 are you able to recognize this thumb drive?

4 A. It has my initials on it.

5 Q. Okay. And what is included on this
6 thumb drive?

7 A. That would be the interview that I had
8 with Mr. Eastwood with Andy Hayes, Investigator
9 Hayes.

10 Q. Is it a fair and accurate recording?

11 A. I would say, yes, it's very accurate.

12 Q. Okay.

13 MR. SCOTT: We'd ask that State's
14 Exhibit Number 5 be admitted into evidence.

15 THE COURT: Any objection?

16 MS. CORNWELL: Subject to previous
17 objection at pretrial.

18 THE COURT: Yes, it's in. Same rules
19 apply.

20 (WHEREUPON, State's Exhibit Number 5
21 was entered.)

22 Q. Prior to beginning this interview with
23 Mr. Eastwood, did you advise him of his Miranda
24 rights?

25 A. I did.

MARTY CARRIGG - DIRECT EXAMINATION BY MR. SCOTT

1 Q. I want to show you what's been marked
2 as State's Exhibit Number 1. Do you recognize
3 that?

4 A. I do.

5 Q. And what is that?

6 A. This is a standard Orangeburg County
7 Sheriff's Office criminal investigation Miranda
8 warnings form.

9 Q. And is that the form that you used with
10 Mr. Eastwood on Friday, December 13, 2019?

11 A. It is.

12 Q. Okay. And this is actually the
13 original; correct?

14 A. Best of my knowledge, yes.

15 Q. Okay. And is this in substantially the
16 same condition as when you used it with Mr.
17 Eastwood on December 13, 2019?

18 A. It is.

19 MR. SCOTT: We'd ask that State's
20 Exhibit Number 1 be admitted into evidence.

21 THE COURT: Any objection?

22 MS. CORNWELL: No objection, Your
23 Honor.

24 THE COURT: All right. It's in.

25 (WHEREUPON, State's Exhibit Number 1

1 | was entered.)

2 | Q. There's some blanks across the top of
3 | that form that are filled in, can you read those
4 | blanks to the jury?

5 | A. First one is place which is CID,
6 | Criminal Investigations Division. The next blank
7 | is date which was 12/13 of 2019. The time being
8 | 11:50 which would be a.m.

9 | Q. Okay. And then after that there's some
10 | Miranda rights; is that correct?

11 | A. Correct.

12 | Q. Okay. And how many are listed on
13 | there?

14 | A. Five.

15 | Q. Five. And whose initials appear out
16 | next to each of those five Miranda rights?

17 | A. Kenneth Eastwood's.

18 | Q. It says, KE?

19 | A. Correct.

20 | Q. Okay. And whose initials appear -- or
21 | excuse me, whose signature appears underneath that
22 | form saying they understand their Miranda rights?

23 | A. It does state that. It says, I
24 | understand my rights and it's signed by Kenneth
25 | Eastwood.

1 Q. Okay. And then what's at the bottom of
2 the form.

3 A. On the left side -- I'm sorry. You
4 want the signatures?

5 Q. I'm talking about the bottom portion of
6 the form. The top part was the Miranda rights,
7 what's the second part?

8 A. All right. That's the waiver of
9 rights.

10 Q. Okay. And who signed beneath that
11 saying they wanted to waive their rights and speak
12 with you?

13 A. Kenneth Eastwood.

14 Q. And whose signature appear underneath
15 Mr. Eastwood's signature as witnesses?

16 A. The first one to the left is my
17 signature. The one to the right just under Mr.
18 Eastwood's is Investigator -- my mind just went
19 blank, Hayes.

20 Q. Andy Hayes?

21 A. Yep.

22 MR. SCOTT: Your Honor, at this time,
23 we request permission to publish State's Exhibit
24 Number 5.

25 THE COURT: Any objection?

1 MS. CORNWELL: Just subject to our
2 pretrial objection, Your Honor.

3 THE COURT: You may proceed and publish
4 it.

5 Q. Do you know about how long this
6 interview is, this recording?

7 A. I want to say it's about 50 minutes,
8 thereabouts.

9 Q. Okay. Roughly.

10 MR. SCOTT: Your Honor, do you mind if
11 I sit down during the playing?

12 THE COURT: That's fine.

13 (WHEREUPON, playing the video.)

14 Q. At some point when y'all were at CID,
15 did law enforcement ask the Defendant for a DNA
16 sample?

17 A. We did.

18 Q. And who took that sample?

19 A. Investigator Hayes.

20 Q. And at some point after that interview,
21 after y'all got the DNA sample, did you take the
22 Defendant back to his residence in Eutawville?

23 A. I did.

24 Q. And that evening, did law enforcement
25 also get a search warrant for the Defendant's

1 residence and vehicle?

2 A. We did.

3 Q. And was that search warrant executed
4 around the time you took the Defendant home?

5 A. It was. At that time, yes.

6 Q. Did you assist in the execution of that
7 search warrant?

8 A. I did not.

9 Q. What did you do?

10 A. I sat in my vehicle, my county vehicle
11 with Mr. Eastwood.

12 Q. Okay. And I noticed during the
13 interview that we just played, at one point you
14 said, is this about Cara? We haven't located her
15 yet; is that correct?

16 A. During the interview?

17 Q. During the interview you told him we
18 haven't located her yet; is that correct?

19 A. I think that's correct, yeah.

20 Q. Okay. And so after you take the
21 Defendant back to his residence and this search
22 warrant is being executed, you said y'all sat in
23 your vehicle?

24 A. In my vehicle, yes.

25 Q. Okay. And what was the conversation

1 with Mr. Eastwood as y'all sat in your vehicle at
2 his residence?

3 A. Well, at one point, you know, I think I
4 had asked him where is she? Do you know where
5 she's at? And he kept saying he didn't know. He
6 didn't know. And I said, well, I know where she
7 is. And he looked at me like, you know, where?
8 And I said, she's in the morgue.

9 Q. She's in the morgue?

10 A. Right.

11 Q. And what was Mr. Eastwood's response?

12 A. He acted like he was kind of shocked
13 for a second there. And as he was, you know,
14 acting like he was shocked, I said, she is
15 deceased. She is dead. And he just said, oh, my
16 god. Oh, my god. And he just said it over and
17 over and over multiple times.

18 Q. Okay. Did he seem shocked to you?

19 A. I think -- in my opinion, I don't think
20 he was really that shocked because I think he
21 already knew what I was telling him. But didn't
22 seem genuine, I'll put it that way --

23 MS. CORNWELL: I'm going to object to
24 speculation.

25 THE COURT: Sustained.

1 A. Didn't seem genuine.

2 Q. I gotcha. So you told him Cara was in
3 the morgue; correct, that's what you just testified
4 to?

5 A. I did.

6 Q. Did you ever tell Mr. Eastwood where
7 Cara had been found?

8 A. I did not.

9 Q. Did you tell Mr. Eastwood about the
10 injuries Cara had suffered?

11 A. I did not.

12 Q. Do you know when her autopsy was?

13 A. I don't recall right offhand. I'm not
14 sure. It was not long afterwards.

15 Q. All right. What happened after the
16 search warrant was completed?

17 A. We left him at his home. He was not
18 under arrest at this time.

19 Q. So law enforcement completed the search
20 warrant, you left, other deputies left, and where
21 was Mr. Eastwood?

22 A. At his home.

23 Q. Okay. Where was his car?

24 A. I think his car may have been
25 impounded, if I recall.

MARTY CARRIGG - CROSS-EXAMINATION BY MS. CORNWELL

1 Q. Did y'all get a search warrant for his
2 car as well?

3 A. That was part of the search warrant for
4 the house, we also got one for the car.

5 Q. Thank you, Investigator Carrigg.
6 Please answer any questions Ms. Cornwell has.

7 THE COURT: Cross-examination?

8 MS. CORNWELL: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. CORNWELL:

11 Q. Investigator Carrigg, you indicated
12 that on 12/12 around 5:20 that's when you received
13 the call from dispatch regarding the deceased body
14 being found?

15 A. Correct.

16 Q. And you said you got out there around
17 6, 6:20?

18 A. Thereabouts, yes.

19 Q. When you arrived, who else was already
20 on scene?

21 A. Deputy Bircheat. I don't recall
22 Captain Carter getting there ahead of me, but he
23 did come to the scene. I asked about Mr. Nesbitt
24 and I think he had already wrote a statement and
25 left. Sergeant -- Investigator Sergeant Kittrell,

1 I believe he responded. I can't recall who else.

2 At one point I know that the coroner's office
3 showed up.

4 Q. About how long after you were there
5 before the coroner's office showed up?

6 A. I want to say, probably 8, 8:30,
7 somewhere in that neighborhood.

8 Q. And you talked about the missing
9 person's report, so you were aware at that time
10 that she had been reported missing on 12/10 around
11 9:20 p.m.?

12 A. I don't recall time, but I do remember
13 it was 12/10.

14 Q. If that was the time in the missing
15 person's report, would that be accurate?

16 A. I think that would be correct.

17 Q. And so by the time y'all find the body
18 on 12/12, you're not the first officer to arrive to
19 see the body; correct?

20 A. No.

21 Q. And you did not meet with Mr. Nesbitt
22 or speak to Mr. Nesbitt personally?

23 A. No, he was already gone by the time I
24 got there.

25 Q. Okay. When you arrived on scene, you

1 | observed the body?

2 | A. I did.

3 | Q. To your knowledge, had anybody touched
4 | the body, moved the body in any way prior to you
5 | seeing it?

6 | A. Not to my knowledge, no.

7 | Q. And to your knowledge, did anybody
8 | touch or move the body prior to the coroner's
9 | office getting there?

10 | A. I don't think so, no.

11 | Q. And once you were viewing the body, you
12 | were able to see tattoos?

13 | A. Correct.

14 | Q. And that's what led you to believe that
15 | the body was that of Cara Hodges?

16 | A. That's correct.

17 | Q. You indicate that when you left the
18 | scene that you went to the IGA?

19 | A. That would be correct.

20 | Q. And that you went to the IGA trying to
21 | locate my client?

22 | A. Not so much to locate him, but to find
23 | out if he worked there and get any information on
24 | him like his address, birth date, anything like
25 | that.

1 Q. What made you think that he worked
2 there?

3 A. I had received a call while I was on
4 the scene from Inspector Ketcherside who said that
5 she had got information that he actually worked at
6 the IGA, so that's when I stopped by there to see
7 if that was true.

8 Q. Okay. And this is all based on what
9 was in the missing person's report?

10 A. What do you mean?

11 Q. Trying to locate my client?

12 A. Yes.

13 Q. So you indicate that after you went by
14 the IGA you went back to CID which is short for
15 criminal investigation division?

16 A. That's correct.

17 Q. And that's here in Orangeburg?

18 A. It is.

19 Q. And right next to, I guess it's behind,
20 is that Popeye's next to the Mexican place right
21 there?

22 A. 1032 Chestnut, that's correct.

23 Q. And you input information regarding Ms.
24 Hodges into the computer system?

25 A. I contacted by phone SLED to see if

1 they could get me information on Ms. Hodges. I
2 inputted into my computer information on Mr.
3 Eastwood.

4 Q. Okay. And then the next morning on
5 12/13, you went back to the IGA?

6 A. Yes.

7 Q. About what time would that have been?

8 A. I take that back. You're saying the
9 next morning which would have been Friday, the
10 13th?

11 Q. Yes, sir.

12 A. I did not. Others went there. I went
13 to Mr. Eastwood's residence.

14 Q. Okay. And that's when he wasn't home?

15 A. He was not there.

16 Q. About what time was that?

17 A. Approximately 9:30, 10, somewhere in
18 that neighborhood.

19 Q. And from Mr. Eastwood's residence you
20 went directly to Fishtales?

21 A. I did.

22 Q. And I think your report says that was
23 about 10:50 in the morning, 10:55?

24 A. Somewhere in that neighborhood, yes.

25 Q. And when you arrived, was Fishtales

1 open?

2 A. They were.

3 Q. And who all was at Fishtales?

4 A. I don't remember all the names, but it
5 was I think -- I believe I testified earlier, Ms.
6 Jean. If you let me look at my notes I can tell
7 you who I spoke to.

8 Q. Is that just your report that you
9 wrote?

10 A. That would be correct. Michelle
11 Craven. And she said she wasn't working on Sunday,
12 but Jean Burns who testified earlier, I did speak
13 to them.

14 Q. Okay. And when you were meeting over
15 at Fishtales, you were also advised that there was
16 video from Sunday night, but that the owners would
17 have to be the ones to access it for you?

18 A. I was told there might be, yes, and
19 that they were the only persons that could get that
20 video.

21 Q. While you were speaking to them that's
22 when Mr. Eastwood drove up?

23 A. That's correct.

24 Q. And it's your testimony that you asked
25 if you could talk to him and he indicated that he

1 had been expecting you?

2 A. Essentially, yes.

3 Q. And as we heard in the video, he told
4 you that Ms. Hodges' dad said that he should be
5 expecting y'all; correct?

6 A. Say that again.

7 Q. He told you that Ms. Hodges' dad, Ken,
8 had said that y'all probably want to talk to him?

9 A. He didn't say that she died, he just
10 said that she was missing and that he was -- she
11 was last seen with him and then I -- we would
12 likely want to speak to him and that would be
13 correct.

14 Q. Okay. So when he said, I've been
15 expecting y'all it's because he was told y'all
16 probably want to speak to him?

17 A. Could be.

18 Q. And you indicated that at that point
19 you asked him if he would come back to CID with you
20 and answer some questions; correct?

21 A. Correct.

22 Q. And you don't have -- in 2019, you
23 didn't have any sort of body cam or dash cam or
24 anything that would record your interaction with
25 him at that time?

1 A. At Fishtales or anything up to where we
2 got to CID.

3 Q. And it takes about how long to get from
4 Fishtales to CID?

5 A. In the neighborhood of 30 to 45
6 minutes.

7 Q. And you indicated that you didn't talk
8 to Mr. Eastwood about the case while y'all were
9 driving those 35 to 40 minutes, but Mr. Eastwood
10 did ask while y'all were riding if this had to do
11 with Cara?

12 A. That would be correct.

13 Q. And it's your testimony that you simply
14 said, yes?

15 A. Yes, correct.

16 Q. And didn't elaborate on that anymore?

17 A. I make a point not to speak to anybody
18 about the case until we get to somewhere such as
19 CID where it can be recorded and Miranda
20 administered.

21 Q. So you picked him up about 11 and you
22 got his Miranda signed, I believe, it says about
23 11:37 that morning?

24 A. Miranda was 11:50.

25 Q. 11:50, thank you. And then your

1 interview with him lasted approximately 50 minutes?

2 A. I think that's about right.

3 Q. And that's what we saw in the video?

4 A. Correct.

5 Q. And he's completely cooperative with
6 you in agreeing to come and talking with you?

7 A. He was.

8 Q. Said that he would let you search his
9 home?

10 A. He did.

11 Q. Gave you DNA?

12 A. He did.

13 Q. Looks like at some point he even let
14 you take him to Columbia and bring him back; is
15 that about right?

16 A. That would be correct.

17 Q. And so -- then you indicated that after
18 he agreed to do all of this, you take him back to
19 his house and when you take him back to the house,
20 law enforcement is conducting a search warrant on
21 his house?

22 A. Yes.

23 Q. And he was not allowed to go into his
24 house while law enforcement was conducting that
25 search warrant?

1 A. He stayed in the car with me.

2 Q. And approximately how long did it take
3 for that search warrant to be executed?

4 A. I don't recall exactly. I'm going to
5 guesstimate and say probable an hour or better.

6 Q. So your report indicates that he was
7 finally left at his house by himself around 9
8 o'clock at night?

9 A. That would be correct.

10 Q. So it's your testimony that he was in
11 your custody from about 11 o'clock in the morning
12 until about 9 o'clock at night; correct?

13 A. I wouldn't say custody, but he was with
14 me, yes. He was never handcuffed. He was never
15 placed under arrest. He was with me. He was asked
16 if he would come with me and he complied.

17 Q. But he was consistently with you or
18 other law enforcement members during that ten
19 hours?

20 A. That would be correct.

21 Q. And of the entire ten hours that he's
22 with you, the only part that we have any video or
23 audio recording of is that little 50 minutes that
24 we just watched right there?

25 A. I believe that would be correct.

1 Q. And you indicated that while you were
2 sitting outside of his house, you kept asking him,
3 where's Cara? Where's Cara? And he kept saying he
4 didn't know; right?

5 A. I don't know that I kept asking him
6 over and over, but I did ask him where is she? Do
7 you know where she's at? And he told me, no.

8 Q. Despite giving you a full statement
9 already telling you that he didn't know where she
10 was on video?

11 A. I'd asked him again and that was at the
12 point that I told him I know where she's at.

13 Q. But you didn't believe him from the
14 very beginning, did you?

15 A. Well, sometimes you have to ask the
16 same question more than once to get the answer.

17 Q. And he knew you didn't believe him;
18 correct?

19 A. I can't say what he thought. I don't
20 know what he thought.

21 Q. And it's your testimony that when he
22 asked -- when you said -- he said, I don't know
23 where she is, your testimony is that you told him,
24 well, I know where she is?

25 A. Essentially, that's about correct, I

1 did know where she was.

2 Q. Isn't it true that when y'all were in
3 the car, you kept asking where she was, where she
4 was, and he finally said, I don't know where she
5 is, do you know where she is and that's when you
6 responded to him?

7 A. I don't recall it going exactly that
8 way, but I did tell him that I knew where she was.

9 Q. And when you told him that she was
10 dead, he was shocked and kept saying, oh, my god?

11 A. That was his second response, yes, oh,
12 my god.

13 Q. And then isn't it true that he asked
14 what happened to her?

15 A. I don't recall that.

16 Q. He asked what happened to her because
17 that's the logical response of somebody that just
18 found out that somebody that they know has been
19 found dead. He said, what happened to her? And at
20 that point you told him, she was strangled, she was
21 beaten and her body was dumped on the side of the
22 road?

23 A. I don't think that happened at all.

24 Q. But we don't have any video or audio or
25 anything of this conversation, so we're just going

1 based on what your word is; correct?

2 A. Whatever he's told you, but I don't
3 think that happened that way at all.

4 Q. But you would agree that --

5 A. I don't have any audio or video.

6 Q. And it's your testimony that really the
7 only time that y'all talked about Ms. Hodges and
8 her being missing and what happened to her was when
9 it's being recorded at CID?

10 A. Correct.

11 Q. So you talked about Ms. Hodges for 50
12 minutes and the other nine hours that he's in your
13 custody, you don't mention a thing about her being
14 -- continued to be missing, about her being found,
15 where her body was found, what condition it was in
16 or anything like that?

17 A. I didn't discuss it with him.

18 Q. And when you asked for his DNA, you
19 didn't explain any reason why you wanted his DNA or
20 what you were going to compare his DNA to or
21 anything that you needed his DNA for?

22 A. Earlier it was asked and he casually
23 said that there was hugging and kissing, but no
24 sex. I did ask him again, did he have sex with her
25 and of course he said, no. And my reasoning for

1 getting the DNA would have possibly been able to
2 prove or disprove that maybe he had sex with her.
3 But I don't -- don't know that that happened.

4 Q. So that might have been a conversation
5 you had with him, but you don't remember if that's
6 the conversation you had with him?

7 A. Likely.

8 THE COURT: Counsel, I'm going to
9 interrupt you just one quick second. I know one of
10 our jurors needs to take a quick restroom break. I
11 hate to interrupt, but we're going to take a brief
12 restroom break and we'll be back right back with
13 you. Once you go to your jury room, please
14 remember not to discuss the case amongst yourselves
15 and let us know when you're ready to proceed.

16 (WHEREUPON, the jury left the courtroom
17 at 4:36 p.m.)

18 THE COURT: Sorry, Counsel, I didn't
19 want to interrupt you, but we were getting the
20 signal over there. So we'll be at recess for a
21 brief moment. You can step down, just remember not
22 to discuss your testimony.

23 (WHEREUPON, there was a short break.)

24 THE COURT: Are the parties ready to
25 proceed?

1 MR. SCOTT: Yes, Your Honor.

2 MS. CORNWELL: Yes, Your Honor.

3 THE COURT: All right. Let's have our
4 jury, please.

5 (WHEREUPON, the jury entered the
6 courtroom at 4:52 p.m.)

7 THE COURT: Welcome back, ladies and
8 gentlemen of the jury, we're ready to proceed. You
9 may continue with your cross.

10 MS. CORNWELL: Thank you.

11 CONTINUED CROSS-EXAMINATION

12 BY MS. CORNWELL:

13 Q. Investigator Carrigg, I believe you
14 were talking about the DNA and the conversation
15 that you had with my client when asking for his DNA
16 and getting that swab collected. So it's your
17 testimony that you may have told him that his DNA
18 was needed because of sexual allegations?

19 A. I believe that's correct.

20 Q. And, in fact, part of your role in law
21 enforcement, you're often allowed to deceive people
22 and basically lie to them about the evidence, what
23 you have, what you're looking for as part of your
24 interrogation tactics; correct?

25 A. I didn't lie to him. That's not a

1 practice that I take.

2 Q. Well, you did lie to him because you
3 told him that y'all didn't know where Cara was when
4 you were talking to him and that was a lie, wasn't
5 it?

6 A. At the time I didn't need him to know
7 that I knew where she was.

8 Q. So it's, yes, you lied to him during
9 the interrogation?

10 A. I didn't reveal it at the time.

11 Q. So by specifically saying, we don't
12 know where Cara is, that's untruthful; correct?

13 A. As I said, it was not disclosed at the
14 time.

15 Q. Well, it was disclosed, it was just
16 disclosed as an untruthful statement?

17 A. If that's the way you want to portray
18 it.

19 Q. And then you also were perhaps
20 untruthful with him talking about DNA and
21 allegations of sexual misconduct?

22 A. Actually, he brought it up that there
23 was no sex. I told him this was the way to prove
24 that.

25 Q. And none of that's recorded?

MARTY CARRIGG - CROSS-EXAMINATION BY MS. CORNWELL

1 A. I'm sorry.

2 Q. None of that is recorded?

3 A. That is not.

4 Q. Even though the conversation was had at
5 CID in the same room that you did record his
6 previous statement?

7 A. I don't know that it was recorded. I
8 have not heard that. It was in the same room
9 though.

10 Q. So no reason why it couldn't have been
11 recorded?

12 A. Could have been.

13 Q. And then when you're back in the house
14 -- at the house and the search warrant is being
15 executed, was Investigator Hayes in the car with
16 y'all then?

17 A. I don't recall him being with us.

18 Q. And it's your testimony that y'all were
19 having a conversation about where Cara was in the
20 car?

21 A. I did ask him that, yes.

22 Q. Because in getting the DNA and all
23 that, you already told him that you didn't believe
24 him that he didn't know where Cara was?

25 A. I didn't tell him that.

1 Q. You didn't tell him you didn't believe
2 him when he said he didn't know where Cara was?

3 A. I don't believe I stated him that, no.
4 I just asked the question again.

5 Q. Isn't it true that when you got his
6 DNA, he asked why you needed his DNA and you said,
7 Cara's DNA is all over his car and when you get
8 back his DNA you'll know that he killed her?

9 A. That is not true.

10 Q. You didn't tell him in the car, I know
11 where she is and when he asked how she died, you
12 told him, she was strangled, she was beaten, she
13 was dumped on the side of the road?

14 A. That is not correct.

15 Q. And then you took him inside the house
16 with a search warrant and he was asked to take off
17 his shirt which he did willingly so that law
18 enforcement could photograph the way he looked and
19 any injuries that he may have because you needed to
20 be able to corroborate his injuries with the
21 investigation?

22 A. I don't recall taking him inside of his
23 house. Perhaps others did, but I did not.

24 Q. After you left my client, after you had
25 informed him that Cara was dead and left him at his

1 house, you went back to CID; is that correct?

2 A. That's correct.

3 Q. And you spoke to Ms. Hodges' family?

4 A. That's correct.

5 Q. And did they express any concerns to
6 you regarding anybody else that could have been
7 considered a suspect in this?

8 A. They had mentioned something about her
9 father.

10 Q. And they were concerned that he may
11 have had a part in her death?

12 MR. SCOTT: I'd object to any hearsay.

13 THE COURT: Sustained.

14 Q. After speaking to Ms. Hodges' family,
15 did you do anything else involving this case or any
16 collection of evidence?

17 A. I did not.

18 Q. Did you follow-up and speak with
19 anybody that could have spoken to Cara the night of
20 the incident? This Lee person that was pointed
21 out? The dock guy? Follow-up on any of that
22 information?

23 A. I did not.

24 Q. Did you ever go back to Fishtales and
25 get video from Sunday night when this allegedly was

1 the last time that he was seen with Ms. Hodges?

2 A. I did not.

3 MS. CORNWELL: That's all the questions
4 I have, Your Honor.

5 THE COURT: Any redirect?

6 MR. SCOTT: Just briefly.

7 REDIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q. Did you do some investigative reports?
10 Did you like, do some supplementals in this case?

11 A. I did.

12 Q. Did you document -- Ms. Cornwell asked
13 you about what's recorded and what's not recorded,
14 did you document your conversations with the
15 Defendant?

16 A. Pretty much, yes.

17 Q. Did you document the conversation that
18 you had with the Defendant at his residence when
19 you took him home that night?

20 A. I did.

21 Q. And in your documentation, did you
22 write whether or not you told the Defendant that
23 Cara Hodges had been strangled?

24 A. I did not.

25 Q. Because you didn't tell him that?

1 A. Because I did not tell him that.

2 Q. If you had told him that would you have
3 written that in your report?

4 A. I would have.

5 Q. Thank you.

6 MR. SCOTT: No further questions.

7 THE COURT: You may step down, sir.

8 Thank you.

9 Ladies and gentlemen of the jury, it's
10 5 o'clock, so it's a perfect time for us to quit
11 the testimony for the evening. If you would please
12 return to your jury room tomorrow morning say 9:20.
13 Once we have everyone together we'll begin the
14 trial promptly at 9:30.

15 Again, please remember my previous
16 instruction not to discuss the case with anyone,
17 that includes your fellow jurors or your family or
18 anyone else. And please do not do any independent
19 research on this matter as you must make your
20 determination of the facts solely from what you
21 hear here in the courtroom. Have a nice evening
22 and we'll see you in the morning.

23 (WHEREUPON, the jury left the courtroom
24 at 5:00 p.m.)

25 THE COURT: Counsel, any other matters

1 | you before we get started this morning that
2 | certainly we appreciate the fact that you are here
3 | with us and we appreciate your time and are mindful
4 | of your time and I understand that some of you may
5 | want to be other places, but that's why we
6 | certainly try to be very mindful of your time. But
7 | it is very important as you are sworn to uphold the
8 | law and follow the law, that you pay strict
9 | attention to the testimony and also follow the
10 | decorum of the courtroom which is expected of you.

11 | We're now ready to proceed. You may
12 | call your next witness.

13 | MS. HUNTER: Thank you, Your Honor.
14 | State calls Andy Hayes.

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

17 | MR. HAYES: Andrew Hayes.

18 | ANDREW HAYES,
19 | being first duly sworn, was examined and testified
20 | as follows:

21 | THE CLERK: You may be seated.

22 | THE COURT: Your witness.

23 | MS. HUNTER: Thank you, Your Honor.

24 | May it please the Court?

25 | DIRECT EXAMINATION

ANDREW HAYES - DIRECT EXAMINATION BY MS. HUNTER

1 BY MS. HUNTER:

2 Q. Investigator Hayes, can you tell the
3 jury where you work?

4 A. Currently I'm working for the South
5 Carolina Department of Corrections Office of
6 Inspector General.

7 Q. And how long have you worked with the
8 Department of Corrections?

9 A. Since February of this year.

10 Q. All right. And before that where were
11 you working?

12 A. Orangeburg County Sheriff's Office.

13 Q. And what was your position with the
14 sheriff's department?

15 A. I was an investigator with the CID
16 division.

17 Q. And on December 13th of 2019, were you
18 with Investigator Carrigg when Mr. Eastwood was
19 interviewed?

20 A. Yes, I was.

21 Q. At any point, did you threaten or
22 coerce Mr. Eastwood?

23 A. No.

24 Q. Did you hear anyone threaten or coerce
25 him?

1 A. No.

2 Q. Investigator Hayes, did you collect the
3 DNA sample from the Defendant?

4 A. I did.

5 Q. And how did you collect that DNA
6 sample?

7 A. With what they call a buccal swab.
8 Which is a Q-tip type device that is used for
9 collection of DNA.

10 Q. Okay. And I'm going to show you what's
11 marked as State's Exhibit 10. Do you recognize
12 this?

13 A. I do.

14 Q. And what is that?

15 A. That is the envelope that we put the
16 collection device which is called a buccal swab.
17 Looks like a long Q-tip. There's two of them.
18 They come in one pack. And once we're done, we let
19 them air dry and then you put them down in there in
20 the small envelope, seal it up and then put
21 evidence tape over the top of it.

22 Q. And what area do you swab?

23 A. You swab the inside of the mouth. Go
24 inside the mouth, go down to the bottom of the
25 gumline, down along the jawbone and bottom of the

1 | gumline and sometimes people will go up on the top
2 | too on both sides.

3 | Q. And how do you know that's the
4 | Defendant's buccal swab?

5 | A. It's -- once it's done and it's air
6 | dried then you turn it over, like I said, the
7 | sticks are real long, you'll stick the dried cotton
8 | tips down, break the sticks off, close it, place
9 | the evidence tape across it and then we initial and
10 | date across the evidence tape showing that you're
11 | the one who sealed it.

12 | Q. And did you seal that bag and initial
13 | it?

14 | A. I did.

15 | Q. Thank you.

16 | MS. HUNTER: I'd like to move to admit
17 | State's 10, the buccal swab into evidence.

18 | THE COURT: Any objection?

19 | MS. CORNWELL: No objection, Your
20 | Honor.

21 | THE COURT: All right. It's in.

22 | (WHEREUPON, State's Exhibit Number 10
23 | was entered.)

24 | Q. Investigator Hayes, were you with
25 | Investigator Carrigg throughout that day on

1 December 13th?

2 A. I was.

3 Q. And at any point, did you ever tell the
4 Defendant that Cara's body had been found?

5 A. No.

6 Q. At any point, did you tell Mr. Eastwood
7 that Cara had been strangled?

8 A. No.

9 Q. And at any point, did you tell Mr.
10 Eastwood that her body had been dumped on the side
11 of the road?

12 A. No.

13 Q. I don't have anything further. Thank
14 you. Please answer any questions from the Defense.

15 THE COURT: Cross-examination?

16 MS. CORNWELL: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. CORNWELL:

19 Q. Investigator Hayes, when you were first
20 assigned to this investigation, what was your role?

21 A. My role was just to assist Investigator
22 Carrigg with anything that he needed help with.

23 Q. Okay. And on December 13th, did you
24 assist Investigator Carrigg in regards to locating
25 my client?

1 A. We rode down to the eastern part of the
2 county in an attempt to locate Mr. Eastwood, yes.

3 Q. And went to the IGA first?

4 A. We did.

5 Q. And he wasn't at the IGA?

6 A. No.

7 Q. And where did you go after the IGA?

8 A. We went to Eutaw Springs to Fishtales
9 bar.

10 Q. At some point, did you stop by my
11 client's house beforehand?

12 A. I can't remember if it was before the
13 IGA or after the IGA that we did drive by and stop
14 by real quick, but that was it.

15 Q. You indicate that you then went over to
16 Fishtales?

17 A. Correct.

18 Q. Was that because you were given
19 information that he goes over there after work
20 sometimes?

21 A. If I recall correctly, we were told by
22 one of the employees that Investigator Carrigg
23 talked to at the IGA that he does visit there, so
24 we went by.

25 Q. And was he there when you first

1 arrived?

2 A. No.

3 Q. But at some point he did pull up?

4 A. Yes, ma'am.

5 Q. And at that point, you and Investigator
6 Carrigg asked if he would come back to CID to speak
7 with you?

8 A. Investigator Carrigg made contact with
9 him and I just sat back and witnessed.

10 Q. And from what you observed was Mr.
11 Eastwood cooperative?

12 A. He was.

13 Q. Agreed to come with you?

14 A. He did.

15 Q. Did you ride in the vehicle with
16 Investigator Carrigg and Mr. Eastwood --

17 A. I did.

18 Q. -- on the way back? It's about a 35,
19 40 minute drive?

20 A. Roughly.

21 Q. What was discussed on that drive?

22 A. There wasn't a lot of discussion.

23 Q. At any point, did anybody talk about
24 Ms. Hodges or the fact the reason y'all wanted to
25 talk to him was about Ms. Hodges?

1 A. Not that I remember.

2 Q. So y'all just rolled up, asked him if
3 he would come to the station with you with no
4 explanation or reason and --

5 A. We asked him if he would come back to
6 CID or Investigator Carrigg asked him if he'd come
7 back to CID in reference to an investigation, but
8 no details were given at that time.

9 Q. And were you wearing a body cam at the
10 time?

11 A. We were not assigned body cams then.

12 Q. Was there a dash cam in your car or
13 anything?

14 A. No, ma'am.

15 Q. So in 2019, Orangeburg County Sheriff's
16 Office didn't have body cams and dash cams?

17 A. I don't remember if we were assigned
18 body cams at that time, but they did have body cams
19 and that is for patrol only at that time.
20 Somewhere around in there we did eventually -- CID
21 eventually got body cams, but I don't remember if
22 it was during this investigation or not.

23 Q. Once you got to CID with my client, did
24 you sit in on an interview with him?

25 A. I did.

1 Q. And during that interview was Mr.
2 Eastwood cooperative, willing to talk and answer
3 any questions?

4 A. He was cooperative. He was answering
5 questions.

6 Q. And at some point during that
7 interview, do you recall asking if he would agree
8 to go to Columbia and meet with other law
9 enforcement officers up in Columbia to help with
10 the investigation?

11 A. I don't believe I asked that question,
12 but I do know the question was asked. I might
13 have, I don't recall exactly.

14 Q. Do you have a copy of your report?

15 A. Not with me, no, ma'am.

16 Q. Would it refresh your recollection to
17 look at your report?

18 A. It would probably. Yes, ma'am.

19 MS. CORNWELL: May I approach, Your
20 Honor?

21 THE COURT: Yes, ma'am.

22 Q. If you can take a moment just to review
23 that report. Does that refresh your recollection
24 as to whether or not you were the person that
25 contacted the SLED agent to see if they would

1 assist in the investigation that you could bring my
2 client up around 1:30?

3 A. Oh, I made the phone call to make the
4 arrangements to talk to the SLED agent, but it also
5 states in here in my report that investigators,
6 that does not mean that I was the one who asked the
7 question. I don't know if it was specifically me
8 or not, but it was either Investigator Carrigg or
9 I, one of the two, but, yes, I made the phone call.

10 Q. Okay. So you would agree that if my
11 client agreed to go with you to SLED to meet with
12 another investigator to assist in the
13 investigation?

14 A. He did.

15 Q. And were you with my client when he was
16 driven to Columbia?

17 A. I was.

18 Q. And were you able to observe my
19 client's interview with the SLED agent?

20 A. Yes, ma'am.

21 Q. And at some point after that interview,
22 did law enforcement indicate that they did not
23 believe my client was being truthful to them?

24 A. Yes, ma'am.

25 Q. Okay. On the way up to Columbia, it's

1 | about an hour drive?

2 | A. Forty-five minutes, give or take.

3 | Q. What was discussed in the vehicle on
4 | the way up?

5 | A. I don't remember a lot of discussion.
6 | If there was any discussion it was general talk.

7 | Q. And what was discussed on the way back?

8 | A. Again, I don't remember a lot of
9 | discussion. I was not doing a lot of talking
10 | during that and I don't remember a lot of
11 | conversation back and forth.

12 | Q. It's reasonable to believe that at this
13 | point y'all are talking about the case?

14 | A. I mean, you could assume that, but
15 | without exact memory, I wouldn't say I could
16 | recollect one way or the other about what was
17 | exactly said.

18 | Q. Having exact memory is important;
19 | right, that's why we do reports?

20 | A. Yes, ma'am.

21 | Q. So you can note details and write down
22 | everything, that way in a case like this where it's
23 | years later you are able to refresh your memory;
24 | correct?

25 | A. That would be correct.

1 Q. And so it would be important to put
2 down as many details as you can into your report?

3 A. Yes, ma'am.

4 Q. And when y'all met with my client about
5 11 o'clock in the morning at Fishtales, he remained
6 in your custody all the way until he was dropped
7 off at his house and left around 9 o'clock p.m.;
8 does that sound about right?

9 A. He was cooperative, yes, ma'am.

10 Q. And so for those ten hours, the only
11 details you have in your incident report are
12 reduced to about a paragraph?

13 A. With me not being the lead agent on
14 this, I wrote what my contact was and what my
15 involvement was. The lead agent would be the one
16 who would be more detailed in their report about
17 questions, answers, things of that nature. My job
18 was just to observe and assist and I wrote down the
19 details in my report of what I did.

20 Q. So when you're observing and assisting,
21 it's not important to write down everything that's
22 happening at that time?

23 A. It would be redundant to what the lead
24 agent would be writing.

25 Q. That's assuming that the lead agent

1 | actually wrote things; correct?

2 | A. Ma'am, I can only -- yes, ma'am, that
3 | would be correct.

4 | Q. And after my client went up to
5 | Columbia, met with the other agent, came back, at
6 | some point he was asked if he would give a DNA
7 | sample?

8 | A. He was.

9 | Q. And he was cooperative and willing to
10 | do that?

11 | A. Yes, ma'am.

12 | Q. Why was he told he needed to give a DNA
13 | sample?

14 | A. I don't remember there being an
15 | explanation.

16 | Q. So you've had all this discussion about
17 | Carrigg taking him to different places and then
18 | there's no reason or details given as to why DNA
19 | would be important in this?

20 | A. The only thing I can recall was the
21 | fact that we knew that the last known location was
22 | they were supposed to have been together. So, I
23 | mean, even to rule an individual out, you would
24 | request to have a DNA sample to rule an individual
25 | out in an investigation of this magnitude.

1 Q. And you agree with me that the threat
2 of law enforcement that when interrogating suspects
3 and interviewing suspects, law enforcement's
4 allowed to use deceptive tactics; correct?

5 A. We do have tactics in questioning that
6 we do use, yes.

7 Q. And you're not required to be truthful
8 with suspects regarding the evidence that you have,
9 the collection of evidence or why you're looking
10 for evidence; correct?

11 A. I mean, we are allowed to use forms of
12 deception, yes, to develop leads or ideas; correct.

13 Q. And some of those deceptive tactics
14 were used in this case; correct?

15 A. Not that I'm aware of, no. Not that I
16 recall.

17 Q. The first time you met with my client,
18 Ms. Hodges' body had already been discovered;
19 correct?

20 A. Yes.

21 Q. Yet during the interview, y'all
22 indicated to him that y'all had not found her,
23 y'all were looking for her?

24 A. That was on the interview, ma'am, I
25 don't remember. But I was not doing the lead

1 questioning, so it would have been Investigator
2 Carrigg that would have been the lead questioning
3 on that.

4 Q. But you would agree that if that's what
5 he was told that was not truthful?

6 A. If that was what he was told that would
7 be not truthful; correct.

8 Q. And after he submits to the DNA and
9 that was taken back at CID?

10 A. That's correct.

11 Q. Was that in the same room that the
12 interview was done in?

13 A. Usually that's where we do it, yes,
14 ma'am.

15 Q. But to your knowledge it was not
16 recorded?

17 A. To my knowledge I don't know whether it
18 was or was not recorded. I assumed it was, but I
19 was not the one who flipped the switch on the
20 recorder or any of that.

21 Q. And you would agree that it's important
22 for both sides, for law enforcement and for
23 suspects, that interactions are better to be
24 recorded, that way there's no discussion or
25 confusion as to what was said, what wasn't said,

1 | what was done, what wasn't done, you always like to
2 | video these things to make sure that everything is
3 | above board; correct?

4 | A. If available we try to, yes.

5 | Q. And that audio and video capability is
6 | available at CID?

7 | A. It would have been, yes, ma'am.

8 | Q. After getting his buccal swab, at some
9 | point are you aware of whether or not you or
10 | Investigator Carrigg attempted to get a written
11 | statement from my client?

12 | A. I'm not one hundred percent sure if
13 | Investigator Carrigg being the lead agent got the
14 | written statement or not.

15 | Q. Is that something that y'all typically
16 | do?

17 | A. Usually, yes.

18 | Q. And eventually y'all are done with him
19 | at CID and you ask him if he would be willing to
20 | let y'all search his home and his car? Not you
21 | specifically, but that was a question that was
22 | asked of him while he was in custody?

23 | A. I believe it was, but, yes, ma'am. I
24 | believe there was a question of that nature, but
25 | I'm not one hundred percent sure whether, you know,

1 | who said it.

2 | Q. And he was completely cooperative with
3 | that as well; correct?

4 | A. Yeah. Best of my knowledge.

5 | Q. So were you in the car with
6 | Investigator Carrigg when y'all -- when he was
7 | driven back to his house from CID?

8 | A. Correct.

9 | Q. And do you recall any conversations
10 | that was had there?

11 | A. Nothing other than just general
12 | conversation. No -- nothing specific to the case.

13 | Q. Once y'all arrived at my client's home,
14 | the search was already being executed?

15 | A. I was informed that search warrants
16 | were obtained and the search was being executed.
17 | When we pulled up, CID investigators were executing
18 | the search warrants.

19 | Q. And at that point my client was not
20 | allowed to enter his home?

21 | A. I'm not one hundred percent sure on
22 | that one. I mean, he wouldn't have been allowed
23 | if, you know, the execution of the search warrants
24 | was already going on, yes, ma'am.

25 | Q. So would you have remained in the

1 vehicle with my client while the search warrant was
2 being executed?

3 A. I was not.

4 Q. Where were you at that time?

5 A. I was asked to return his car keys to
6 another investigator who was awaiting my return to
7 Fishtales where his car was being towed and taken
8 to the impound yard.

9 Q. So you had to ask my client if he would
10 be willing to give his car keys so that y'all could
11 get to his vehicle?

12 A. That's correct.

13 Q. And was my client willing to give you
14 the car keys?

15 A. He gave us the car keys.

16 Q. No objections, completely cooperative?

17 A. I got the car keys and he was -- from
18 what I understood -- I was handed the car keys by
19 another investigator, so whoever talked to him, I
20 wasn't present to be able to witness him objecting
21 or anything of that nature.

22 Q. During all of this time, the ten hours
23 that my client was in custody, after he had gone to
24 Columbia and you collected the DNA, he started
25 asking questions, would that be reasonable to say?

1 A. I mean, anybody can assume that, but I
2 didn't hear him ask any questions.

3 Q. You didn't hear him asking any
4 questions about Cara and her being found or whether
5 she had been found?

6 A. Not that I recall.

7 Q. And it's your testimony that at no
8 point did you tell my client that Cara's body had
9 been found, she was strangled and beaten and left
10 on the side of the road?

11 A. I didn't tell him that at all.

12 Q. At any point in time, do you recall
13 telling him that Cara's DNA was going to be found
14 all over his car and at that point y'all would know
15 he did it?

16 A. I didn't tell him that at all.

17 Q. And that the reason that you needed DNA
18 was to confirm because DNA was going to be found on
19 her?

20 A. I never said that to him.

21 Q. And to your knowledge, you took the DNA
22 sample, if these conversations would have been had
23 in the exact same room as the interrogation?

24 A. Normally we do go to the interview room
25 and take the DNA sample, yes.

ANDREW HAYES - REDIRECT EXAMINATION BY MS. HUNTER

1 Q. And that portion of your interview with
2 him or a portion of your interaction with him was
3 not recorded?

4 A. I don't know if it was or if it wasn't,
5 ma'am.

6 MS. CORNWELL: I believe that's all the
7 questions I have. Thank you, Your Honor.

8 THE COURT: Any redirect?

9 MS. HUNTER: Yes, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. HUNTER:

12 Q. Ms. Cornwell asked you about your
13 report that you took. Did you document all
14 conversations with the Defendant in that report?

15 A. Yes.

16 Q. Thank you.

17 MS. HUNTER: Nothing further.

18 THE COURT: You may step down, sir.

19 Thank you.

20 MR. SCOTT: Can he be released?

21 THE COURT: Any objection?

22 MS. CORNWELL: No, Your Honor.

23 THE COURT: You're free to go, sir.

24 You may call your next witness.

25 MR. SCOTT: State calls Brian Lauder --

BRIAN LAUDER - DIRECT EXAMINATION BY MR. SCOTT

1 Brian Patrick Lauder.

2 THE CLERK: Please raise your right
3 hand. State your name for the record, please.

4 MR. LAUDER: Brian Patrick Lauder.

5 BRIAN LAUDER,
6 being first duly sworn, was examined and testified
7 as follows:

8 THE CLERK: Thank you. You may be
9 seated.

10 THE COURT: Your witness.

11 DIRECT EXAMINATION

12 BY MR. SCOTT:

13 Q. Good morning.

14 A. Good morning.

15 Q. Is it Lau-der or Laud-er?

16 A. Laud-er.

17 Q. Where do you live, Mr. Lauder?

18 A. Eutawville.

19 Q. And how long have you lived in
20 Eutawville?

21 A. About seven, eight years.

22 Q. And back in 2019, where were you
23 working?

24 A. The IGA.

25 Q. And where is the IGA?

BRIAN LAUDER - DIRECT EXAMINATION BY MR. SCOTT

1 A. In Eutawville.

2 Q. What was your position at the IGA back
3 in 2019?

4 A. I was frozen food's dairy manager.

5 Q. And do you still work there?

6 A. No, I retired.

7 Q. Do you know the Defendant, Kenneth
8 Eastwood?

9 A. Yes, I do.

10 Q. And how do you know Mr. Eastwood?

11 A. He was my stocker for frozen food.

12 Q. Okay. And what would he do as a
13 stocker?

14 A. Just -- I'd unload the truck and he
15 would unload all the boxes, put them on the shelf.

16 Q. Okay. Those boxes pretty heavy?

17 A. Some of them were.

18 Q. Okay. What was Mr. -- you said he was
19 a stocker and you were one of his supervisors; is
20 that correct?

21 A. Yes, sir.

22 Q. Okay. I want to discuss the morning of
23 Saturday, December 14, 2019. Were you working at
24 the IGA that morning?

25 A. Yes, sir, I was.

1 Q. And was Mr. Eastwood scheduled to work
2 that morning?

3 A. Yes, he was.

4 Q. And did you see him at IGA that
5 morning?

6 A. Yes, sir, I did.

7 Q. About what time?

8 A. It was around 8 o'clock.

9 Q. And did you know how he got to the IGA?

10 A. He walked.

11 Q. He walked. And what, if anything, did
12 Mr. Eastwood say to you when he walked up into the
13 IGA?

14 A. When he walked in, he walked up and
15 said, I won't be in today and I probably won't be
16 back.

17 Q. Okay. And where did this conversation
18 take place?

19 A. In the back room, I was unloading the
20 truck.

21 Q. Okay. And when he said, I probably
22 won't be back, did you ask him why?

23 A. Yes, I did.

24 MS. CORNWELL: Your Honor, I'm going to
25 object at this point to hearsay.

1 THE COURT: It goes against interest.

2 Q. And what was his response?

3 A. I'm lost for a second.

4 Q. You asked him why won't you be back
5 today?

6 A. I said, why won't you be back and he
7 said, yesterday I was -- the Orangeburg County
8 picked me up and did an investigation.

9 Q. Okay. Did you ask him why Orangeburg
10 County was investigating him?

11 A. Yes, I did.

12 Q. I'm sorry, she can't -- she can't write
13 down when we're both talking at the same time.

14 A. Oh, I'm sorry.

15 Q. So you asked him why was the sheriff's
16 office investigating him and what was his response?

17 A. He said, I did it.

18 Q. And what did you say?

19 A. And I said, did what? And he goes, I
20 killed her. I strangled her.

21 Q. He said, I strangled her?

22 A. And I said, why? And he said, because
23 she wouldn't leave me alone.

24 Q. And when he said, I did it, I killed
25 her, did you know who "her" was?

1 A. I had a good idea.

2 Q. How did you know who "her" was?

3 A. Well, it was all of town the girl was
4 missing and he mentioned a couple of days before
5 out on a break, a bunch of us standing around
6 talking and said that he was the last one seen with
7 her. And they went back to his house and she
8 wouldn't leave him alone and -- yeah.

9 Q. Okay. But then on Saturday morning he
10 told you that he did it?

11 A. Yes, he told me that he did it.

12 Q. And what did he say he did to her?

13 A. Said he strangled her.

14 Q. Did he say what he did with her after
15 he strangled her?

16 A. He said he put her in the car and
17 dumped her on the side of the road.

18 Q. After he told you this, what did you
19 say to him?

20 A. I said, you need to go turn yourself
21 in.

22 Q. And what was his response?

23 A. And he said, when they get the results
24 of the DNA back, he says they'll know and I'll
25 confess then.

BRIAN LAUDER - DIRECT EXAMINATION BY MR. SCOTT

1 Q. He told you he would confess?

2 A. Yes.

3 Q. What did Mr. Eastwood do next?

4 A. He said, goodbye and turned around and
5 walked out the door.

6 Q. What did you do?

7 A. I finished unloading the truck and then
8 I called Orangeburg County to tell them what was
9 told to me.

10 Q. And did a deputy show up at the IGA?

11 A. Yeah, they were there about an hour or
12 so later.

13 Q. Did you meet with them?

14 A. Yes, I did.

15 Q. Okay. Give a statement to them?

16 A. Yes, I did, a written and a video
17 statement.

18 Q. The person that you know as Kenneth
19 Eastwood who confessed to you that he strangled a
20 female and left her on the side of the road, is he
21 in the courtroom today?

22 A. Yes, sir, he is.

23 Q. Can you identify him for the jury?

24 A. Yes, sir, right there.

25 Q. The gentleman next to Ms. Cornwell?

BRIAN LAUDER - CROSS-EXAMINATION BY MS. CORNWELL

1 A. Yes, sir.

2 Q. That's all I have. Thank you.

3 THE COURT: Cross-examination?

4 MS. CORNWELL: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. CORNWELL:

7 Q. Good morning, Mr. Lauder.

8 A. Good morning.

9 Q. You indicate that you know Mr. Eastwood
10 from work. About how long did y'all work together?

11 A. Oh, probably four or five months. I
12 think he started in April and this was in December.

13 Q. Okay. And while working with him, did
14 you get a chance to kind of get to know him a
15 little bit?

16 A. A little bit, yeah.

17 Q. Have drinks with him sometimes?

18 A. No drinks. I think we had breakfast
19 together once or something, you know.

20 Q. Did you know him to drink or have a few
21 drinks?

22 A. For him to drink, yeah. I mean, he
23 said he'd go drink a couple of glasses of wine
24 after work.

25 Q. And when he would leave work, do you

1 know where he would normally go?

2 A. Do I know where he normally is?

3 Q. Uh-huh.

4 A. Fishtales is right across the street
5 from where I live, so I would see his car there a
6 lot.

7 Q. Do you recall telling officers that he
8 would go of there to help the girls set up some
9 times?

10 A. Yes, that's what he's told me that he
11 would go there and help the girls set up.

12 Q. You indicated that he was a stocker and
13 unloaded boxes and that those boxes were sometimes
14 heavy?

15 A. Sometimes they were, yeah, 40, 50
16 pounds.

17 Q. They were never 150 --

18 A. No. No. No.

19 Q. Nothing over about 50 pounds?

20 A. Yeah, 40 or 50 pounds.

21 Q. And on the -- you said that y'all had
22 discussed you kind of knew the girl that was being
23 talked about because it was all around town there
24 was a girl missing?

25 A. Yes, ma'am, there was fliers up and

1 everything.

2 Q. And my client indicated that he had
3 talked to the girl's father about her missing?

4 A. Yes. Well, they were supposedly
5 drinking buddies.

6 Q. And on the 13th when he came in, you
7 said it was around 8 o'clock that he had walked
8 there?

9 A. Yes, ma'am.

10 Q. Do you know where he lives?

11 A. I knew he lived out by the dump.

12 Q. About how far away would that have been
13 from --

14 A. That's a good five, six miles.

15 Q. So it would take him awhile to walk
16 there?

17 A. Yes, ma'am.

18 Q. So he'd of had to be up very early in
19 the morning or just not gone to sleep to be get
20 there by 8 o'clock walking?

21 A. Yeah.

22 Q. When he showed up and when he made this
23 statement to you, what was his demeanor?

24 A. He just looked like he hasn't slept in
25 awhile and just looked drained, you know, just...

1 Q. And I believe you told law enforcement
2 that he appeared distraught?

3 A. Yes.

4 Q. Upset?

5 A. (Nodded.)

6 Q. And when he gave this statement to you,
7 he had indicated that he wouldn't be back to work
8 because he had talked to law enforcement and hadn't
9 done well on some things and had to give DNA?

10 A. Yes.

11 Q. And that's when you said, well, why did
12 they need that stuff from you?

13 A. Yeah.

14 Q. When he made his summation, was it,
15 they said I killed her? I strangled her?

16 A. No, ma'am. He said, I -- he goes, I
17 killed her. I strangled her.

18 Q. What was his affect when he told you
19 that?

20 A. The affect on me?

21 Q. No. What was his affect? What was his
22 --

23 A. He was just --

24 Q. Was he excited when he said it?

25 A. No, he didn't get excited. It was just

1 --

2 Q. Very kind of flat?

3 A. Yes, very flat.

4 Q. So he makes a statement in a flat
5 affect while under -- while he was distraught?

6 A. (Nodded.)

7 Q. And at that point he mentioned
8 something about once they get the DNA back they'll
9 know and then I'll confess?

10 A. Yes, ma'am.

11 Q. So he wasn't sure until they got the
12 DNA back; correct?

13 A. Well, he told me he killed her, so...

14 Q. And you said then he left; correct?

15 A. Yes, ma'am.

16 Q. The way that you saw him on the 13th,
17 was that typical of his demeanor or typical of how
18 he would look or act coming to work?

19 A. No. I mean, he come in he's quite, but
20 a good worker. Nice person to be around, pleasant,
21 but that morning he was just kind of --

22 Q. Always on time?

23 A. -- he wasn't his normal self.

24 Q. And was he typically always on time for
25 work?

BRIAN LAUDER - CROSS-EXAMINATION BY MS. CORNWELL

1 A. Oh, he's always on time.

2 Q. Didn't really call out for any --

3 A. I don't believe he ever called out.

4 Q. And what time did his shift normally
5 start?

6 A. Eight o'clock.

7 Q. So he made it a point to still be there
8 around 8 o'clock to tell you that he wasn't going
9 to be able to work?

10 A. Yes, ma'am.

11 Q. In all the times that you've known him,
12 have you ever seen him lose his temper on anybody?

13 A. No, ma'am.

14 Q. Ever seen him act violently towards
15 anybody?

16 A. No, ma'am.

17 Q. Ever seen him snap on anybody?

18 A. No, ma'am.

19 Q. So when he said what he said to you,
20 you would say that that's not the person that you
21 know, that's not in the character that you would
22 have known?

23 A. No, he was not himself.

24 Q. And --

25 MS. CORNWELL: I believe that's all the

1 | questions I have. Thank you.

2 | THE COURT: Any redirect?

3 | MR. SCOTT: Yes, Your Honor.

4 | REDIRECT EXAMINATION

5 | BY MR. SCOTT:

6 | Q. She asked you if this was on the 13th,
7 | would that be Saturday the 14th?

8 | A. I believe it was the 14th, yes.

9 | Q. And have you ever been to his house
10 | before?

11 | A. No, sir.

12 | Q. Do you know exactly where he lives or
13 | just know --

14 | A. Not exactly. I just knew the road that
15 | the dump's on, I believe.

16 | Q. Okay. So you don't know how far it is
17 | from his house to the IGA?

18 | A. No. I know it's about five to six
19 | miles.

20 | Q. Okay. Ms. Cornwell asked you a couple
21 | of different questions about did he say, I did it
22 | or did he say, they said I did it. Can you clarify
23 | that for the jury?

24 | A. He said, I did it. I strangled her.

25 | Q. Okay. Did he seem uncertain as to what

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 he had done?

2 A. No. He knew what he was saying and
3 said it direct.

4 Q. Thank you.

5 MR. SCOTT: No further questions.

6 THE COURT: You may step down, sir.

7 Thank you.

8 MR. SCOTT: Can he be excused?

9 THE COURT: Any objection?

10 MS. CORNWELL: No, Your Honor.

11 THE COURT: You're free to go, sir.

12 You may call your next witness.

13 MR. SCOTT: State calls Dujuan Council.

14 THE CLERK: State your name for the
15 record.

16 MR. COUNCIL: Dujuan Council.

17 DUJUAN COUNCIL,

18 being first duly sworn, was examined and testified
19 as follows:

20 THE CLERK: Thank you.

21 THE COURT: Your witness.

22 MR. SCOTT: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q. Good morning.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 A. Good morning.

2 Q. Can you tell the jury --

3 MR. SCOTT: Did he state his name? I
4 wasn't listening, I'm sorry.

5 THE COURT: He did.

6 MR. SCOTT: Okay.

7 Q. Where are you employed?

8 A. Orangeburg County Sheriff's Office.

9 Q. And how long have you worked at the
10 sheriff's office?

11 A. Approximately five years.

12 Q. And what is your current position with
13 the sheriff's office?

14 A. I'm a lieutenant.

15 Q. And what was your position with the
16 sheriff's office back in December of 2019?

17 A. Criminal investigator.

18 Q. And back on Saturday, December 14th of
19 2019, did you respond to the IGA in Eutawville?

20 A. I did.

21 Q. And why did you respond to the IGA?

22 A. I responded serving as the on-call
23 investigator, I received a call from dispatch that
24 a manager from IGA called and stated that his
25 employee came in and confessed to him that he

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 killed a female and he gave the name of Kenneth
2 Eastwood.

3 Q. When you arrived at the IGA, did you
4 meet with Brian Lauder?

5 A. Investigator Boyne met with Mr. Lauder,
6 the manager.

7 Q. And what did you do after Investigator
8 Boyne met with Mr. Lauder?

9 A. Got the information from him which was
10 information that wasn't shared with the public.
11 Knowing that it was factual, went and got a warrant
12 for murder for Kenneth Eastwood.

13 Q. Was that murder warrant served on Mr.
14 Eastwood that day?

15 A. The warrant murder was served on him
16 prior to going to jail, yes.

17 Q. Okay. And where was Mr. Eastwood
18 arrested?

19 A. He was arrested at his home on
20 Gardensgate.

21 Q. And is that in Orangeburg County?

22 A. It is.

23 Q. After Mr. Eastwood was arrested at his
24 residence, where was he taken by law enforcement?

25 A. 1032 Chestnut Street which is the CID

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 office.

2 Q. And why did y'all take him to the CID
3 office?

4 A. For an interview.

5 Q. And was this interview at the sheriff's
6 office recorded?

7 A. It was.

8 Q. I want to show you what's been marked
9 for identification as State's Exhibit Number 6. Do
10 you recognize this thumb drive?

11 A. I do.

12 Q. And how are you able to recognize this
13 thumb drive?

14 A. My initials.

15 Q. Is this a fair and accurate recording
16 of your interview with Mr. Eastwood on November --
17 or excuse me, December 14th of 2019?

18 A. It is.

19 MR. SCOTT: We would ask that State's
20 Exhibit 6 be admitted into evidence.

21 THE COURT: Any objection?

22 MS. CORNWELL: Subject to our pretrial
23 objection, Your Honor.

24 THE COURT: Same rulings apply. It's
25 in.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 (WHEREUPON, State's Exhibit Number 6
2 was entered.)

3 Q. Prior to interviewing Mr. Eastwood, did
4 you advise Mr. Eastwood of his Miranda rights?

5 A. I did.

6 Q. And I want to show you what's been
7 marked as State's Exhibit Number 2. Do you
8 recognize that?

9 A. I do.

10 Q. And what is that?

11 A. That's the Miranda warning form that we
12 use at the sheriff's office.

13 Q. Okay. Is this the specific form that
14 you used with Mr. Eastwood on December 14th of
15 2019?

16 A. It is.

17 Q. Have there been any changes or
18 alterations to this State's Exhibit Number 2?

19 A. No.

20 MR. SCOTT: We would ask that State's
21 Exhibit Number 2 be admitted into evidence.

22 MS. CORNWELL: No objection.

23 THE COURT: It's in.

24 (WHEREUPON, State's Exhibit Number 2
25 was entered.)

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. Looking at State's Exhibit Number 2,
2 can you -- there's some blanks across the top that
3 are filled in, can you read those blanks for the
4 jury?

5 A. Yes. It would be place, Chestnut
6 Street which is the CID office. Date, December 14,
7 2019. Time, 5:37 p.m.

8 Q. And whose handwriting is that in?

9 A. Mine.

10 Q. And right beneath that, are there some
11 Miranda warnings?

12 A. It is.

13 Q. And did you read those Miranda warnings
14 to Mr. Eastwood?

15 A. I did and he read them himself.

16 Q. And did you have Mr. Eastwood initial
17 next to those Miranda warnings?

18 A. I did.

19 Q. And then whose signature appears after
20 those Miranda warnings saying that they understand
21 their rights?

22 A. That would be Mr. Kenneth Eastwood.

23 Q. And whose signature appears a little
24 bit further down under waiver of rights?

25 A. That would be Mr. Kenneth Eastwood.

DUJUAN COUNCIL - DIRECT EXAMINATION BY MR. SCOTT

1 Q. And that's the section where he signed
2 saying he was willing to speak with you basically?

3 A. Yes.

4 Q. And then whose signature appears as a
5 witness?

6 A. Mine.

7 MR. SCOTT: Your Honor, at this time,
8 we'd ask to publish State's Exhibit Number 6.

9 THE COURT: Yes, sir.

10 Q. Do you recall about how long this
11 interview is?

12 A. Approximately 25, less than 30.

13 (WHEREUPON, playing the video.)

14 Q. During this interview, did Mr. Eastwood
15 appear to be under the influence of alcohol or
16 drugs?

17 A. No, I couldn't tell. No.

18 Q. Did he seem to understand his rights?

19 A. He did.

20 Q. Did you have any concerns about his
21 competency to understand what was taking place that
22 afternoon?

23 A. None.

24 Q. At the conclusion of this interview,
25 where was Mr. Eastwood taken?

DUJUAN COUNCIL - CROSS-EXAMINATION BY MS. CORNWELL

1 A. Orangeburg County jail.

2 Q. And who transported him?

3 A. Lieutenant Shumpert.

4 Q. And was that the extent of your
5 involvement in this case?

6 A. That's it.

7 Q. Thank you.

8 MR. SCOTT: That's all I have.

9 THE COURT: Cross-examination?

10 CROSS-EXAMINATION

11 BY MS. CORNWELL:

12 Q. Investigator Council, in that video you
13 indicated that you had met my client the night
14 before?

15 A. I was present at the house during the
16 search warrant the night before, yes, ma'am.

17 Q. Okay. Who all was there when that
18 search warrant was executed?

19 A. I believe myself, Investigator Cody
20 from crime scene, Sergeant Moore, Sergeant Stokes,
21 Investigator Marty Carrigg was present outside, I
22 believe. He wasn't inside. And I can't think of
23 who else was there.

24 Q. And was that -- did you have a body
25 camera or anything on to record that search

1 warrant?

2 A. CID wasn't assigned body cams at that
3 time.

4 Q. When you say, CID, Orangeburg County
5 Sheriff's Office --

6 A. Orangeburg County CID wasn't provided
7 body cams at that time.

8 Q. Okay. And during the course of the
9 search warrant, at some point do you recall my
10 client being brought inside to open a gun case?

11 A. Yes. Being brought inside, yes.

12 Q. Okay. And when he went to open the gun
13 case, do you recall him asking, was she shot and
14 the answer being, no, she was strangled?

15 A. I do not recall that conversation.

16 Q. And had some pictures taken of him that
17 night, were you there when the pictures were taken?

18 A. I remember him taking his shirt off and
19 Investigator Cody from crime scene took pictures of
20 him.

21 Q. And do you recall him being told that
22 when they find his DNA on -- that they need to take
23 pictures so they can find his DNA on the victim?

24 A. I do not recall anything about DNA or
25 any conversation about that. But I know they took

1 pictures with his shirt off. They took pictures
2 with the shirt off, I don't recall the
3 conversation.

4 Q. You don't recall why he was told he
5 needed to take his shirt off so they can take
6 pictures?

7 A. No, because I didn't ask him to take
8 his shirt off.

9 Q. Okay. And then the next day you say
10 you just went to the IGA, you spoke with -- you
11 didn't speak with Mr. Lauder, you spoke with
12 Investigator Boyne and Investigator Boyne was the
13 one that spoke to Mr. Lauder?

14 A. Correct.

15 Q. So all of the information that you got
16 regarding Mr. Lauder was thirdhand?

17 A. It was from another investigator.

18 Q. And based on that information, you got
19 an arrest warrant?

20 A. Yes, it was enough to get an arrest
21 warrant. Enough to present probable cause to get
22 an arrest warrant, yes.

23 Q. And did you assist in serving that
24 arrest warrant?

25 A. I got the arrest warrant, the arrest

1 | warrant was served on him either at the jail or
2 | prior to his arraignment Monday morning. I did not
3 | -- I couldn't serve my own warrant.

4 | Q. Okay. So were you present at his house
5 | when he was taken into custody?

6 | A. I believe when I got the warrant, I
7 | made contact with the team that was there at his
8 | house, and I believe, as we were heading down -- as
9 | I was heading down, he was apprehended and I went
10 | back to the office.

11 | Q. When you say you made contact with a
12 | team?

13 | A. Uh-huh. A team was all ready that was
14 | present earlier at the IGA stayed in the area
15 | knowing that I was going to get an arrest warrant.

16 | Q. Okay. Approximately how many officers
17 | were in the area to make the arrest on my client?

18 | A. I can say seven to nine deputies were
19 | there approximately, I'm not sure.

20 | Q. And to your knowledge, was there any
21 | body cam or dash cam footage of them going in his
22 | house and making the arrest?

23 | A. I did not see any body cam of him being
24 | arrested, no.

25 | Q. Why were so many officers needed to

1 effect his arrest?

2 A. Well, prior to the night before in the
3 house we seen a lot of ammo, we seen a gun placed
4 in the center window directed outside. We didn't
5 know whether he was in there or not and he was
6 wanted for murder. Didn't know what his mindset
7 was, so, we were there to apprehend him
8 effectively.

9 Q. He had been completely cooperative the
10 day before; correct?

11 A. From me seeing him in the house that
12 night he was cooperative. Prior to that, I didn't
13 have interaction with him.

14 Q. But y'all were so concerned that seven
15 to nine officers had to go an effect the arrest,
16 but nobody thought that it was important to record
17 this in case anything went wrong?

18 A. You said 79 -- seven to nine?

19 Q. Seven to nine, yes.

20 A. Well, that's officer safety. We're
21 gonna go in numbers anyway.

22 Q. But nobody recorded --

23 A. Our unit in CID which was a lot of CID
24 investigators wasn't provided body cameras at that
25 time in 2019. And that's why it wasn't recorded.

1 Q. But Investigator Boyne had a camera;
2 correct?

3 A. I'm not sure if Investigator Boyne had
4 a camera or not.

5 Q. He was able to record the statement of
6 Mr. Lauder; correct?

7 A. I'm not sure how he recorded his.

8 Q. Do you know who transported Mr.
9 Eastwood from his house to the jail on the 14th --
10 I'm sorry, from his house to CID on the 14th?

11 A. From the video, it looks like Deputy
12 Wood-Jones was there, one of the patrol unit. It
13 had to of been a marked unit.

14 Q. And when you were meeting with him and
15 saw where he told you he didn't sleep at all that
16 night, do you recall him saying that?

17 A. I can recall him saying he wanted some
18 sleep here at the end. At the end of the interview
19 said, I just wanted to get some sleep after
20 Lieutenant Shumpert said is anything else we can do
21 for you? Anything else we can get you? And he
22 said, I just want some sleep.

23 Q. You don't recall him saying he didn't
24 get any sleep last night that he didn't want to
25 give a statement right now because he was just so

1 | burnt out?

2 | A. The part of where he didn't want to
3 | give a statement right now, I'm not sure he was
4 | saying didn't want to give a statement right now.
5 | Lieutenant Shumpert was asking him to go ahead and
6 | get it off his chest. Then I believe he was
7 | saying, I do, but not right now. They continued to
8 | talk and he end up talking to Lieutenant Shumpert.
9 | He wasn't falling over like he was sleepy. Wasn't
10 | -- he volunteered to talk. He was willing to talk,
11 | he talked.

12 | Q. Are you aware that prior to law
13 | enforcement going to his house in the morning that
14 | they met with Mr. Eastwood's sister?

15 | A. I believe Lieutenant Shumpert made a
16 | call to the sister in order to get in touch with
17 | Mr. Kenneth Eastwood. I don't know the extent of
18 | the conversation.

19 | Q. Okay. And when he first came into the
20 | interview room, he had his phone? Y'all took his
21 | phone?

22 | A. He put his phone and wallet, I believe
23 | that was on the table.

24 | Q. So y'all collected that phone?

25 | A. I don't believe I collected a phone.

1 Q. He's not allowed to take his phone into
2 the jail with him?

3 A. Yeah, but I don't believe I collected
4 his phone.

5 Q. Law enforcement collected his phone?

6 A. Yes.

7 Q. At any point, to your knowledge -- you
8 signed the arrest warrants, does that make you the
9 lead investigator on this case?

10 A. Unfortunately that makes me the lead
11 once I get the warrant, yes, I become the case
12 agent.

13 Q. Let's talk about being a case agent
14 lead investigator. What all does that entail?

15 A. Well, the collection of evidence, the
16 collection of all reports and testify to the
17 findings.

18 Q. And as lead agent especially if you're
19 going to get the arrest warrant, it's your
20 responsibility to review all the reports, review
21 all the evidence, make sure everything's together
22 and what you need for probable cause to effect the
23 arrest and eventually prosecute; correct?

24 A. Yes. What was made available to me,
25 yes, ma'am.

1 Q. Did you review all the reports in this
2 case?

3 A. I did all the written reports, yes, I
4 did.

5 Q. And so you're aware of the all the
6 collection of evidence in this case?

7 A. What was presented to me in my file,
8 yeah.

9 Q. So you would agree with me that no
10 phone records were ever gotten in this case?

11 A. No, I did not get any phone records.

12 Q. The only thing that's recorded in this
13 case are the two interviews in CID?

14 A. Correct.

15 Q. There was no follow-up investigation
16 into any other people that Ms. Hodges could have
17 had contact with after she went missing?

18 A. No, because your client confessed to
19 murdering the victim.

20 Q. And you're aware that oftentimes people
21 falsely confess for different reasons; correct?

22 A. I'm not aware of a false confession.
23 I'm aware that your client confessed to strangling
24 and dumping her body into the woods.

25 Q. You have training as a law enforcement

1 officer; correct, through the academy?

2 A. Yes, ma'am.

3 Q. And during that training, you have
4 classes on interrogation tactics; correct?

5 A. There are some on interviewing, yes,
6 ma'am.

7 Q. And we talked about deceptive
8 interrogation tactics where you can present false
9 evidence to a person, where you can basically lie
10 to a suspect in order to try to gain information
11 from them; correct?

12 A. There can be some deception, but during
13 the interview with your client there was no
14 deception used. Your client did the talking. And
15 your client admitted to murdering the victim.

16 Q. In the course of your training though,
17 you have been advised on the dangers of false
18 confessions; correct?

19 A. There are dangers to it; however, I
20 didn't use any. During that interview, your client
21 was read his rights. He understood his rights. He
22 agreed to talk. He talked and confessed to
23 murdering the victim.

24 Q. Being aware of the dangers of false
25 confessions, you didn't feel that it was necessary

1 to try to corroborate anything that he said, to
2 collecting evidence, to get phone records, to get
3 GPS records, to speak to other potential witnesses,
4 look for other videos from Fishtales or from the
5 IGA or from the Hot Spot or any other place in the
6 area that could have corroborated or maybe shown
7 you that this was a false confession? You didn't
8 think to follow-up on any of that?

9 A. All the evidence that was collected on
10 Fishtales where the witnesses said that the victim
11 and your client left together, they were last seen
12 together. Then your client told us that she was at
13 his house and he strangled her with the cord. He
14 dumped her body. He dumped her clothes. I believe
15 that was enough to present to the judge for
16 probable cause for a murder warrant and that's what
17 got us here today.

18 Q. Well, you had gotten the murder warrant
19 before he told you all that?

20 A. I got a murder warrant once he went to
21 the IGA and confessed and told the IGA manager
22 information that wasn't made public. He told him
23 specific details. And he admitted to the IGA
24 manager, he admitted to myself and Lieutenant
25 Shumpert that he did it.

1 Q. The information hadn't been made
2 public, but had been made to him, Mr. Eastwood;
3 correct?

4 A. What information?

5 Q. The information regarding the death of
6 Ms. Hodges. He had already been told she had been
7 killed, that her body had been discovered,
8 strangled and dumped on the side of the woods.
9 That information wasn't made public, but it was
10 made to him on the 13th, the night before he made
11 this confession?

12 A. And if it was, on the 14th, he went in
13 and told the manager he killed her, he did it.
14 Later on, he told myself and Lieutenant Shumpert he
15 killed her, he did it.

16 Q. And as the lead agent, you didn't think
17 that it was important to collect and gather
18 evidence that supported or corroborated that
19 statement?

20 A. The statement for when he went to the
21 IGA?

22 Q. The statement that he made where he
23 says what he allegedly did. You didn't think that
24 it was important to try to get additional evidence
25 to support that statement? To confirm that

1 statement?

2 A. He went to IGA and made the statement.

3 He confirmed --

4 Q. I know what he did --

5 A. He confirmed --

6 Q. -- I know he went to the IGA and I know
7 he did that --

8 MR. SCOTT: Objection. She's cutting
9 the witness off.

10 THE COURT: Let him answer the
11 question.

12 MS. CORNWELL: If he would answer the
13 question that I'm asking, Your Honor, that would be
14 fantastic.

15 THE COURT: You've asked it several
16 times. He can answer the question, then you can
17 follow-up, but don't interrupt him on his answer,
18 please. You may continue.

19 A. He went to the IGA, confessed there.
20 He came to CID and confessed there to myself and
21 Lieutenant Shumpert.

22 Q. That was not my question. My question
23 was, you did not feel appropriate to follow-up on
24 what he said and get any evidence that would
25 corroborate, confirm or substantiate his statement?

1 A. Evidence was gathered throughout the
2 investigation. It was enough to present probable
3 cause. We got probable cause to get a warrant. We
4 got the warrant for murder. And after obtaining
5 that warrant for murder, he confessed it to myself
6 and CID -- at CID with Lieutenant Shumpert.

7 Q. So Investigator Carrigg's report that
8 you indicate that you looked over stated that there
9 was video available from Fishtales, but nobody ever
10 went to get video from Fishtales; is that correct?

11 A. I did not go and get the video from
12 Fishtales, no.

13 Q. As a lead agent, it would be your
14 responsibility to make sure that all the evidence
15 is gathered; correct?

16 A. Absolutely. I did not go to Fishtales
17 to get the video.

18 Q. Okay. Did anybody?

19 A. If it's not in evidence that means it
20 didn't get done.

21 Q. And no phone records or GPS records
22 were obtained in this case?

23 A. I did not get any phone records.

24 Q. And no other witnesses were
25 interviewed, no other suspects were developed,

1 nobody else was spoken to after December 13th?

2 A. Or the 14th when he confessed.

3 Q. But you personally didn't speak to any
4 other witnesses?

5 A. I did not.

6 Q. Didn't look into any other suspects?

7 A. I did not.

8 Q. Did you look into seeing whether there
9 was GPS on my client's vehicle?

10 A. I did not. The evidence that I had
11 didn't lead us any place else, but to Mr. Kenneth
12 Eastwood. And it stopped there when he confessed
13 to strangling her at his house and killing her and
14 moving her body and dumping it in the woods.

15 Q. And that's the only evidence that you
16 had is his statement?

17 A. That's what I have. What's collected
18 and what's presented to you is what we have. I did
19 not get any phone records, no.

20 MS. CORNWELL: That's all the questions
21 I have, Your Honor.

22 THE COURT: Any redirect?

23 MR. SCOTT: Just briefly.

24 REDIRECT EXAMINATION

25 BY MR. SCOTT:

1 Q. Are you aware of any evidence, any
2 evidence that the Defendant was told on December
3 13, 2019, that the victim, Cara Hodges, had been
4 strangled?

5 A. I'm not aware.

6 Q. Okay. She asked you if there were
7 seven to nine deputies at his houses serving the
8 search warrant?

9 A. Right.

10 Q. Did you hear anybody mention that the
11 victim had died due to strangulation?

12 A. I did not.

13 Q. Did you hear any of those seven to nine
14 deputies mention that Cara Hodges' body had been
15 found in the woods?

16 A. I did not. Not at that time, no, I did
17 not.

18 Q. She asked you about Mr. Lauder's video
19 interview with law enforcement and whether or not
20 that was on body cam. Is it possible Investigator
21 Boyne could have used a cell phone to record that
22 interview?

23 A. It is possible.

24 MR. SCOTT: That's all I have.

25 THE COURT: You may step down, sir.

1 Thank you.

2 Ladies and gentlemen of the jury, do
3 you need a quick break? Morning recess? All
4 right. We'll take about a 10 minute break.
5 Remember, please do not discuss the case amongst
6 yourselves or with anyone else. We'll be right
7 back with you.

8 (WHEREUPON, the jury left the courtroom
9 at 11:14 a.m.)

10 THE COURT: Counsel, anything we need
11 to take care of during the break?

12 MR. SCOTT: No, Your Honor.

13 THE COURT: We'll be in recess.

14 (WHEREUPON, there was a short break.)

15 THE COURT: Thank you, everyone.

16 Please have a seat. Are the parties ready to
17 proceed?

18 MR. SCOTT: Yes, Your Honor.

19 MS. CORNWELL: Yes, Your Honor.

20 THE COURT: Let's have our jury,
21 please.

22 (WHEREUPON, the jury entered the
23 courtroom at 11:37 a.m.)

24 THE COURT: Welcome back, ladies and
25 gentlemen of the jury. Please have a seat. You

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 | may call your next witness.

2 | MR. SCOTT: Thank you, Your Honor. The
3 | State calls James Shumpert.

4 | THE CLERK: State your name for the
5 | record.

6 | MR. SHUMPERT: James Shumpert.

7 | JAMES SHUMPERT,
8 | being first duly sworn, was examined and testified
9 | as follows:

10 | THE CLERK: Thank you. You may be
11 | seated.

12 | THE COURT: Your witness.

13 | MR. SCOTT: Thank you, Your Honor.

14 | DIRECT EXAMINATION

15 | BY MR. SCOTT:

16 | Q. Good morning.

17 | A. Good morning.

18 | Q. Where are you employed?

19 | A. I'm employed with the Orangeburg County
20 | Sheriff's Department.

21 | Q. And what's your position with the
22 | sheriff's office?

23 | A. Lieutenant of criminal investigations.

24 | Q. And how long have you worked at the
25 | sheriff's office?

JAMES SHUMPERT - DIRECT EXAMINATION BY MR. SCOTT

1 A. Twenty-four years.

2 Q. And how long have you been the
3 lieutenant over criminal investigations?

4 A. Approximately 12 years.

5 Q. Were you involved in a homicide
6 investigation that took place back in December of
7 2019?

8 A. Yes, sir.

9 Q. And when did you first become involved
10 in that investigation?

11 A. December 14th, that was a Saturday.

12 Q. And what did you do on that December
13 14, 2019?

14 A. I basically supervised. Went to the
15 residence. We arrested the suspect and I also
16 interviewed the suspect on that day.

17 Q. Where was Mr. Eastwood arrested?

18 A. At his residence.

19 Q. And that's in?

20 A. Eutawville.

21 Q. And were you present on scene when the
22 Defendant was arrested at his residence?

23 A. Yes, sir, I was.

24 Q. And after arresting Mr. Eastwood at his
25 residence, did you advise him of his Miranda

1 rights?

2 A. I did.

3 Q. And how did you advise him of his
4 Miranda rights?

5 A. I keep a card in my wallet that I read
6 from.

7 Q. Okay. And you don't have to pull it
8 out, but you have that card in your wallet now?

9 A. I do.

10 Q. Okay. And I want to show you what's
11 been marked as State's Exhibit Number 3. Do you
12 recognize that?

13 A. Yes, sir. This is a copy of my card.

14 Q. And is this an exact copy of the card
15 that you keep in your wallet?

16 A. It is. Yes, sir.

17 Q. And is this what you used to advise Mr.
18 Eastwood of his Miranda rights at his residence on
19 December 14, 2019?

20 A. Yes, sir.

21 MR. SCOTT: We'd ask that State's
22 Exhibit Number 3 be admitted.

23 MS. CORNWELL: No objection.

24 THE COURT: It's in.

25 (WHEREUPON, State's Exhibit Number 3

1 | was entered.)

2 | Q. After advising Mr. Eastwood of his
3 | Miranda rights verbally at his residence, did you
4 | question Mr. Eastwood at his residence?

5 | A. No, I did not.

6 | Q. What happened next?

7 | A. After he was arrested, he was
8 | transported back to what we call CID. That's at
9 | 1032 Chestnut here in Orangeburg.

10 | Q. Did you transport Mr. Eastwood to CID?

11 | A. No, I did not.

12 | Q. Did Investigator Council transport the
13 | Defendant to CID?

14 | A. No, he did not.

15 | Q. And I might have missed it, did you say
16 | where CID is located?

17 | A. Correct. Here in Orangeburg, 1032
18 | Chestnut Avenue.

19 | Q. That's over there behind Popeye's?

20 | A. Yes, sir.

21 | Q. Once at CID, was Mr. Eastwood advised
22 | of his Miranda rights again?

23 | A. Yes, he was.

24 | Q. And by who?

25 | A. Lieutenant Council.

1 Q. And after the Defendant was advised of
2 his Miranda rights by Investigator Council, did you
3 assist with the interview of Mr. Eastwood?

4 A. I did.

5 Q. And that was videotaped?

6 A. It was.

7 Q. Did you ever threaten Mr. Eastwood to
8 speak with you that day?

9 A. No, sir.

10 Q. Did you ever threaten him off camera to
11 speak with you that day?

12 A. No, sir.

13 Q. Did you ever coerce him to get him to
14 speak with you?

15 A. No, sir.

16 Q. Were his statements to you and
17 Investigator Council voluntarily given?

18 A. Yes, sir.

19 Q. On December 14, 2019, did you have any
20 concerns about Mr. Eastwood's ability to understand
21 his Miranda rights?

22 A. No. No, sir.

23 Q. Did you have any concerns about his
24 ability to under -- to appreciate the environment
25 that he was in, a law enforcement setting?

1 A. Yeah, he was fine. He was very aware
2 of where he was at.

3 Q. Did he appear to be under the
4 influence?

5 A. No, not that I could tell.

6 Q. And what was played for the jury a
7 little bit ago, that recorded interview, is that
8 the extent of your conversations about this case
9 with Mr. Eastwood on December 14, 2019?

10 A. Yes.

11 Q. And at the conclusion of that interview
12 on December 14th, where was Mr. Eastwood taken?

13 A. Back to the detention center.

14 Q. All right. So on the following day,
15 that Sunday, December 15, 2019, did you have a
16 conversation with Mr. Eastwood?

17 A. I did.

18 Q. And where was Mr. Eastwood?

19 A. He was in the detention center.

20 Q. Okay. And where did this conversation
21 take place?

22 A. Back at my office at CID.

23 Q. So how did he get from the detention
24 center to CID?

25 A. I transported him.

1 Q. And what was your purpose in taking Mr.
2 Eastwood back to CID on Sunday, December 15th?

3 A. It was a follow-up to locate the young
4 lady -- the victim clothing. We didn't have it in
5 our possession, so I just wanted to ask him where
6 did he put the clothes at.

7 Q. And was this interview with Mr.
8 Eastwood on the 15th, was that recorded?

9 A. I believe so, but I have no copy of it.

10 Q. Okay. So if it was recorded, you would
11 agree with me that a copy of it doesn't exist now?

12 A. Yes.

13 Q. Prior to interviewing Mr. Eastwood on
14 December 15th, did you advise him of his Miranda
15 rights?

16 A. I did.

17 Q. I'm going to show you what's been
18 marked for identification as State's Exhibit Number
19 4. Do you recognize that?

20 A. Yes, sir.

21 Q. And what is that?

22 A. This is the Miranda warnings that I
23 went over with Mr. Eastwood on the 15th.

24 Q. Okay. And is that -- have there been
25 any changes or corrections or anything to that

1 form?

2 A. No, sir.

3 Q. Okay.

4 MR. SCOTT: We would ask that State's
5 Exhibit Number 4 be admitted into evidence.

6 MS. CORNWELL: No objection.

7 THE COURT: It's in.

8 (WHEREUPON, State's Exhibit Number 4
9 was entered.)

10 Q. Can you read the fill in the blanks
11 across the top for the jury on that exhibit?

12 A. All right. It says place, 1032
13 Chestnut Avenue. The date, it says, 12/15/2019.
14 Time, 3:30 p.m.

15 Q. And who initialed next to each of those
16 Miranda rights?

17 A. Mr. Eastwood.

18 Q. And who signed saying they understood
19 their Miranda rights?

20 A. Mr. Eastwood.

21 Q. And who signed saying they wished to
22 waive their Miranda rights?

23 A. Mr. Eastwood.

24 Q. And who signed as a witness?

25 A. Myself and, I believe, Emmanuel

1 McDuffie.

2 Q. Emmanuel McDuffie?

3 A. Yes.

4 Q. After advising Mr. Eastwood of his --
5 well, did Mr. Eastwood agree to meet with you or to
6 talk with you on the 15th?

7 A. Yes.

8 Q. Okay. Did you have any concerns about
9 his competency on that day?

10 A. No, I did not.

11 Q. Okay. Did he look well rested?

12 A. Yes.

13 Q. Okay. What did you ask him on the 15th
14 after you advised him of his Miranda rights and he
15 agreed to waive his rights?

16 A. I just basically asked him where did he
17 place the clothing at. That's all I asked him.

18 Q. And what was his response?

19 A. He said that he couldn't remember. He
20 placed them in a dumpster either in Eutawville or
21 Holly Hill at one of the Hot Spot's.

22 Q. Did you ask him anything else?

23 A. No.

24 Q. Okay. And what did you do at the
25 conclusion of this short interview?

1 A. I took him back to the detention center
2 and then I proceeded to head down to Holly Hill and
3 Eutawville to the Hot Spot's in order to locate the
4 clothing in the dumpsters.

5 Q. Okay. Did you find anything?

6 A. No, I did not.

7 Q. Was that the extent of your involvement
8 in this case?

9 A. That's it.

10 Q. How many gas stations do you think you
11 went to looking for clothing?

12 A. Two, I believe. Two.

13 MR. SCOTT: That's all I have, Your
14 Honor.

15 THE COURT: Cross-examination?

16 CROSS-EXAMINATION

17 BY MS. CORNWELL:

18 Q. Lieutenant Shumpert, you're the
19 lieutenant over the criminal investigation division
20 of Orangeburg County?

21 A. Yes, I am.

22 Q. So you're in charge of all the
23 investigators in CID; correct?

24 A. Yes.

25 Q. And when -- as the lieutenant, do you

1 supervise these investigations?

2 A. Yes, I do.

3 Q. So in your supervision of this
4 investigation, do you typically encourage your
5 officers to keep a person in custody for ten hours
6 without offering him food or beverage or anything
7 like that?

8 A. No, I don't encourage them to keep them
9 in custody for ten hours without no food or
10 beverage. But they have to follow the leads and
11 investigate and talk to the suspect as long as it
12 takes, but we will give them something to drink and
13 eat.

14 Q. Would you agree that having somebody in
15 custody for ten hours and in speaking to them for
16 ten hours is a long time?

17 A. No, I would not.

18 Q. You don't think that's a long time to
19 talk to somebody?

20 A. Depending on the circumstances. I
21 mean, there's so many variables that when you
22 interview a suspect, I mean, it could take one hour
23 or it could take two days, it's no telling. So
24 many variables that plays any part of interviewing
25 and interrogation, it could take a long time or it

1 | could take a short time, so I couldn't really
2 | answer that.

3 | Q. You would agree with me that these
4 | interactions that law enforcement have with the
5 | public whether it's a suspect, a witness, anybody,
6 | it's important to document those interactions
7 | completely; correct?

8 | A. Yes, correct.

9 | Q. And, generally, it's good practice to
10 | record all these interactions so that there's no
11 | mistakes as to what exactly happened?

12 | A. Yes, ma'am.

13 | Q. And so out of your officer speaking to
14 | my client for ten hours, would you agree that only
15 | having 45 minutes of that interaction recorded is
16 | problematic?

17 | A. Well, I'm not aware of no ten hour
18 | interaction with the officers. I'm not sure what
19 | you're talking about. I came involved on December
20 | 14th and my interaction with Mr. Eastwood was 30
21 | minutes at the best, so I don't know what happened
22 | prior to that. I was on leave and I came back to
23 | assist.

24 | Q. And in that 30 minutes you offered him
25 | at least two bottles of water; correct?

1 A. Two bottles of water; correct.

2 Q. You indicated that you became involved
3 when the arrest warrants were received or obtained
4 and you went to go and effect the arrest on Mr.
5 Eastwood; correct?

6 A. Yes, ma'am.

7 Q. And that was on December 14th?

8 A. 14th, yes, ma'am.

9 Q. And tell me a little bit about what the
10 process was in effecting that arrest?

11 A. Best of my recollection, I knew that
12 Lieutenant Council, I believe that was Investigator
13 Boyne that had gotten some information that the
14 suspect had spoken to a witness about the events
15 that had taken place. Myself, DNR, we headed down
16 to what we call the East Region which is
17 Eutawville. We waited for Investigator Council to
18 secure the warrants through the magistrate. He
19 went to the magistrate and he got the warrant
20 secured. We went and got some officers. I spoke
21 with Mr. Eastwood, I believe it was his sister at
22 the time, there was some concerns because he was
23 ex-military and he was supposed to have like a
24 plethora of weapons in his possession. And for
25 officer safety reasons, I asked her could she talk

1 Mr. Eastwood out the house. We went to the house
2 and he was placed under arrest.

3 Q. And did you record your conversation
4 with her?

5 A. No, I did not. I wasn't issued no body
6 camera at that time.

7 Q. Did you have your cell phone?

8 A. I can't -- cell phone, I probably did,
9 I can't remember.

10 Q. And your cell phone has a recording
11 device on it; correct?

12 A. Yeah, but I think per our policy, we
13 cannot record incidents on our personal phones. So
14 if I did had it, I wouldn't have used it.

15 Q. You don't have a county issued cell
16 phone?

17 A. I don't know if I had one. I probably
18 had one back then, but I can't remember.

19 Q. Investigator -- or Lieutenant Shumpert,
20 you don't have -- you don't know whether or not in
21 2019 you had an officer issued cell phone?

22 A. No. The question is, did I have the
23 cell phone on me to record him. Normally, when I
24 have my cell phone, it probably was left in the
25 truck. I cannot remember if I ran up to his sister

1 and had my cell phone in hand to record her. I
2 just can't remember that. That was a long time
3 ago.

4 Q. But you just testified that it's
5 important when you're having these conversations
6 with witnesses and suspects it's ideal to record
7 them?

8 A. Yes.

9 Q. Do you recall during that conversation
10 with her, her telling you that she had spoken to
11 her brother that morning?

12 A. She may have, I can't remember.

13 Q. And you wrote a report in this case?

14 A. I wrote a supplemental to what happened
15 that day; correct, yes, ma'am.

16 Q. And as a lieutenant in training your
17 officers and your own training, it's important to
18 make detailed statements to include all the details
19 of conversations, what you did, where you did it,
20 when you did it so that you can refresh your
21 recollection on those conversations and on those
22 details later on down the road; correct?

23 A. Yes, ma'am.

24 Q. And it's important to give a full and
25 detailed account of those conversations of those

1 doings?

2 A. Yes, ma'am.

3 Q. Did you do that in this case?

4 A. Which part of the case you speaking of?

5 The whole entire case or speaking with --

6 Q. Did you give --

7 A. -- the sister?

8 Q. I'm asking if you gave a detailed
9 report regarding everything that you did in this
10 case, every conversation that you had in this case,
11 all of the ongoing's that you had?

12 A. I can't tell you that I did a detailed
13 report. I did the base report that I did dealing
14 with the situation, but I don't know if I wrote
15 down every little thing like, I left the office,
16 got in my car. I can't tell you if I wrote a very
17 detailed report, but I wrote a report to the events
18 that took place on that day.

19 Q. And are you aware that my client's
20 sister often kept a journal and she kept very
21 detailed notes of conversations that she had and
22 things that she did throughout her life?

23 A. No, I didn't know she kept a detailed
24 journal. I mean, how would I know that?

25 Q. I'm just asking.

1 A. Oh, you asking me. I don't know if she
2 kept a detailed journal. I have no idea.

3 Q. Okay. So do you recall her telling you
4 that she had spoken to --

5 MR. SCOTT: I'd object as to any
6 hearsay.

7 THE COURT: Finish the question first.

8 Q. Do you recall if she informed you that
9 her brother was at home that she had spoken to him
10 that morning?

11 MR. SCOTT: Objection as to hearsay.

12 THE COURT: Rephrase your question.

13 Q. Were you able to obtain information as
14 to whether or not Mr. Eastwood was in his residence
15 that day?

16 A. I believe so, yes.

17 Q. And were you given any information as
18 to the condition that he would likely be found in?

19 A. I can't recall that. No, ma'am, I
20 can't recall that.

21 Q. You don't recall getting information
22 that he was intoxicated that morning?

23 MR. SCOTT: Objection. Hearsay.

24 THE COURT: I'll allow that question.

25 A. Again, I don't recall anything about

1 | any information about him being intoxicated. My
2 | conversation with the sister was on the mere fact
3 | that he had weapons in the house and I didn't want
4 | anybody to be hurt or injured.

5 | Q. And she agreed to assist you?

6 | A. Yes.

7 | Q. And how many officers would you say
8 | were present when he was arrested?

9 | A. It was several officers. I can't
10 | remember. I didn't like just start counting
11 | officers. I don't remember how many officers were
12 | out there. It was several of us though.

13 | Q. To your knowledge, was anybody wearing
14 | body cams or dash cams or was this recorded in any
15 | way?

16 | A. Again, I can't tell you who had on
17 | what. I don't remember.

18 | Q. You're the lieutenant and you reviewed
19 | this case before coming to testify today; right?

20 | A. No, I reviewed what I did.

21 | Q. So as the lieutenant over criminal
22 | investigations, you don't -- you just testified
23 | that you review cases that you supervise all these
24 | cases. So in supervising this case, you didn't
25 | review it prior to coming in and testifying today?

1 A. I reviewed the case, yes, ma'am, I did.

2 Q. So are you aware of there being any
3 video of this arrest?

4 A. No, I don't recall anybody having on
5 any video camera. To answer your question better,
6 the recordings that I did see, I didn't see no
7 video cams in the file, so I just assumed that
8 there was no video cameras out there.

9 Q. And you would agree that in criminal
10 investigations, once you get a statement from
11 somebody, it's the best practice to try to get
12 other evidence, other information that corroborates
13 or refutes that statement; correct?

14 A. Yes, ma'am.

15 Q. And are you aware if that was done in
16 this case?

17 A. I'm not sure what you're asking me.
18 You asking me did we get statements and did we do
19 follow-ups?

20 Q. Yes.

21 A. Yes. Yes, we did.

22 Q. What follow-up statements did you from
23 witnesses after Mr. Eastwood was arrested?

24 A. Once again, what I did was to follow-up
25 is I can only speak to what I did. And my

1 follow-up was that on the 14th, he gave us the
2 details of what happened and also about the
3 clothing. And the follow-up that I did was went
4 back and got him the next day and asked him where
5 did he put the clothing at. So if you ask me what
6 other follow-ups anybody else did, I can't really
7 tell you that.

8 Q. In your interview with my client, you
9 agree that when you're interrogating a suspect and
10 when you're eliciting a confession, it's important
11 to get details of the incident; correct?

12 A. Yes, ma'am.

13 Q. And it's also important to allow the
14 suspect to give you those details, to not feed
15 information to a suspect; correct?

16 A. Correct.

17 Q. Are you aware of the details that were
18 given to Mr. Eastwood on the 13th prior to his
19 arrest on the 14th?

20 A. No.

21 Q. During your interrogation with him,
22 would you agree with me that he wasn't able to give
23 you a whole lot of details as to what actually went
24 down?

25 A. No, I could not agree with that. Your

1 client gave very specific details.

2 Q. Were those details given spontaneously
3 by him or led by your questioning?

4 A. I would ask the question and he would
5 respond to the question. I'm not sure what you're
6 asking me here.

7 Q. You would give him a choice between two
8 answers and he would pick an answer; correct?

9 A. No, that's not correct.

10 Q. Okay. During your interview with him,
11 you didn't think that he was showing any signs of
12 intoxication or sleep deprivation?

13 A. He did say he wanted to get some sleep,
14 but as far as intoxication, I didn't know notice no
15 intoxication. Talked to him for 25 minutes or so.

16 Q. And, again, he told you that he hadn't
17 slept at all that night?

18 A. I think he said he was trying to get
19 sleep on the night the incident took place.

20 Q. And then he had said, you know, after
21 he had been with officers all day on the 13th he
22 hadn't slept at all, he had been thinking about
23 what the officers told them?

24 A. I don't recall him telling me he had
25 been with officers on the 13th.

1 Q. You don't recall him saying that he
2 didn't want to give a statement because he was
3 tired, he was burned out?

4 A. I think his words were, I don't want to
5 talk about it right now, something to that effect.

6 Q. And then at the end of the interview
7 when you asked him if he needed anything else, he
8 indicated he needed sleep?

9 A. If that's on the videotape, he probably
10 said that.

11 Q. You don't have a lot of recollection of
12 really anything with this case?

13 A. I can recollect what I did and what he
14 said.

15 Q. I mean, during this investigation while
16 you're interviewing him, you didn't even know the
17 name of the victim, did you?

18 A. I think I did know the name at the
19 time.

20 Q. Do you know whether or not any video
21 from -- did you attempt, you said you went to the
22 Hot Spot's, did you attempt to get video from the
23 Hot Spot's to if my client can be seen with the
24 victim or with her clothes or anything like that on
25 any of the nights in question?

1 A. I don't have no video in possession. I
2 don't think that was obtainable at the time. I
3 don't have none, no.

4 Q. Okay. And you didn't ask for any when
5 you went to those Hot Spot's to look for the
6 clothes?

7 A. I'm quite sure I may have talked the
8 clerk or so, but I just don't remember the content
9 of the conversation. But if you ask me do I have
10 any video, I don't have no video of him being at
11 the Hot Spot.

12 Q. Okay. If you did talk to the clerk and
13 asked about it, it wouldn't be in your report?

14 A. No. Again, like I said, that was a
15 long time ago.

16 Q. Which is why it's important to document
17 reports; right?

18 A. Yes, ma'am.

19 Q. After speaking with him on the 14th,
20 did you instruct any of your officers or did you
21 yourself try to get phone records or GPS records,
22 anything that would corroborate this statement that
23 he just gave?

24 A. No.

25 Q. Ever try to get video from Fishtales to

1 corroborate the timeline of when he was with the
2 victim?

3 A. That wasn't my part of the
4 investigation. That wasn't my involvement. Again,
5 that was the lead investigator at the time. I came
6 in basically to help secure the arrest and do the
7 interview. So you asking about things that I
8 wasn't there -- I wasn't even there that Friday.

9 Q. As the lieutenant over criminal
10 investigation division, do you not think it's
11 important for your officers to try to collect as
12 much evidence as possible in cases and follow-up on
13 all leads?

14 A. Yes, ma'am.

15 Q. And in supervising them and in
16 supervising investigations, are you not encouraging
17 them to follow-up on things and to get things?

18 A. Again, when they was doing the
19 investigation which Lieutenant Council did a great
20 investigation, by the time I became involved, I was
21 on leave. And when I came back that Saturday, they
22 was briefing me what was going on, we secured the
23 warrant, we placed him under arrest and he told us
24 everything that happened. He gave a confession to
25 what happened, so I don't understand what you're

1 asking me.

2 Q. Your training -- y'all have been
3 trained on false confessions and the dangers of
4 false confessions; correct?

5 A. I haven't been trained on no false
6 confession.

7 Q. You're aware through your training that
8 false confessions can happen?

9 A. They could happen.

10 Q. Okay. And so it's important to
11 continue investigating and make sure that the
12 investigation is complete even after a confession
13 has been obtained; correct?

14 A. Correct.

15 Q. And so I understand you were on leave,
16 you popped in, did the interview, followed up on
17 the 15th, but the investigation shouldn't have just
18 ended there; correct? You should have continued to
19 build your case and support your findings; correct?

20 A. Well, we try to support -- well, at
21 least I try to support. Once he told us about
22 putting her in the car and dump her and taking the
23 clothes and putting them in the trash can, I did
24 try to follow-up. I did try to go find those
25 clothing. I did try to corroborate what he said,

1 but unfortunately I didn't find them. So, I
2 mean...

3 Q. You tried to find the clothes. Were
4 there any other things that you did or that you
5 would have encouraged your officers to do or think
6 that your officers should have done?

7 A. Well, I think they had already done
8 executed the search warrant. I think they did an
9 excellent investigation. I mean, like I said, I
10 came to assist. Again, we spoke with him. He told
11 everything that happened and I just thought the
12 final part is to collect the clothing. I mean, I
13 don't know what else could have been done.

14 Q. You don't think video would have been
15 important?

16 A. We videoed when he confessed and we
17 videoed when I brung him back to the sally port.
18 But like I said, as everybody know we have problems
19 with that system. I went back to try to retrieve
20 the actual confession, that's not even on the
21 system. But fortunately we made a copy and it's on
22 CD. But the second part of where I tried to find
23 the clothes, it wasn't there.

24 Q. And it's your testimony -- you're aware
25 that he's recanted his confession?

1 A. I have no earthly idea that he recanted
2 anything.

3 Q. So on the 15th, he didn't tell you that
4 he didn't do this?

5 A. No, he never told me that.

6 Q. On the 15th, did he advise you that his
7 sister was getting a lawyer for him and that he
8 didn't wish to talk any more?

9 A. No. Like I said, again, I picked him
10 up. I asked him where the clothes was at. He said
11 they was in Eutawville or Holly Hill. I took him
12 back to the jail. Then had nothing else to talk to
13 him about. Matter of fact, the whole trip from the
14 jail to me taking him back to the office, speaking
15 to him, getting him back to the jail took 11
16 minutes.

17 Q. It didn't take a lot of minutes because
18 he recanted and invoked?

19 A. Ma'am, he never invoked anything to me.

20 Q. Well, we don't have video of your
21 conversations with him on the 15th, so we wouldn't
22 actually, would we?

23 A. I know what the basis of me
24 interviewing him on that day was for and that was
25 to collect clothing. So, no, he did not recant or

1 | invoked any rights to me. Matter of fact, he
2 | signed them again, so I don't understand what
3 | you're saying.

4 | Q. And other than trying to get clothing,
5 | you didn't do anything to follow-up on this case?

6 | A. I followed up on the clothes --

7 | MR. SCOTT: Your Honor, I'm going to
8 | object. I think he's answered this question five
9 | times.

10 | THE COURT: Sustained.

11 | MS. CORNWELL: That's all the questions
12 | I have.

13 | THE COURT: Any redirect?

14 | MR. SCOTT: No, Your Honor.

15 | THE COURT: You may step down, sir.
16 | Thank you. Counsel, would y'all please approach?

17 | MR. SCOTT: May he be excused?

18 | THE COURT: Any objection to him being
19 | excused?

20 | MS. CORNWELL: No, Your Honor.

21 | THE COURT: You're free to go, sir.

22 | (WHEREUPON, there was a bench
23 | conference.)

24 | THE COURT: Ladies and gentlemen of the
25 | jury, I'll give you the option, we can -- our next

1 witness is about a 30, 45 minute witness. We can
2 either take our lunch break now or are y'all okay
3 to go forward and take a lunch break at 1? Are you
4 good to proceed right now?

5 (Jury indicated affirmatively.)

6 THE COURT: All right. We'll proceed.
7 You may call your next witness.

8 MS. HUNTER: State calls Cody
9 McCormack.

10 THE CLERK: State your name for the
11 record.

12 MR. MCCORMACK: Cody McCormack.

13 WILLIAM MCCORMACK,
14 being first duly sworn, was examined and testified
15 as follows:

16 THE CLERK: Thank you. You may be
17 seated.

18 THE COURT: Your witness.

19 MS. HUNTER: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. HUNTER:

22 Q. Investigator McCormack, can you tell
23 the jury where you work?

24 A. The Orangeburg County Sheriff's Office.

25 Q. And how long have you worked there?

1 A. Eight years.

2 Q. And how long have you worked in law
3 enforcement?

4 A. Total of 11.

5 Q. And what is your position?

6 A. I'm a crime scene investigator.

7 Q. And tell the jury what a crime scene
8 investigator does.

9 A. We respond to various different crime
10 scenes, identify document and collect items of
11 evidentiary value in an attempt to try to identify
12 all parties on scene and possibly try to
13 reconstruct the scene.

14 Q. Thank you. Did you receive any special
15 training to become a crime scene investigator?

16 A. Yes. When you start, you go through a
17 field training program where you work with another
18 crime scene investigator, you respond to various
19 different scenes with them supervising you. And
20 then I also received a child death investigation
21 class. I've been through a fingerprint recognition
22 class, footwear and tire tread and I believe that's
23 it.

24 Q. How many crime scenes do you think
25 you've processed in your carrier?

1 A. Over 280.

2 Q. And how many death scenes?

3 A. I know at last count I worked 46
4 homicides. As far as a total number of death
5 investigations, I don't have that right now.

6 Q. And did you respond to a dirt road near
7 June Court on Thursday, December 12, 2019?

8 A. Yes, I did.

9 Q. And why did you respond?

10 A. We received a call about a deceased
11 female that was located by a property owner at this
12 location.

13 Q. And do you know about what time you
14 arrived?

15 A. I arrived at 6:19 p.m.

16 Q. And can you describe the scene to the
17 jury where you went on June Court?

18 A. Basically, it is what I refer to as a
19 firebreak, some people would call it a two-rut
20 road. Basically, it's just a dirt road that's in
21 the middle of the woods that run off of June Court,
22 very secluded, not any houses on this road,
23 streetlights or nothing like that.

24 Q. And can you tell them what you did once
25 you arrived on scene?

1 A. When I first arrived on scene, I
2 started taking a general bit of entire view of the
3 area while searching for any of items of
4 evidentiary value.

5 MS. HUNTER: Your Honor, may I approach
6 the witness?

7 THE COURT: Yes, ma'am.

8 Q. Investigator McCormack, I'm going to
9 show you what's been marked as State's 11, 12, 14
10 and 15. Will you take a look at those? Do you
11 recognize those?

12 A. Yes, ma'am.

13 Q. And how do you recognize them?

14 A. These are just general shots of the
15 area of the scene that night.

16 Q. Did you take those photos?

17 A. Yes, I did.

18 Q. And are they fair and accurate
19 representations of the scene that night?

20 A. Yes, they are.

21 MS. HUNTER: Okay. I'd move to admit
22 State's 11, 12, 14 and 15.

23 MS. CORNWELL: Without objection.

24 THE COURT: All right. They're in.

25 (WHEREUPON, State's Exhibit Numbers 11,

1 12, 14 and 15 were entered.)

2 MS. HUNTER: May I publish for the
3 jury, Your Honor?

4 THE COURT: Yes, ma'am.

5 Q. I'd like to show these to you. Can you
6 talk to the jury about these photos and tell them
7 what we're looking at as we go through?

8 A. So this is the end of the firebreak
9 area. So basically behind me was the area of June
10 Court that we come off of and these are just
11 general photos of the area.

12 THE COURT: Is this 11?

13 MS. HUNTER: I'm sorry. Yes, Your
14 Honor, this would be State's 11. I have them in
15 order.

16 THE COURT: All right. Thank you.

17 MS. HUNTER: And can you show State's
18 12, please?

19 Q. So if you're looking at the last photo,
20 where would this body be found?

21 A. Off to the left.

22 Q. Okay. And was that the body that you
23 were called out to respond to?

24 A. Yes, it is.

25 Q. Okay. And can you describe that body?

1 A. As you can see, she's a white female.
2 She's laying on her back. She had various
3 different bruises on her body. The flesh on the
4 right side of her face was exposed, almost all the
5 way down to the bone. She had red hair and she had
6 various tattoos on her body as well.

7 MS. HUNTER: And, Your Honor, I know
8 that we've addressed this with the Court, I just
9 want to warn the jury, some of these pictures are
10 to show the victim, obviously deceased, and we made
11 an extreme effort to minimize the number of photos
12 that we're seeing so that the jury isn't seeing
13 gruesome photos or the family for that matter.

14 Can you please show State's 14?

15 Q. Can you tell the jury what this is?

16 A. This is a midrange shot of the victim's
17 chest of where you could observe a dark red almost
18 blackish color line across her neck.

19 Q. Would you describe that as a ligature
20 mark?

21 A. Yes.

22 Q. And I'll show you State's 15.

23 A. This is a midrange shot of the victim's
24 back just documenting some of the tattoos that she
25 had. You can see a tattoo in the small of her

1 back, "Big Pooh."

2 Q. And are these tattoos you used to
3 identify the body?

4 A. Yes.

5 Q. I'm sorry. To identify who the victim
6 was in the case. Investigator McCormack, did you
7 collect any swabs from the victim at that time?

8 A. Yes, I did.

9 Q. Okay. I'm going to show you what's
10 marked as State's 16. Do you recognize that?

11 A. Yes, ma'am.

12 Q. And what is that?

13 A. These are two Q-tip swabs for DNA taken
14 from the victim's left ring finger. There was a
15 small reddish stain on her left ring finger.

16 Q. And how do you know that it's yours?

17 A. The case number, the description of the
18 item, it's all in my handwriting and my initials
19 are at the bottom.

20 Q. If you need to open it we can.

21 A. And my initials are on the tamper proof
22 seal on the back of it.

23 Q. Okay. And is that consistent with how
24 you collected and sealed it that day?

25 A. Yes, it is.

1 Q. All right.

2 MS. HUNTER: Your Honor, I'd move to
3 admit State's 16.

4 THE COURT: Any objection?

5 MS. CORNWELL: No, Your Honor.

6 THE COURT: All right. It's in.

7 MS. HUNTER: Thank you.

8 (WHEREUPON, State's Exhibit Number 16
9 was entered.)

10 Q. And, Investigator McCormack, were you
11 able to identify the body --

12 A. Yes, but --

13 Q. -- or whose body it was? I'm sorry.

14 A. We identified the victim as Cara
15 Hodges.

16 Q. And how were you -- how were you able
17 to know that it was Cara Hodges?

18 A. We were made aware there was a missing
19 person's report filed earlier in the week. And in
20 that report there was a very good description of
21 the victim's tattoos listed in that report.

22 Q. Did it have other details in the report
23 that matched her description?

24 A. Height, weight, hair color.

25 Q. Thank you. And, Investigator

1 McCormack, once you're done taking those pictures
2 and collecting evidence, what was the next step in
3 the process in this case?

4 A. In this case, the body was removed by
5 the coroner's office. I then went to the morgue at
6 TRMC at the time to collect a set of inked major
7 case prints from the victim.

8 Q. Okay. And is an autopsy performed on
9 Ms. Hodges?

10 A. Yes, there was an autopsy performed the
11 next day.

12 Q. Okay. So that next day would have been
13 Friday, December 13th?

14 A. That is correct.

15 Q. Okay. And who did the autopsy?

16 A. Dr. Rose at Newberry Pathology.

17 Q. And did you attend that autopsy?

18 A. Yes, I did.

19 Q. And is it customary for you to have
20 evidence turned over to you from an autopsy?

21 A. Yes. The doctor and her staff at
22 Newberry Pathology, they collect everything and
23 they package it and seal it and they chain it over
24 to us.

25 Q. Did you collect swabs from the victim's

1 body at that autopsy?

2 A. Swabs were turned over, yes, ma'am.

3 Q. Were right and left fingernail
4 clippings collected?

5 A. That was turned over to us, yes.

6 Q. And was blood collected for a DNA
7 standard for the victim?

8 A. Yes, that was also turned over to us.

9 Q. Okay. And was all that packaged and
10 sealed by the doctor before it was given to you?

11 A. Yes.

12 Q. Okay. And did you open it?

13 A. No.

14 Q. Did you tamper with it in any way?

15 A. No, ma'am, I did not.

16 Q. Was your role just to transport it to
17 evidence?

18 A. Basically, yes. Once they chain it
19 over to us then I bring it back to the sheriff's
20 office here in Orangeburg and it's submitted into
21 evidence.

22 Q. Okay. Thank you. Then you had other
23 involvement in the case that same Friday, the 13th?

24 A. Yes, I did.

25 Q. And can you tell the jury what your

1 next involvement was?

2 A. I was contacted by Sergeant Stokes at
3 the time about executing a search warrant at 1189
4 Gardensgate Road in Eutawville.

5 Q. And whose address is that?

6 A. Kenneth Eastwood's.

7 Q. And at the time that you executed the
8 search warrant, what did you know about the case?

9 A. I was made aware that Mr. Eastwood was
10 the last person seen with Ms. Hodges.

11 Q. And can you -- I'm going to show you
12 some more photos.

13 MS. HUNTER: Your Honor, I'm going to
14 do these in small groupings so as not to confuse
15 anyone.

16 Q. I'd like to show you State's 17 through
17 20. Do you recognize those?

18 A. Yes, ma'am.

19 Q. Did you take those photos?

20 A. Yes, I did.

21 Q. Those are a fair and accurate
22 representation?

23 A. Yes, they are.

24 Q. Thank you. May I see them?

25 MS. HUNTER: Your Honor --

1 THE COURT: Without objection?

2 MS. CORNWELL: No objection, Your
3 Honor.

4 THE COURT: All right. They're in.

5 MS. HUNTER: Thank you. Your Honor, I
6 would move to admit State's 17 through 20.

7 THE COURT: They're in.

8 MS. HUNTER: And I'd like to publish to
9 the jury.

10 THE COURT: Yes, ma'am.

11 (WHEREUPON, State's Exhibit Numbers 17
12 through 20 were entered.)

13 Q. Let's start with 17. Can you talk to
14 the jury about these photos?

15 A. Yes, ma'am. This is just a general
16 photo of the front of the residence. You can
17 notice it is a two-story house. The bottom level
18 is a garage type area. There is a staircase off to
19 the left that goes up to a door that's on the left
20 side where you can enter the upstairs.

21 Q. Okay. Next photo, State's 18?

22 A. This is another general shot of the
23 left side of the house where you can see the
24 staircase that I was referring to and the door that
25 you would enter the second story through.

1 Q. Okay. State's 19?

2 A. This is a midrange shot identifying the
3 address right next to the door that we entered
4 through.

5 Q. State's 20?

6 A. This is a general shot as you're coming
7 through that doorway you can see a small dining
8 room type area in the front and like a small living
9 room -- sitting room type area.

10 Q. Okay. Thank you. Next I'd like to
11 show you State's 21 through 30.

12 A. Yes, ma'am.

13 Q. Do you recognize those?

14 A. Yes, I do.

15 Q. And those are photos you took that day?

16 A. Yes.

17 Q. They fairly and accurately represent
18 the house that day?

19 A. Yes, they do.

20 Q. Thank you.

21 MS. CORNWELL: Your Honor, I believe
22 these are the photos that we've already reviewed.
23 I have no objection.

24 THE COURT: All right.

25 MS. HUNTER: All right. Your Honor,

1 I'd ask to admit State's 21 through 30.

2 THE COURT: They're in.

3 MS. HUNTER: Thank you.

4 (WHEREUPON, State's Exhibit Numbers 21
5 through 30 were entered.)

6 Q. Start with State's 21?

7 A. So this is a general shot through the
8 bedroom door leading to the Defendant's bedroom.

9 Q. And you can just go through --

10 MS. HUNTER: And they're in
11 chronological order, Your Honor.

12 A. So as you're coming through the
13 doorway, this would be to the left where there is a
14 gun safe, space heater at the foot of the bed.

15 Q. And that's the gun safe you we're
16 talking about? That's the gun safe?

17 A. Yes, ma'am.

18 Q. Okay. Thank you. I'm sorry. Next
19 photo?

20 THE COURT: Identify for the record as
21 you're going through them, the number.

22 MS. HUNTER: I'm sorry. Yes, ma'am.
23 We just looked at 21 and 22. This would be 23,
24 Your Honor.

25 THE COURT: Thank you.

1 A. This is another general shot of the
2 bedroom we're panning back to the right. You can
3 see the bed that we just saw the foot of and we're
4 moving towards the right of the dresser and the
5 center of the bedroom.

6 Q. Okay. If we can look at State's 24,
7 please?

8 A. Still in the bedroom. We're still
9 panning to the right. Bed is to our left, dresser
10 in the center of the frame and there's a closet
11 that's going to be coming up on the right.

12 Q. Okay. Let's look at State's 25?

13 A. This is a, again, panning to the right.
14 There's a small closet right here. To the right
15 we're going to be coming up to a short hallway that
16 leads to a window where you can see out the front
17 of the residence.

18 Q. Okay. And State's 26, please?

19 A. This is a picture of that short hallway
20 we were talking about. This is the window that you
21 can see out in the front yard. A small chest on
22 the left and a dresser on the right.

23 Q. And can you tell me what's sitting on
24 that -- I'm going to point out, what is this
25 sitting here on this small side table?

1 A. It's a -- basically, if you do any sort
2 of target practice you can take a rifle, you can
3 mount it on this, used for like sighting it in.

4 Q. Okay. Thank you. Next, State's 27?

5 A. Again, we're panning back to the right.
6 A midrange shot of what was that dresser in that
7 short hallway.

8 Q. And on top of this dresser, can you
9 tell the jury what this stuff is on the dresser?

10 A. Ammunition.

11 Q. Thank you. Next, State's 28?

12 A. This is a midrange shot of the closet.
13 There is another gun safe that is located back off
14 to the left of this closet.

15 Q. Thank you. And State's 29?

16 A. This is a midrange shot of the dresser
17 that's located next to the bed.

18 Q. And State's 30, please?

19 A. Another midrange shot of the other
20 dresser or chest that was in that short hallway.

21 Q. And what's on that dresser and chest?

22 A. You know, there's ammunition on top of
23 it and there is a supply of ammunition inside of it
24 as well.

25 Q. Thank you. Next, a couple of photos

1 I'm going to show you are State's 31 and 32. Do
2 you recognize those?

3 A. Yes, ma'am.

4 Q. And those are the photos you took that
5 day?

6 A. Yes, they are.

7 Q. Okay. Thank you.

8 MS. CORNWELL: No objection, Your
9 Honor.

10 MS. HUNTER: State asks to move 31 and
11 32 into evidence and to publish to the jury.

12 THE COURT: They're in without
13 objection and you may publish.

14 MS. HUNTER: Thank you.

15 (WHEREUPON, State's Exhibit Numbers 31
16 and 32 were entered.)

17 Q. So now we've left the bedroom, can you
18 tell the jury where we are?

19 A. So this is a doorway that leads from
20 the Defendant's bedroom into the bathroom.

21 Q. And we're looking at State's 31 right
22 now. What's in that photo?

23 A. You can see the tub off to the right.
24 The sink and countertop off to the left and there's
25 a small space heater in the center right here.

1 Q. Okay. That space heater, the cord's
2 going up the wall?

3 A. Yes.

4 Q. Thank you. And I'll show you State's
5 32?

6 A. This is a midrange shot of the sink and
7 that small space heater that was located on the
8 floor.

9 Q. Okay. And the cord appears to be going
10 up the wall again?

11 A. Yes.

12 Q. Thank you. Next, I'm going to show you
13 State's 34 through 37. Can you take a look at
14 those, please?

15 A. Yes, ma'am.

16 Q. Again, you recognize those because you
17 took them that day?

18 A. Yes, I do.

19 Q. Okay. Thank you.

20 MS. CORNWELL: No objection, Your
21 Honor.

22 MS. HUNTER: Thank you. Your Honor,
23 I'd move to admit State's 34 through 37.

24 THE COURT: They're in.

25 MS. HUNTER: Thank you. May we publish

1 | them to the jury?

2 | THE COURT: Yes, ma'am.

3 | (WHEREUPON, State's Exhibit Numbers 34
4 | through 37 were entered.)

5 | Q. All right. If we can start with 34.
6 | If you could describe what this is?

7 | A. This is a general shot of the kitchen.
8 | You can see the stove and a countertop in the
9 | foreground. The bedroom that we were just in would
10 | be back off to the right.

11 | Q. All right. State's 35?

12 | A. This is another general shot of the
13 | kitchen. Again, the stove's in the center of the
14 | frame and the sink would be off to the left.

15 | Q. And I'm going to ask you this, when you
16 | guys are searching and executing a search warrant
17 | at the house, do you open the cabinet doors and
18 | photograph? Do you open dresser drawers and
19 | photograph what's in there and look for potential
20 | evidence?

21 | A. Yes.

22 | Q. Okay. Thank you. I'm going to show
23 | you State's 36?

24 | A. This is a shot of a cabinet that we
25 | opened, just a photo of what was inside of it.

1 Q. And State's 37?

2 A. Again, another counter that we opened.
3 You can see what the contents were inside.

4 Q. All right. Thank you. This is the --
5 next, I'm going to show you State's 38 through 40.
6 It's the last group from the house.

7 A. Yes, ma'am.

8 MS. HUNTER: Your Honor, I'd ask to
9 admit State's 38 through 40.

10 THE COURT: Without objection?

11 MS. CORNWELL: No objection, Your
12 Honor.

13 THE COURT: All right. They're in.

14 MS. HUNTER: Thank you.

15 (WHEREUPON, State's Exhibit Numbers 38
16 through 40 were entered.)

17 Q. All right. Can you tell the jury what
18 we're looking at?

19 A. This is a general shot into the garage
20 area. We're entering through what we would be the
21 left bay door. If you remember the front first
22 shot we had the doorway and the two bay doors, this
23 would be the bay door in the middle.

24 Q. Okay. And did the garage have a lot of
25 stuff down there, were there other things that were

1 in the garage?

2 A. There's some miscellaneous items.
3 There's a weight bench in the center. A lawnmower
4 off to the right and just other things you would
5 associate with being in a garage.

6 Q. And if we can look at State's 39. Did
7 Mr. Eastwood's washer and dryer were in the
8 basement?

9 A. They were in the basement, yes, ma'am.

10 Q. And State's 40?

11 A. This is a midrange shot of that washer
12 and dryer combo. There's a door right here to the
13 right where you can actually go through and go back
14 up to the second story.

15 Q. Thank you, Investigator McCormack. So
16 you took photos that day while you were in the
17 house to document evidence?

18 A. Yes, we did.

19 Q. And was Mr. Eastwood there at the time
20 of the search warrant was executed?

21 A. Yes, he was.

22 Q. Was he inside or outside?

23 A. He was initially outside with
24 Investigator Carrigg in his patrol vehicle. We did
25 have him come in at one point to secure his dog. I

1 | believe he had a pretty good size German Shepherd.
2 | He moved the dog from the upstairs to the
3 | downstairs for us and then we had him, obviously,
4 | do the reverse when we went downstairs. But he
5 | also came in at another point to unlock the two gun
6 | safes for us.

7 | Q. Okay. And when Mr. Eastwood came in
8 | the house, did you take any photographs of him?

9 | A. Yes, I did.

10 | Q. Okay. I'd like to show you what's
11 | marked as State's 41 to 51.

12 | A. Yes, ma'am.

13 | Q. Do you recognize those because you took
14 | them that day?

15 | A. Yes, I do.

16 | MS. CORNWELL: No objection, Your
17 | Honor.

18 | MS. HUNTER: Your Honor, I'd ask to
19 | admit State's 41 through 51 and publish to the
20 | jury.

21 | THE COURT: Yes, ma'am, they're in
22 | without objection. You may publish.

23 | MS. HUNTER: Thank you, Your Honor.

24 | (WHEREUPON, State's Exhibit Numbers 41
25 | through 51 were entered.)

1 Q. I'm showing you State's 41. Tell the
2 jury what were looking at.

3 A. This is a shot of Mr. Eastwood with his
4 shirt removed. This would be on the front side.

5 Q. And why did you take photos of Mr.
6 Eastwood?

7 A. We were trying to see if there was any
8 injuries that might be consistent with the incident
9 we were investigating.

10 Q. Okay. And did you notice any injuries
11 when you took these photographs?

12 A. There were some small scratches,
13 bruises like on the right side of his chest.

14 Q. Okay. So I'm going to, I guess, if we
15 could get up and point out some of these injuries
16 to the jury.

17 A. So the injuries I'm talking about would
18 be right here on this side of his chest.

19 Q. Okay. And any further down?

20 A. He had some bruises right here on his
21 stomach and also on his arm.

22 Q. Okay. Thank you. Let's look at the
23 next photo. I'm sorry, State's 42?

24 A. This is another shot of the front of
25 Mr. Eastwood. We have him turn his hands so we can

1 see if there's anything on the outside of his arms.

2 Q. State's 43?

3 A. Again, just have him open up his arms
4 so we can see if there's anything on the interior.

5 Q. And can you see the scratch marks and
6 bruising?

7 A. Yeah, it would right here, still on the
8 right side of the chest.

9 Q. All right. Thank you. And State's 44?

10 A. Another shot of Mr. Eastwood's right
11 arm where we had it outstretched like this.

12 Q. Can you see the bruising a little
13 better in this photo?

14 A. There's a bruise right here on the
15 forearm. And, again, there's still a bruise right
16 here on his stomach.

17 Q. All right. State's 45, please?

18 A. This is a picture of his left arm.
19 Again, we had it outstretched to see if there's
20 anything on the interior.

21 Q. And you see the shoulder area as well?

22 A. Yeah. There's a small scratch right
23 here in the armpit area.

24 Q. State's 46, please?

25 A. Again, a shot of his left arm where we

1 had it out like this and there's a small scratch
2 right here on the forearm close the elbow.

3 Q. State's 47?

4 A. This is more of a close-up midrange
5 shot of the scratches we were talking about on the
6 right side of his chest in this area.

7 Q. State's 48?

8 A. This is a shot of Mr. Eastwood's back.

9 Q. State's 49?

10 A. This would be a shot of Mr. Eastwood's
11 left elbow and there's a bruise scratch right here,
12 upper left elbow.

13 Q. And State's 50?

14 A. Again, this being his right elbow and
15 there's another scratch on his elbow as well.

16 Q. And State's 51?

17 A. A close-up of that area we was just
18 looking at.

19 Q. All right. Thank you. And, again,
20 what day were these photographs taken?

21 A. Those would have been on the 13th.

22 Q. Okay. So that would have been Friday?

23 A. Yes.

24 Q. All right. Did you ask Mr. Eastwood
25 about what caused or was he asked in your presence

1 about what caused any of these scratches and -- on
2 his body, on his chest specifically?

3 A. Yes, he was asked and...

4 Q. What was his response?

5 A. He replied that it was caused by a cat.

6 Q. So you executed that first search
7 warrant on Friday, the 13th, did you -- were you
8 asked to execute any other search warrants related
9 to this case?

10 A. Yes, ma'am.

11 Q. And what was the next search warrant
12 you executed?

13 A. The next search warrant was for the
14 Defendant's vehicle.

15 Q. And what kind of car did he have?

16 A. He had a silver Kia Forte.

17 Q. And when did you execute that search
18 warrant?

19 A. That would have been Monday, the 16th.

20 Q. Okay. And where was this car when you
21 processed it?

22 A. It was located at our impound lot which
23 is right across the street from the sheriff's
24 office at 1520 Ellis Avenue.

25 Q. All right. And why did you process

1 | that car?

2 | A. I was made aware that the Defendant had
3 | confessed that previous Saturday that he put the
4 | victim in the trunk of the car.

5 | Q. Okay. Next I'm going to show you
6 | what's marked as State's 52 through 59.

7 | A. Yes, ma'am.

8 | Q. Do you recognize those?

9 | A. Yes, I do.

10 | Q. And those are a fair and accurate
11 | representation of the photos you took?

12 | A. Yes, they are.

13 | Q. Thank you.

14 | MS. CORNWELL: No objection, Your
15 | Honor.

16 | MS. HUNTER: Your Honor, I ask to admit
17 | State's 52 through 59.

18 | THE COURT: They're in without
19 | objection.

20 | (WHEREUPON, State's Exhibit Numbers 52
21 | through 59 were entered.)

22 | MS. HUNTER: May I publish them?

23 | THE COURT: Yes, ma'am.

24 | MS. HUNTER: Thank you.

25 | Q. All right. We're going to look at

1 State's 52 to begin with. Is this the Kia that you
2 processed?

3 A. Yes, this is. This is a general shot
4 of the rear of the vehicle identifying the tag
5 number that was included in the search warrant.

6 Q. All right. State's 53?

7 A. This is a general shot of the front
8 driver's quarter panel of the vehicle.

9 Q. And State's 54, just another angle?

10 A. Yeah, just the front of the vehicle.

11 Q. All right. Let's look at State's 55?

12 A. This is a general shot of the interior
13 of the vehicle from the driver's door.

14 Q. All right. And State's 56?

15 A. This is another general shot into the
16 vehicle. This would be from the rear driver's
17 passenger door.

18 Q. All right. State's 57?

19 A. This is a general shot from the front
20 passenger door.

21 Q. State's 58?

22 A. This is a picture of the center
23 console. You can see there's an IGA name plate in
24 the center that has the initials KC.

25 Q. And State's 59, please?

1 A. This is a shot of the trunk of the
2 vehicle.

3 Q. Okay. And did you -- did you collect
4 any swabs for possible DNA from this vehicle?

5 A. Yes, I did.

6 Q. Okay. Let's -- show you what's marked
7 as State's 60. Do you recognize that?

8 A. Yes, I do.

9 Q. Okay. And what is that -- oh, how do
10 you recognize it?

11 A. The handwriting, the case number, my
12 initials are at the bottom.

13 Q. Okay. Thank you. Does that appear to
14 be -- was it sealed?

15 A. Yes, I had it sealed.

16 Q. And did -- oh, you initialed it. Does
17 it appear to have been tampered with in any way?

18 A. No.

19 Q. Thank you.

20 MS. CORNWELL: No objection, Your
21 Honor.

22 MS. HUNTER: Your Honor, I'd ask to
23 move State's 60 into evidence.

24 THE COURT: That's without objection.
25 It's in.

1 MS. HUNTER: Thank you.

2 (WHEREUPON, State's Exhibit Number 60
3 was entered.)

4 MS. HUNTER: And I'm going to ask that
5 we put back on the screen State's 59. Okay.

6 Q. Can you tell the jury what this is that
7 you're holding?

8 A. This is a set of two Q-tip swabs for
9 DNA taken from the bottom rubber seal of the trunk
10 which would be at the bottom of the frame right
11 here.

12 Q. Can you point it out on the screen?

13 A. In this area right here.

14 Q. And what are you looking for when you
15 swab that? What are you testing for?

16 A. I swabbed that area to see when the
17 victim was being placed in the truck, if any part
18 of her body could have come into contact and
19 possibly left behind a DNA sample.

20 Q. Okay. Thank you. Next, I'm going to
21 show you what's marked as State's 61. Do you
22 recognize this?

23 A. Yes, I do.

24 Q. And how do you recognize it?

25 A. Again, the case number, the description

1 of the item and my initials, they're all in my
2 handwriting.

3 Q. Does it appear to have been tampered
4 with in any way?

5 A. No, ma'am.

6 Q. Thank you.

7 MS. CORNWELL: No objection, Your
8 Honor.

9 MS. HUNTER: Your Honor, I'd move to
10 admit State's 61 into evidence.

11 THE COURT: It's in without objection.

12 (WHEREUPON, State's Exhibit Number 61
13 was entered.)

14 Q. Can you -- tell the jury what State's
15 61 is, please.

16 A. State's 61 are two Q-tip swabs for DNA
17 taken from an area of the floor mat.

18 Q. And when you talk about the floor mat,
19 what floor mat are you talking about?

20 A. So underneath the rifle bag and the
21 chain saw there was a WeatherTech floor liner that
22 he has in the trunk.

23 Q. And what is that -- these WeatherTech
24 floor mats, can you -- but what are they made out
25 of?

1 A. It's like a rubber material.

2 Q. And did you -- you got a swab from it,
3 did you get any testing on that floor mat before
4 you took those swabs?

5 A. Yes, I did. We use what we call
6 luminol which is a reagent that could help us
7 identify possible trace amounts of blood.

8 Q. Okay. So if you pull out the floor
9 mat, how do you apply the luminol?

10 A. Unfortunately, one of the kinds of
11 luminol is you have to be in a dark room so that
12 you can see the reaction if there is one. So I
13 took it to our lab, placed it in a dark room,
14 applied the luminol to see if there was a reaction,
15 luminol will illuminate blue if there is some sort
16 of reaction.

17 Q. Okay. In this case, did you get any
18 type of reaction?

19 A. Yes, I did.

20 Q. And did you take swabs from the spots
21 where you got a reaction?

22 A. Yes, I did.

23 Q. Okay. What is the threshold for
24 luminol for getting a reaction?

25 A. It could be --

1 MS. CORNWELL: Your Honor, I'm going to
2 object at this point. I don't know if this is
3 expert testimony. I don't think he has the
4 expertise to -- that he's been qualified to give
5 this testimony regarding luminol and how it reacts
6 to things and what it does.

7 THE COURT: Please establish the proper
8 foundation of his training.

9 MS. HUNTER: Thank you.

10 Q. You testified earlier you're a crime
11 scene investigator?

12 A. Yes.

13 Q. As part of your investigation, do you
14 take -- do you collect evidence? Do you collect
15 swabs for possible evidence?

16 A. Yes, we do.

17 Q. Okay. As part of your training, did
18 you have training in using luminol to --

19 A. Yes.

20 Q. And is it for looking for possible DNA?

21 A. It's a searching tool to help us try to
22 locate trace amounts of blood.

23 Q. Okay. And are you familiar with how
24 luminol can react?

25 A. Yes. I have seen the reaction before,

1 yes.

2 Q. Are you familiar with the -- how
3 false/positives of luminol reactions?

4 A. Yes.

5 Q. Okay. And are you familiar with the
6 levels of luminol's reactions with whether or not
7 there actually is blood?

8 A. From my experience there's -- you can
9 have very trace amounts of blood and have a
10 reaction.

11 Q. Okay. And are you familiar with
12 whether or not it can react -- luminol can react to
13 agents other than blood?

14 A. Yes. It can react to trace amounts of
15 iron as well as copper and also some compounds of
16 bleach.

17 Q. And cleaning supplies and such?

18 A. Yes.

19 Q. Thank you. So did you get a reaction
20 for luminol?

21 A. Yes, we do get a positive reaction
22 where it did illuminate the blue color we were
23 talking about earlier.

24 Q. Okay. I don't have any further
25 questions about the luminol and the mat. And

1 | that's where you got the swabs from?

2 | A. Yeah. I didn't cut, I took a -- two
3 | Q-tip swabs from DNA from that area.

4 | Q. Okay. Thank you. And other
5 | involvement in the case, were you asked to execute
6 | a second search warrant on Mr. Eastwood's home on
7 | Monday, December 16th?

8 | A. Yes, I was.

9 | Q. All right. And at that time, were you
10 | looking for anything specific?

11 | A. The information that was relayed to me
12 | was that we were looking for a space heater that
13 | was in a specific part of the bedroom next to -- do
14 | you remember the shot where you come into the
15 | bedroom to the left, it was located in that area.

16 | Q. And were you able to locate any cords?

17 | A. As far as attached to the space heater
18 | --

19 | Q. Yes.

20 | A. -- or just like extension cords?

21 | Q. Yes.

22 | A. No, I was not.

23 | Q. Okay. Were you able to locate any
24 | space heaters?

25 | A. Yes.

1 Q. Okay. And where did you locate that --
2 the space heater?

3 A. As you enter the Defendant's bedroom,
4 there's a chest on the floor to the left and there
5 was a space heater right next to that chest.

6 Q. All right. I'm going to show you
7 what's marked as State's 62 and 63. Do you
8 recognize those?

9 A. Yes, I do.

10 MS. CORNWELL: Without objection, Your
11 Honor.

12 MS. HUNTER: Your Honor, I would move
13 to admit State's 62 and 63 into evidence.

14 THE COURT: They're in without
15 objection.

16 (WHEREUPON, State's Exhibit Numbers 62
17 and 63 were entered.)

18 MS. HUNTER: Thank you. May I publish
19 them to the jury?

20 THE COURT: Yes, ma'am.

21 Q. Are we in the Defendant's bedroom at
22 this point?

23 A. Yes, we are. This is the doorway
24 leading to the sitting room area. And the floor,
25 you see the chest here and there's a space heater

1 next to it.

2 Q. Okay. And is that space heater plugged
3 in?

4 A. No, it's not.

5 Q. Okay. And did you -- you testified
6 that you didn't see any extension cords or anything
7 --

8 A. No, I didn't.

9 Q. -- near it? All right. Did you
10 collect any DNA from that space heater?

11 A. Yes. I took two Q-tip swabs for DNA
12 from the cord of the space heater.

13 Q. Okay. And I'm going to show you what's
14 marked as State's 64. Do you recognize this?

15 A. Yes, I do.

16 Q. Okay. And how do you recognize it?

17 A. Again, the case number, item number,
18 description is all in my handwriting and my
19 initials are on the front.

20 Q. Does that appear to be tampered with in
21 any way?

22 A. No, it does not.

23 Q. Okay.

24 MS. HUNTER: Your Honor, I'd ask to
25 move to admit State's 64 into evidence.

1 MS. CORNWELL: No objection.

2 THE COURT: All right. It's in.

3 (WHEREUPON, State's Exhibit Number 64
4 was entered.)

5 Q. Can you tell the jury what State's 64
6 is?

7 A. As I stated, these are two Q-tip swabs
8 for DNA taken from a black electrical cord
9 connected to a space heater.

10 Q. Thank you. And, last, I'd like to show
11 you State's 65. And do you recognize what that is?

12 A. Yes, I do.

13 Q. And how?

14 A. The case number, item number is in my
15 handwriting and my initials are on the seal at top.

16 Q. Okay. Does it appear to have been
17 tampered with?

18 A. No.

19 MS. HUNTER: Your Honor, may he open
20 the space heater before I -- the item before I show
21 it to Ms. Cornwell?

22 THE COURT: Yes.

23 (WHEREUPON, opening the box.)

24 THE COURT: And, Investigator, don't
25 take it out until it's actually admitted into

1 evidence. Just identify it first.

2 MS. HUNTER: Thank you.

3 MS. CORNWELL: No objection, Your
4 Honor.

5 MS. HUNTER: Your Honor, I'd ask to
6 move item 65 into evidence.

7 THE COURT: All right. It's in without
8 objection. You may take it out.

9 (WHEREUPON, State's Exhibit Number 65
10 was entered.)

11 A. You want me to take it out the bag?

12 Q. Yes. Would you like to take it out the
13 bag and show the jury.

14 A. This is the original packaging right
15 here. Again, my handwriting with my initials. And
16 this was the space heater that was collected off
17 the floor.

18 Q. Thank you. Thank you, Investigator
19 McCormack. And I'm not sure we covered this
20 earlier about your involvement in the case. Did
21 you attend -- after the body was discovered and was
22 transported for an autopsy, did you attend that
23 autopsy?

24 A. Yes, I did.

25 Q. Okay. And is it customary for you to

1 have evidence turned over to you from an autopsy?

2 A. Yes, it is.

3 Q. And items that were turned over, were
4 you given swabs from the victim?

5 A. Yes.

6 Q. Okay. And what about right and left
7 fingernail clippings from the victim?

8 A. Yes, I was.

9 Q. Okay. Were you also given a blood that
10 was collected from the victim --

11 A. Yes, I was.

12 Q. And when you received it, all of these
13 items, were they all packaged?

14 A. Yes.

15 Q. Were they all sealed?

16 A. Yes.

17 Q. Did you open any of them?

18 A. No.

19 Q. Tamper with them in any way?

20 A. No, I did not.

21 Q. Okay. Did you just transport them to
22 evidence?

23 A. Yes, I did.

24 Q. Thank you.

25 MS. HUNTER: I don't have anything

1 further I believe of this witness, Your Honor.

2 THE COURT: Cross-examination?

3 MS. CORNWELL: Can we approach?

4 THE COURT: Yes, ma'am.

5 (WHEREUPON, there was a bench
6 conference.)

7 THE COURT: Ladies and gentlemen,
8 before the cross-examination, it's a good time for
9 us to take our lunch break. If you would be back
10 in your jury room, it's almost 1 o'clock, if you'd
11 be back right at 2 o'clock then we'll resume with
12 the trial of the case. Please remember my
13 instruction to you to not discuss the case amongst
14 yourselves or with anyone else. Have a nice lunch.

15 (WHEREUPON, the jury left the courtroom
16 at 12:51 p.m.)

17 THE COURT: And just for the record and
18 I'm not sure if you have any other pictures that
19 you're doing of the victim other than the autopsy,
20 I would like for y'all to mark all of the other
21 ones as Court's exhibits just so that we preserve
22 the record as far as both the State and Defense's
23 efforts to minimize the graphic nature of the
24 photographs that basically that they corroborate
25 the nature of the injuries and the location to

1 corroborate the testimony of the witnesses to help
2 explain that. So if we could just mark those as
3 Court's exhibits at some point.

4 MS. HUNTER: Your Honor, I just want to
5 be clear, so you want the whole autopsy disc marked
6 as a Court's exhibit?

7 THE COURT: Yes, ma'am, and the ones of
8 the scene where the victim was found.

9 MS. HUNTER: Is it okay if I just mark
10 all of his photos then as a Court exhibit just to
11 make it easier to copy?

12 THE COURT: Yes, ma'am, that's fine.

13 MS. HUNTER: Okay. Thank you.

14 THE COURT: Any objection to that?

15 MS. CORNWELL: No, Your Honor.

16 THE COURT: Anything else?

17 MR. SCOTT: On this matter, we would
18 just renew our -- we filed a reciprocal Rule 5. I
19 know Ms. Cornwell asked one of the witnesses about
20 some sort of diary or something like that. And we
21 just weren't provided any sort of documents related
22 to a diary, so I'm not sure if she plans on using
23 that in the future. But we did file a Rule 5 -- a
24 reciprocal Rule 5 and we have not received anything
25 in response.

1 THE COURT: Ms. Cornwell?

2 MS. CORNWELL: Your Honor,
3 unfortunately, the person who created the diary is
4 deceased. I'll hand it over to you if you let me
5 get into what she says in it. But since I can't --
6 I mean, there's nothing that I can get into in it
7 --

8 THE COURT: So you can't use it.

9 MS. CORNWELL: -- so we're not going to
10 use it.

11 THE COURT: That takes care of that.
12 All right. We'll be at recess.

13 (WHEREUPON, there was a lunch break.)

14 THE COURT: All right. Counsel,
15 everyone ready to proceed?

16 MS. CORNWELL: Yes, Your Honor.

17 MS. HUNTER: Yes, Your Honor.

18 THE COURT: Let's have our jury,
19 please.

20 (WHEREUPON, the jury entered the
21 courtroom at 2:07 p.m.)

22 THE COURT: You may be seated. Welcome
23 back, ladies and gentlemen of the jury. We're now
24 ready to proceed with the cross-examination. Your
25 witness.

1 CROSS-EXAMINATION

2 BY MS. CORNWELL:

3 Q. Investigator McCormack, you had
4 indicated that you arrived on scene on 12/12/19
5 right there off of June Court to photograph the
6 body?

7 A. Yes, I did.

8 Q. And you took several photographs, you
9 also took swabs and collected evidence off the
10 body; is that correct?

11 A. Yes, I did.

12 Q. In addition to collecting swabs from
13 the victim, you were also able to recover hair off
14 of the victim; correct?

15 A. Yes, I did.

16 Q. And you collected that hair for
17 testing?

18 A. Yes.

19 Q. I'm going to show you what's been
20 marked as Defendant's Exhibit 1 and 2.

21 MS. HUNTER: No objection.

22 Q. Do you recognize those photographs?

23 A. Yes, I do.

24 Q. And what are those photographs of?

25 A. These are just close-ups of a strand of

1 | hair that was located on like the right hip area of
2 | the victim, Cara Hodges.

3 | Q. Okay. And you photographed those
4 | before you collected the hair?

5 | A. Yes, I did.

6 | Q. And so that's the actual place that the
7 | hair was located on the body before collection?

8 | A. Yes.

9 | Q. And that's a true and accurate
10 | depiction of where that hair was located?

11 | A. Yes, it is.

12 | Q. And we've obviously --

13 | MS. CORNWELL: Your Honor, at this time
14 | the State (verbatim) would move Defendant's 1 and 2
15 | into evidence.

16 | THE COURT: That was without objection?

17 | MS. HUNTER: Yes, Your Honor.

18 | THE COURT: Defendant's 1 and 2 are in.

19 | (WHEREUPON, Defendant's Exhibit Numbers
20 | 1 and 2 were entered.)

21 | Q. These are very close-up, can you
22 | explain to the jury where on the victim's body
23 | these hairs were found?

24 | A. As I previously stated it was right on
25 | the hip, almost pubic area of the victim.

1 Q. And what color of the hair did it
2 appear to be?

3 A. It was a dark color hair.

4 MS. CORNWELL: Your Honor, may I
5 publish for the jury?

6 THE COURT: Yes, ma'am.

7 Q. This would be Defense 1 and it's kind
8 of hard to see. But if you could show the jury
9 where -- you can use this if you need to point.

10 A. Right here.

11 Q. And then just -- looks like there's
12 like a hair here. Does that appear to be her hair?

13 A. Yes.

14 Q. And so that was not collected because
15 it appeared to belong to her?

16 A. Yes.

17 Q. And then Defendant's 2. Defendant's 2,
18 this is just where you scaled it?

19 A. Yeah, this is where I took a square or
20 L-shape scale to help photograph it and identify
21 it.

22 Q. Thank you. And when you collect hairs
23 and swabs like this, are you doing testing yourself
24 or are you just collecting them to be submitted for
25 testing?

1 A. We collect DNA type evidence to be
2 submitted for testing at the laboratory.

3 Q. You indicated that in addition to
4 pictures, at some point you had to start
5 manipulating the body to take pictures to get her
6 back and all of that; correct?

7 A. Yes. Once the coroner's office arrived
8 on scene.

9 Q. So the coroner's office was on scene
10 before anybody touched the body?

11 A. Yes. As a general practice, I like to
12 leave the body where it is until the coroner can at
13 least visualize and see it for themselves.

14 Q. Okay. And to your knowledge while you
15 were there, did the coroner perform any tests, take
16 any temperatures, do anything to the body?

17 A. No, they did not.

18 Q. And you indicated the body found was
19 like at end of a firebreak area, what do you mean
20 by firebreak area?

21 A. So that's my definition for basically,
22 you know, wooded property area is, what home
23 property owners will do is they'll cut an area
24 through the trees in case of the event of a fire,
25 so it kind of naturally breaks up. That's what I

1 | grew up referring to them, that's what my
2 | granddaddy referred to them as, so that's what I
3 | called it.

4 | Q. Gotcha. So is it part of the road or
5 | is it off the road where you have to drive
6 | somewhere else?

7 | A. No, you come down June Court and you
8 | can hang a right on to this firebreak.

9 | Q. Okay. And then the body was found in
10 | the woods, is it right on the road or was it kind
11 | of off of the road?

12 | A. No, it was further up into the woods,
13 | almost at the end. Where it was almost kind of
14 | like the property owner had kind of cut out like a
15 | cul-de-sac type area. It's almost like he could
16 | have turned around back there.

17 | Q. Okay. And did you notice any drag
18 | marks or any indication of how the body got to that
19 | point?

20 | A. No. It's heavily, you know, foliage
21 | leaves, pine straw, I didn't notice, you know, any
22 | drag marks or anything like that.

23 | Q. And I think you indicated that after
24 | you took pictures and the coroner removed the body,
25 | that you attended the autopsy of Ms. Hodges?

1 A. That is correct.

2 Q. And when you attended the autopsy, you
3 weren't the one transporting the body up to
4 autopsy, were you?

5 A. No, I was not.

6 Q. Do you know -- did you provide autopsy
7 with anything, any records from your case notes
8 before the autopsy was performed?

9 A. They'll ask us general questions about
10 the facts of the case that we know at that time and
11 I would have verbally provided that to them, yes.

12 Q. Do you recall what you advised autopsy
13 of on this?

14 A. I can't speak to certainly of what I
15 advised them of.

16 Q. You indicated that at the end of
17 autopsy, once they've collected the evidence, they
18 give that evidence to you to submit?

19 A. That is correct.

20 Q. And how is that -- what evidence is
21 typically given to you from autopsy?

22 A. It can vary from autopsy to autopsy
23 depending on the circumstances. As previously
24 stated, there were swabs collected in this case.
25 The fingernail clippings. There's some general

1 fluid that is drawn in every case that is provided
2 for toxicology.

3 Q. And when you collect these pieces of
4 evidence, are you the one taking them to each
5 analyst to be tested or are you taking them to a
6 central location? How does that work?

7 A. I bring them back to the, as I
8 previously stated, to the sheriff's office in
9 Orangeburg, submit them to the evidence room. Our
10 evidence custodian will then transport them as need
11 be to whatever testing location.

12 Q. And who determines where they should be
13 tested?

14 A. As far as the autopsy packet or just --

15 Q. The evidence -- I think that there are
16 obviously different agencies that can test
17 evidence, SLED and different areas throughout the
18 state --

19 A. Typically, we only use SLED mainly to
20 submit stuff for DNA testing.

21 Q. And, to your knowledge, were the swabs
22 and the hair, everything sent to SLED for testing
23 in this?

24 A. Initially, yes.

25 Q. Ultimately, did SLED test them or did

1 | somebody else actually test them?

2 | A. From my understanding, the City of
3 | Orangeburg ended up doing the tests.

4 | Q. And after the autopsy, you indicated
5 | that you assisted with the execution of a search
6 | warrant and collecting evidence at my client's home
7 | that night; correct?

8 | A. That is correct.

9 | Q. And you took a lot of photographs of
10 | that as well?

11 | A. Yes, that's correct.

12 | Q. We're talking about looking underneath
13 | the cabinets and opening things up. I'm going to
14 | show you what's been marked as Defendant's 12. Do
15 | you recognize that photograph?

16 | A. Yes, I do.

17 | Q. And is that one of the photographs that
18 | you took during the course of that search?

19 | A. Yes, it is.

20 | Q. Is that a true and accurate depiction
21 | of the photograph that you took?

22 | A. Yes, it is.

23 | MS. CORNWELL: Your Honor, I'd like to
24 | submit Defendant's 12 into evidence.

25 | THE COURT: Any objection?

1 MS. HUNTER: No, Your Honor.

2 THE COURT: It's in.

3 (WHEREUPON, Defendant's Exhibit Number
4 12 was entered.)

5 MS. CORNWELL: May we publish to the
6 jury?

7 THE COURT: Yes, ma'am.

8 Q. Can you tell the jury what that is a
9 photograph of?

10 A. You mean as far as -- what are you --
11 just everything in there?

12 Q. Yeah. Kind of where it was in the
13 house.

14 A. This is one of the cabinets. There's
15 several different items located in here. You have
16 dish detergent. There appears to be some empty
17 wine bottles, a crock and other stuff you might
18 associate with, you know, a kitchen.

19 Q. And you had indicated that my client
20 came in at some point to move his dog up and down.
21 I think we also saw there was some cat food. Was
22 there a cat in the house as well?

23 A. I don't recall seeing the cat, but I do
24 remember seeing the cat food that was there.

25 Q. And then he was taken back out and he

1 | said he got brought back in again a little bit
2 | later?

3 | A. Yes.

4 | Q. And at some point during him being
5 | brought back and forth, he was asked to assist in
6 | the search; correct, as far as opening up or
7 | unlocking gun cabinets and things so of that
8 | nature?

9 | A. Yeah, we couldn't gain access into the
10 | gun safes. He had the combination so we asked him
11 | if he would open them for us.

12 | Q. And he was willing to do that, willing
13 | to cooperate?

14 | A. Yes.

15 | Q. You also indicated and we saw
16 | photographs that you took of his body; is that
17 | correct?

18 | A. That is correct.

19 | Q. And you went through and marked out
20 | certain injuries that were noted and things of
21 | that, but you aren't here to testify in any way as
22 | to how those injuries could have occurred or when
23 | those injuries occurred or anything of that nature;
24 | correct?

25 | A. No. The only thing I can say is what

1 he advised us caused them.

2 Q. Okay. And, really, the only thing that
3 he was asked about that he advised you of, he
4 indicated that his cat had scratched him right
5 there?

6 A. Yes.

7 Q. Okay. And -- I won't ask that. After
8 you did the search of the home, you also assisted
9 in doing a search of the vehicle; correct?

10 A. That is correct.

11 Q. And some of these photos might be
12 duplicative and I apologize for that, but I'm going
13 to show you what's been marked as Defense 3 through
14 7.

15 And are those true and accurate
16 pictures of the car that you photographed and
17 searched that day?

18 A. Yes, they are.

19 MS. CORNWELL: Your Honor, at this
20 time, I'd move State's 3 through -- I'm sorry,
21 Defense 3 through 7 into evidence.

22 MS. HUNTER: No objection, Your Honor.

23 THE COURT: All right. They're in.

24 (WHEREUPON, Defendant's Exhibit Numbers
25 3 through 7 were entered.)

1 Q. So looking at Defendant's 3, that's the
2 state of the trunk when the vehicle was seized and
3 you searched it?

4 A. Yes.

5 Q. So, to your knowledge, no items had
6 been removed or taken out or anything like that
7 prior to you photographing?

8 A. Not to my knowledge, no.

9 Q. And are you aware of how y'all got
10 access to this vehicle?

11 A. As far as where we towed it from or...

12 Q. Yes.

13 A. I was made aware that they had towed it
14 from the Fishtales bar.

15 Q. And did you have keys to be able to get
16 into the vehicle?

17 A. Yes, we did.

18 Q. And was my client provided the keys to
19 y'all?

20 A. I wasn't there when it was towed, so I
21 don't know who provided the keys.

22 Q. But you were able to get into the trunk
23 and in the car using keys?

24 A. Yes.

25 Q. You didn't have to like pry it open or

1 anything like that?

2 A. No.

3 Q. And just in general, when you're
4 processing a scene and you're taking photographs, I
5 notice you put gloves on here when you're touching
6 evidence, I'm assuming that you go through those
7 proper protocols in this case as well?

8 A. Yes.

9 Q. And why do you -- why are you putting
10 on gloves when you're processing evidence?

11 A. To avoid cross-contamination from
12 myself to an item that we may need DNA testing on.

13 Q. And that's a rule for all law
14 enforcement, anybody that's touching any evidence
15 --

16 A. Yes.

17 Q. -- law enforcement --

18 A. And, additionally, as crime scene
19 investigators, once we touch one piece of evidence,
20 we're suppose to change gloves before we touch
21 another piece of evidence to avoid
22 cross-contamination between two separate items.

23 Q. And you indicated that you took swabs
24 from the seal of the trunk?

25 A. That is correct.

1 Q. And so looking at Defendant's 4, where
2 that ruler is, is that one of the places where you
3 took swabs?

4 A. Basically, I took a swab from the whole
5 seal. I used the scale tape as a way to identify
6 the location in which I took it from.

7 Q. Okay. So you took a swab from the
8 bottom left all the way across to the right, so the
9 whole back end of that seal?

10 A. That is correct.

11 Q. Do you know approximately how many
12 swabs that took? Was it all in one swab?

13 A. I'd have to refer to my notes as to how
14 many swabs I took from each one.

15 Q. Okay. Do you have your report with
16 you?

17 A. Yes, I do.

18 Q. Okay.

19 A. So I took two sets of swabs from the
20 lower seal of the trunk.

21 Q. Okay. So two sets of swabs, is that
22 four swabs total?

23 A. That would be four, two apiece.

24 Q. And was any one in any particular areas
25 or when you say, I took two sets of swabs from the

1 seal area, how are you doing that?

2 A. I took the swabs and then swabbed the
3 whole bottom of the trunk or the seal.

4 Q. When you say two swabs, it just took
5 four swabs total?

6 A. I just took two, an extra set.

7 Q. Just wanted to make sure I wasn't
8 missing any -- missing anything. So in looking at
9 Defendant's 5, that's the upper seal that you took
10 --

11 A. Yes, it is.

12 Q. -- swabs from?

13 A. Yes.

14 Q. And same thing, you're not indicating
15 where that ruler is, is the only place you took a
16 swab, you took a swab from the entire top part of
17 it?

18 A. That's it. Just to identify where I
19 took it from.

20 Q. Okay. And looking at Defendant's 6,
21 that's of you coming in from the passenger side?

22 A. Yes, that would be the front passenger
23 door.

24 Q. Okay. So you got, looks like, an
25 ashtray with something in the center console here,

1 | you've got some stuff in the passenger seat down
2 | thing, did you collect any of that for testing for
3 | to evidence to see if -- who it belonged to, who
4 | could have been smoking that, who could have been
5 | drinking out of the coffee cup or anything like
6 | that?

7 | A. No, I didn't.

8 | Q. Defendant's 7, that's just showing a
9 | close-up. And in the top right corner, what are
10 | those that are up there?

11 | A. The top right corner?

12 | Q. I'm sorry. Top left corner?

13 | A. Looks like a pack of cigarillos of some
14 | kind.

15 | Q. Okay. And after processing the car,
16 | you indicated that you took the car back, you got
17 | the car mats out so you could test those?

18 | A. I took the rear trunk liner out, yes.

19 | Q. And looking at Defendant's 8. Is that
20 | the car liner that you took out?

21 | A. Yes, it is.

22 | Q. And that's what was in the back of the
23 | trunk underneath the saw, the gun, everything that
24 | we just saw in the trunk?

25 | A. Yeah, that's correct.

1 Q. Is this a true and accurate picture of
2 that?

3 A. Yes, it is.

4 MS. CORNWELL: Your Honor, at this time
5 Defense would move Defendant's 8 into evidence.

6 THE COURT: Any objection?

7 MS. HUNTER: No, Your Honor.

8 THE COURT: All right. It's in.

9 (WHEREUPON, Defendant's Exhibit Number
10 8 was entered.)

11 Q. And you had indicated earlier that you
12 used luminol on that and that there was a reaction?

13 A. That is correct.

14 Q. But you also agree that luminol will
15 react to things other than just blood; correct?

16 A. Yes, that is correct.

17 Q. I believe you indicated that it would
18 react to things such as iron, some other
19 phosphorous materials, things of that nature?

20 A. Yes.

21 Q. And you would agree that -- I mean,
22 there's a chain saw that's got oil, fuel, gasoline
23 and all that that's sitting on that mat?

24 A. That is correct.

25 Q. So when you say that you got a

1 reaction, you're not necessarily testifying that
2 there was blood on that mat?

3 A. No. The only thing I indicated was
4 that we had a positive reaction. Not saying that
5 it is blood. The end all be all is when it goes to
6 SLED and they perform the final testing to tell us
7 what in fact it is.

8 Q. So when you -- instead of swabbing the
9 entire mat, you can swab kinds of those areas where
10 that luminol reacted?

11 A. Yeah, it's a searching tool to kind of
12 help narrow down to a more definitive location.

13 Q. And to the best of your knowledge,
14 luminol doesn't have any impact on the ability to
15 extract DNA or to determine whether or not a
16 substance is what it is?

17 A. No. I mean, you do have to be careful
18 with over applying it, you could potentially dilute
19 the sample. But, no, you can still obtain a DNA
20 profile.

21 Q. And in this case, you didn't dilute the
22 mat with the luminol, did you?

23 A. No. I sprayed it so we could get a --
24 to see if there was a reaction. You already have
25 your camera set up, so that way as soon as you get

1 the reaction, you can go ahead and take a picture.

2 Q. And in addition to taking the mat back
3 with the luminol and all that, you also had an
4 opportunity to look at a space heater that was
5 seized as part of evidence?

6 A. That is correct.

7 Q. And I believe we actually saw that
8 space heater?

9 A. Yes, we did.

10 Q. I'm going to show you Defense 9, 10 and
11 11. Do you recognize those?

12 A. Yes, I do.

13 Q. And are those true and accurate
14 depictions of the space heater when you brought it
15 to the lab to test it?

16 A. Yes, it is.

17 MS. CORNWELL: Your Honor, at this time
18 State would move -- I'm sorry, Defense would move
19 9, 10 and 11 in.

20 MS. HUNTER: No objection, Your Honor.

21 THE COURT: All right. They're in.

22 (WHEREUPON, Defendant's Exhibit Numbers
23 9 through 11 were entered.)

24 Q. And looking at Defendant's 9, that's
25 the space heater that was collected?

1 A. Yes, it is.

2 Q. And that space heater was collected
3 after my client gave a statement?

4 A. Yes.

5 Q. And then Defendant's 10, that's a
6 close-up of that?

7 A. Yes.

8 Q. And that's the condition that you
9 received it in; correct?

10 A. Yes.

11 Q. So it don't look like it had been wiped
12 down, cleaned or anything like that?

13 A. No.

14 Q. And then Defendant's 11 is the backside
15 of that heater?

16 A. Yes, that is correct.

17 Q. And I think we can see a little bit
18 more of the cord in this photo. You can see where
19 it hasn't been wiped down, there's dirt and grime
20 all of it, so it doesn't appear to have been wiped
21 clean or anything like that; correct?

22 A. No.

23 Q. And when you received this evidence,
24 you did swabs you said?

25 A. Yes, I did.

1 Q. Did you luminol it?

2 A. No, I did not.

3 Q. Is there a reason that you wouldn't
4 luminol a cord like that if you think there could
5 be DNA evidence on it?

6 A. Like I say, mainly luminol is used for
7 the presence of blood. And in this case if we
8 thought this was potentially what was used to
9 strangle the victim, I wouldn't expect to see much
10 blood on it.

11 Q. But you agree though the ligature mark
12 is pretty substantial, there's a lot of red around
13 it, could have been dry blood around the wound?

14 A. Yeah, could have been.

15 Q. And once you collected those swabs,
16 those were submitted into evidence for testing for
17 DNA?

18 A. Yes, they were.

19 Q. While you were inside the house the
20 night the search warrant was executed, you didn't
21 note any signs of struggle, there weren't blood
22 stains on the carpet that you were able to see,
23 nothing like that; correct?

24 A. No, there was not.

25 Q. And when you obtained the vehicle, you

1 | took photographs, you took evidence from it, at any
2 | point did you try to obtain GPS from that vehicle
3 | or get data from the black box that's in the
4 | vehicle?

5 | A. No, that would require an additional
6 | search warrant to actually remove the black box
7 | from it.

8 | Q. Okay. And that search warrant was
9 | never sought in this case?

10 | A. No, ma'am.

11 | Q. Other than being involved in the
12 | search, photographing the body, attending the
13 | autopsy, collecting evidence, did you have any
14 | other involvement in this case?

15 | A. Other than the initial scene, the two
16 | search warrants at the house and the car, no, I did
17 | not.

18 | Q. You did indicate that you were the one
19 | that took pictures of my client at his house, did
20 | you have any conversation with him about why you
21 | were taking photographs?

22 | A. We asked if he would mind removing his
23 | shirt to see if there was any injuries.

24 | Q. And he didn't have a problem with that?

25 | A. No.

1 Q. Were you aware of any conversations
2 that were happening during the execution of the
3 search warrant regarding the victim, how she was
4 found, her injuries or anything of that nature?

5 A. Like I said, he was in the vehicle with
6 Investigator Carrigg for a period of time, what
7 they talked about inside the vehicle, I wasn't
8 privy to.

9 MS. CORNWELL: That's all the questions
10 I have, Your Honor. Thank you.

11 THE COURT: Any redirect?

12 MS. HUNTER: Briefly redirect, Your
13 Honor.

14 REDIRECT EXAMINATION

15 BY MS. HUNTER:

16 Q. Investigator McCormack, when you went
17 back to execute that second search warrant on
18 December 16th, did you go back to collect a cord or
19 a heater or did you know specifically what you were
20 looking for?

21 A. I was advised a cord that was attached
22 to a space heater in a specific location of the
23 bedroom.

24 Q. And were you able to find a cord
25 attached to a space heater?

1 A. Other than the factory cord that was
2 attached to the space heater, no.

3 Q. That's all you could find?

4 A. Yes.

5 Q. And that space heater was plugged in or
6 unplugged when you collected it?

7 A. It was unplugged.

8 Q. Okay. And then Ms. Cornwell asked you
9 about evidence being transferred to SLED for
10 testing. Normally, we collect -- when you collect
11 swabs in evidence in the case, is it tested by
12 South Carolina Law Enforcement Division, the state
13 agency?

14 A. Yes, it is.

15 Q. Okay. And in certain cases, if SLED
16 cannot test items in a needed timeframe, would they
17 be transferred -- could they be transferred to be
18 tested at another lab?

19 A. Yes, they could.

20 Q. Okay. That's all -- I'm sorry,
21 follow-up to that. And at SLED, are you aware when
22 items are transferred to SLED to be tested, is
23 there a limit on the number of items that you're
24 allowed to send to SLED to be tested?

25 A. In regards to DNA, we're allowed five

1 DNA submissions per case that aren't known
2 standards. In other words, a buccal standard swab
3 that we took from somebody.

4 Q. Thank you.

5 MS. HUNTER: No further questions.

6 THE COURT: You may step down, sir.

7 Thank you.

8 MR. MCCORMACK: Your Honor, may I be
9 excused?

10 THE COURT: Any objection?

11 MS. CORNWELL: No, Your Honor.

12 THE COURT: You're free to go.

13 MR. MCCORMACK: Thank you, ma'am.

14 THE COURT: You may call your next
15 witness.

16 MS. HUNTER: Thank you, Your Honor.
17 State calls Julia Begeman.

18 THE CLERK: Can you place your left
19 hand on the bible and raise your right hand. And
20 state your name for the record.

21 MS. BEGEMAN: Julia Begeman.

22 JULIA BEGEMAN,
23 being first duly sworn, was examined and testified
24 as follows:

25 THE CLERK: Thank you. You may be

1 seated.

2 DIRECT EXAMINATION

3 BY MS. HUNTER:

4 Q. Good afternoon. Ms. Begeman, can you
5 tell the jury where you work?

6 A. I work at the South Carolina Law
7 Enforcement Division commonly known as SLED.

8 Q. And how many years have you been there?

9 A. About five years.

10 Q. What is your position at SLED?

11 A. I am a forensic technician in the DNA
12 case work department.

13 Q. And what kind of work do you do as a
14 DNA technician?

15 A. I have a variety of duties including
16 preserving known standards, helping out analysts
17 with transfers of evidence and quality control in
18 the lab.

19 Q. And can you tell the jury about your
20 educational background?

21 A. I have a Bachelor of Science in
22 forensic science with the concentration in biology
23 from the University of New Haven.

24 Q. All right. Thank you. Ms. Begeman, I
25 want to show you what's marked as State's 66. Do

1 | you recognize that?

2 | A. Yes.

3 | Q. And how to you recognize it?

4 | A. I recognize the bar code with the lab
5 | number and item number as well as the inner
6 | packaging and my initials on the top.

7 | Q. Okay. And what is that item?

8 | A. It is a blood card from Cara Hodges.

9 | Q. Okay. And does it appear to have been
10 | tampered with in any way?

11 | A. No.

12 | MS. HUNTER: Your Honor, at this time,
13 | I'd ask to move State's 66 into evidence.

14 | MS. CORNWELL: No objection, Your
15 | Honor.

16 | THE COURT: All right. It's in.

17 | (WHEREUPON, State's Exhibit Number 66
18 | was entered.)

19 | Q. Ms. Begeman, can you tell the jury what
20 | you did in this case?

21 | A. In this case, I received a package
22 | contained the blood standard as well as a few other
23 | items. So what I did was I separated --

24 | Q. I want to stop you real fast. When you
25 | say you got a package with a blood standard, what

1 exactly are you talking about that you received?

2 A. I received similar to this a heat
3 sealed plastic pouch that had the tube as well as
4 coin envelopes.

5 Q. And you mean a tube of blood like a
6 liquid?

7 A. Yes.

8 Q. Okay. Thank you. Continue.

9 A. Since the tube of blood needs to be
10 refrigerated, I separate it from the other items
11 and returned everything else to evidence control.
12 And I used that tube of liquid blood to preserve a
13 portion of the blood on to a card that can be
14 stored at room temperature. It stabilizes it so
15 it's a little easier to work with for the DNA
16 analyst. Once I preserve that portion, I resealed
17 the blood tube in its original in its packaging and
18 sealed up the blood card in this packaging.

19 Q. And the blood that you originally
20 received that come from pathology?

21 A. I believe so.

22 Q. And if it appeared to have been
23 tampered with in any way, would you have created a
24 blood standard?

25 A. It did not appear to have been tampered

1 with, but if it had, I would not have preserved it.

2 Q. Okay. And the blood, the actual tube,
3 that's what has to be -- where does that have to be
4 stored, the actual tube of blood?

5 A. The tube has to be stored in the
6 refrigerator.

7 Q. And that's why you create the blood
8 card?

9 A. Yes.

10 MS. HUNTER: I don't have any further
11 questions for this witness.

12 THE COURT: Cross-examination?

13 MS. CORNWELL: Nothing from the
14 Defense, Your Honor.

15 THE COURT: You may step down, ma'am.
16 Thank you.

17 MS. HUNTER: May she be excused, Your
18 Honor?

19 THE COURT: Any objection?

20 MS. CORNWELL: No, Your Honor.

21 THE COURT: You are free to go, ma'am.
22 You may call your next witness.

23 MS. HUNTER: Thank you, Your Honor.
24 State calls Amanda Webb.

25 THE CLERK: State your name for the

AMANDA WEBB - DIRECT EXAMINATION BY MS. HUNTER

1 record.

2 MS. WEBB: Amanda Webb.

3 AMANDA WEBB,

4 being first duly sworn, was examined and testified

5 as follows:

6 THE CLERK: Thank you. You may be

7 seated.

8 THE COURT: Your witness.

9 MS. HUNTER: Thank you.

10 DIRECT EXAMINATION

11 BY MS. HUNTER:

12 Q. Good afternoon, Ms. Webb.

13 A. Good afternoon.

14 Q. Where are you employed?

15 A. I'm employed by the Orangeburg

16 Department of Public Safety.

17 Q. And how long have you worked with the

18 Department of Public Safety?

19 A. Four years.

20 Q. What is your possession there?

21 A. I'm a forensic scientist, a DNA

22 analyst.

23 Q. And what is your job as a DNA analyst?

24 A. My job is to attempt to develop DNA

25 profiles from evidence items from crime scenes and

1 I also get known standards which I believe have
2 been talked about earlier which is DNA that is from
3 an individual, a known individual.

4 So if I develop any DNA profiles from
5 evidence items, I can compare it to the
6 individual's DNA to determine if they could have
7 been at the crime scene.

8 Q. Thank you. And how many years have you
9 worked as a DNA analyst?

10 A. Eleven years.

11 Q. So you testified that you've worked at
12 the Department of Public Safety for four years and
13 before that where did you work as a DNA analyst?

14 A. I worked at the South Carolina Law
15 Enforcement Division also known as SLED.

16 Q. And what is your educational
17 background?

18 A. I have a bachelor's in chemistry and a
19 master's in forensic science from Marshall
20 University.

21 Q. Have you had additional training
22 specifically in the field of DNA analyst?

23 A. Yes, I have. Once I was hired on at
24 SLED, I trained under another qualified analyst for
25 approximately two years before I was allowed to do

1 my own independent case work. And then after that,
2 each year we're required to get eight hours of
3 continuing education whether that be workshops,
4 presentations, conferences, webinars and I usually
5 get more than the eight hours each year.

6 Q. Have you ever been qualified as an
7 expert in the field of DNA analyst before?

8 A. Yes, I have.

9 Q. Approximately how many times?

10 A. About 40.

11 Q. And in what court were you qualified as
12 an expert to testify?

13 A. In circuit court.

14 MS. HUNTER: Your Honor, at this time
15 I'd ask to offer her as an expert in DNA analysis.

16 THE COURT: Any voir dire?

17 MS. CORNWELL: No objection, Your
18 Honor.

19 THE COURT: She's qualified.

20 MS. HUNTER: Thank you.

21 Q. Ms. Webb, can you briefly explain to
22 the jury what DNA is?

23 A. Yeah. DNA is a chemical in your body
24 and it's found in every cell of your body, each
25 individual cell. It's a -- you get that from your

1 mother and your father. You get half from your mom
2 and half from your dad. And in forensic testing,
3 the DNA that we test is unique to an individual.
4 Except for identical twins, they have the same DNA,
5 but everybody else has their own DNA profile.

6 Q. And how do you go about collecting DNA
7 and developing a DNA profile?

8 A. DNA is normally collected by swabbing
9 it. You'll swab an area that you think is blood or
10 body fluid or touch DNA and then it's brought to
11 the lab and it's analyzed to try to determine if
12 you can develop the source of the DNA, the source
13 of the body fluid or the skin cells.

14 Q. And you just mentioned that term "touch
15 DNA," will you explain to the jury what touch DNA
16 is?

17 A. Sure. Touch DNA is DNA from skin
18 cells. So like when you handle an item, when you
19 touch an item, you might transfer some of your skin
20 cells on to that item. And so we call it touch
21 because it's actually from like touching an item.

22 Now the longer you hold an item, the
23 more frequently you touch it, the more friction,
24 the more skin cells you're going to deposit on that
25 item. But in general, it's very hard to develop a

1 DNA profile from touch DNA. We much prefer body
2 fluids as opposed to touch DNA.

3 Q. And what are some of the other factors
4 that can make it harder to get a hit for touch DNA
5 verses like the fluid such as blood, things like
6 that?

7 A. Sure touch DNA, again, it depends on
8 how much is deposited. Some people don't shed a
9 lot of skin cells. Also, environmental factors can
10 take the place of direct sunlight, heat, humidity
11 will kill the DNA, dirt can kill the DNA, chemical
12 cleaners can kill DNA, so just different factors.

13 Q. Now, I know that you were asked to
14 analyze several items in this case. I'm just going
15 to go over a few of the items that we've talked
16 about in the case so far.

17 So, first, I'm going to start with
18 State's 66 which is the blood standard from Cara
19 Hodges. Can you tell the Court how this was
20 packaged when you received it?

21 A. Sure. This blood standard from Cara
22 Hodges was packaged just as you see here. The
23 blood swab is actually in this envelope and then it
24 was inside of this heat sealed pouch.

25 Q. And can you tell them where you

1 received -- how this item and the items -- the rest
2 of the items how they came into your possession?

3 A. Sure. Evidence custodian from the
4 Orangeburg County Sheriff's Office delivered them
5 personally to the lab and I received them with a
6 hand transfer personally.

7 Q. And did this item appear to be altered
8 or tampered with in any way?

9 A. It did not.

10 Q. If it had, what would you have done?

11 A. I wouldn't have performed any DNA
12 analysis and I would have contacted the
13 investigator to see who may have opened the pouch
14 or had access to the evidence.

15 Q. Thank you. Next I'm going to show you
16 State's 10 which is a buccal swab from the
17 Defendant. How was that packaged when you received
18 it?

19 A. The buccal standard from the suspect --
20 or excuse me, from Mr. Eastwood was collected in
21 this envelope and inside this heat sealed pouch.

22 Q. And did it appear to have been tampered
23 with in any way?

24 A. It did not.

25 Q. And for State's 66 and State's 10, how

1 do you know that those are the standards that you
2 tested?

3 A. I can tell because the evidence tape
4 that's placed after I open the envelope, I place
5 evidence tape on the pouch to close it back up and
6 I date and initial that. And then also in this
7 heat sealed pouch where I opened it up, I heat seal
8 it and I can see my initials and the date.

9 Q. And is that done in both 66 and 10?

10 A. Yes, that's correct.

11 Q. Thank you. And for DNA purposes, can
12 you explain to the jury what you use these buccal
13 swab for and the blood spot card that blood
14 standard for?

15 A. Sure. It's DNA that we know is from
16 the individual. So in this case, it's DNA -- the
17 DNA profile from Cara Hodges and also the DNA
18 profile from Kenneth Eastwood. So if I developed
19 any DNA profiles from the evidence item, I could
20 compare them to their individual DNA profile to
21 determine if they might have their DNA on that
22 item.

23 Q. Are those often referred to as known
24 standards?

25 A. Yes, they are.

1 Q. And in this case, did you receive any
2 unknowns?

3 A. Yes, I did.

4 Q. Okay. And what are unknowns?

5 A. Unknowns are items of evidence where
6 you don't know whose DNA is on it. So it's unknown
7 whose DNA is there.

8 Q. And I want to go over just a few of
9 those unknown items that you were asked to analyze.
10 So, first, were you asked to analyze nail clippings
11 and swabs for touch DNA in this case?

12 A. Yes, I was.

13 Q. Okay. I'm going to start with the nail
14 clippings. Were you --

15 MS. CORNWELL: Your Honor, this is
16 subject to my previous objection.

17 THE COURT: Yes, ma'am. And for the
18 same reasons as previously articulated by the
19 Court, your motion is denied.

20 MS. CORNWELL: Thank you, Your Honor.

21 Q. Where did you receive these nail
22 clippings from?

23 A. I received them from the evidence
24 custodian from the Orangeburg County Sheriff's
25 Office.

1 Q. Okay. And these were -- I want to talk
2 first about the right clipped fingernails that were
3 the victim Cara Hodges. Those were sent to you to
4 be analyzed?

5 A. Yes, they were.

6 Q. And how were they packaged when you
7 received them?

8 A. They were -- the clippings from the
9 fingernails were inside of a coin envelope and
10 inside of a heat sealed pouch.

11 Q. And did those come from the
12 pathologist?

13 A. Yes, the pathologist collected them.

14 Q. Okay. And do they appear -- that
15 package when you received it, did it appear to have
16 been altered or tampered with in any way?

17 A. No, it didn't.

18 Q. And did you analyze those right
19 fingernail clippings?

20 A. Yes, I did.

21 Q. Okay. And can you tell the jury what
22 your findings were?

23 A. Under Cara Hodges' right fingernail
24 clippings, I was able to get DNA and it was a
25 mixture of two people. So what that means is that

1 | there was more than one person's DNA under the
2 | fingernails. And I determined that it was Cara
3 | Hodges and Kenneth Eastwood's DNA under her
4 | fingernail clippings.

5 | Also the probability of including
6 | someone into that mixture is 1 in 32 billion. And
7 | so what that means is that there's strong support
8 | to show that it's Kenneth Eastwood's DNA and Cara
9 | Hodges' DNA on her fingernail clippings.

10 | Q. So Mr. Eastwood's DNA is under Cara
11 | Hodges' right fingernails?

12 | A. Yes.

13 | Q. Next I want to talk to you about the
14 | left fingernail clippings of Cara Hodges. Did you
15 | receive those from the pathologist, Dr. Rose?

16 | A. Yes, I did.

17 | Q. Okay. And were you -- when you
18 | received it, how were they packaged?

19 | A. They were also inside the envelope and
20 | inside the heat sealed pouch.

21 | Q. And were they initialed when you
22 | received them by Dr. Rose?

23 | A. Yes, they were.

24 | Q. Okay. And did they appear to have been
25 | altered or tampered with in any way?

1 A. No, they didn't.

2 Q. And did you analyze the left clipped
3 fingernails?

4 A. I did.

5 Q. And can you tell the jury your findings
6 on her left fingernails?

7 A. Under Cara Hodges' left fingernails, I
8 developed another mixture of at least two people.
9 I was able to determine a major contributor. And
10 what that means is when you have a mixture of
11 individual's DNA, sometimes you can determine who
12 deposited the most DNA and that would be the major
13 contributor. So the major contributor in this case
14 is Cara Hodges on her own fingernails.

15 Q. Would you expect that?

16 A. Yes. Anytime you take a DNA sample
17 from a person's body, you would expect their own
18 DNA to be present on their own swab, their own
19 body. And the minor contributor was insufficient
20 for interpretation. So what that means is, I
21 didn't get enough DNA from the minor contributor to
22 compare it to anyone.

23 Q. So if you didn't get enough DNA, are
24 you able to exclude Mr. Eastwood as that minor
25 contributor?

1 A. No, I couldn't exclude him.

2 Q. Okay. So it could -- it's possible
3 that it's his DNA that's underneath her nails -- on
4 the left fingernails as well?

5 A. Yeah, I didn't just have enough to make
6 a comparison.

7 Q. Okay. And can you tell the jury a few
8 reasons why you wouldn't be able to develop a minor
9 contributor profile like you weren't able to in
10 this case?

11 A. It could be that there just wasn't
12 enough DNA there to begin with. It could be the
13 conditions like the, for instance, this case, the
14 body was found in the woods so I think after a
15 couple of days, sunlight and heat can degrade DNA.
16 Dirt can kill DNA. Other chemicals and things, so
17 it could be from exposure to the elements as well.

18 Q. So you're saying that DNA can be
19 degraded by natural elements?

20 A. Yeah, chewed up.

21 Q. All right. Now, Ms. Webb, do you have
22 the nail clippings that you performed the DNA
23 analysis on?

24 A. I do not.

25 Q. Okay. And why aren't they here today?

1 A. I lost the pouch that the fingernail
2 clippings were in.

3 Q. And did you lose that pouch after you
4 conducted the analysis?

5 A. After the analysis, yes.

6 Q. Okay. And have you ever lost evidence
7 before?

8 A. I have never lost evidence before.

9 Q. And does not having these nail
10 clippings in the courtroom today, does that affect
11 your report?

12 A. No, it doesn't effect the results. So
13 I had the clippings and performed the DNA analysis
14 and got the profiles so it doesn't affect the DNA
15 results.

16 Q. Now, as part of your testing, do you
17 keep DNA extracts from those nail clippings?

18 A. Yes, I do.

19 Q. So if needed, could those extracts be
20 retested and the results reported?

21 A. Yes, they could be retested.

22 Q. Okay. And would the results be the
23 same as you reported today?

24 A. That would be expected, yes.

25 Q. Thank you. All right. Next, I'd like

1 to show you State's 16 which are swabs of possible
2 blood from the victim's finger. How was that swab,
3 how was it packaged when you received it?

4 A. The swab was packaged inside the
5 envelope and inside the heat sealed pouch.

6 Q. And did it appear to have been altered
7 or tampered with in any way?

8 A. No, it did not.

9 Q. And if it had, would you have tested
10 it?

11 A. No, I wouldn't have tested it. I would
12 have asked the investigator who could have had
13 access to it.

14 Q. Okay. Thank you. And what were your
15 findings for that swab of possible blood on Cara's
16 finger?

17 A. Sure. That is my item 11. And so the
18 swab from the possible blood from Cara Hodges'
19 finger is a DNA of Cara Hodges.

20 Q. So does that mean that the victim's
21 blood is on her own finger?

22 A. Yes.

23 Q. Thank you. Next, I'm showing you
24 State's 60 which are swabs from the seal of the
25 trunk. Do you recognize those?

1 A. Yes, I do.

2 Q. And how were those packaged when you
3 received them?

4 A. Inside of the envelope and inside the
5 heat sealed pouch.

6 Q. And do they appear to have been altered
7 or tampered with in any way?

8 A. No, they did not.

9 Q. Okay. And did you do testing for touch
10 DNA from that trunk seal?

11 A. Yes, I performed DNA analysis.

12 Q. And what were the results of that
13 testing?

14 A. DNA from the swabs from the seal of the
15 trunk is a mixture of at least three people. So a
16 three people's DNA was found on the item on the
17 swab. And I wasn't -- there wasn't enough DNA for
18 me to be able to make a comparison.

19 Q. So you're saying that there was a low
20 amount of DNA?

21 A. Correct. A low amount of DNA.

22 Q. And if it's a low amount you're not
23 able to compare it to any standards that you have?

24 A. Correct.

25 Q. Okay. So can you exclude Cara Hodges'

1 DNA from that trunk seal?

2 A. No, I can't exclude.

3 Q. Can you exclude Kenneth Eastwood's?

4 A. No, I cannot.

5 Q. Thank you. Next, I'd like to show you
6 State's Exhibit 61 which are swabs from the floor
7 mat of the trunk of the car. And is that -- how
8 was it packaged when you received it?

9 A. It was packaged in the envelope and
10 inside the heat sealed pouch.

11 Q. Okay. And did it appear to be altered
12 or tampered with in any way?

13 A. No, it didn't.

14 Q. Okay. And did you do testing for touch
15 DNA on the floor mat of the trunk of the vehicle?

16 A. Yes, I did.

17 Q. And what were the results of that?

18 A. Again, there wasn't enough DNA to be
19 able to make a comparison. It's just a small
20 amount of DNA and so small that I couldn't compare
21 it to anyone's known standard.

22 Q. So could Cara Hodges be excluded from
23 that test?

24 A. No.

25 Q. Okay. And are you familiar with

1 | luminol?

2 | A. Yes, I am.

3 | Q. And what is luminol used for?

4 | A. Luminol is used at crime scenes to test
5 | for blood. It's sprayed in an area where you can't
6 | visibly see blood, but you think there might be
7 | blood. And what happens is, if blood is present it
8 | will fluoresce and glow so you can find the area
9 | that might be potential blood.

10 | Q. So if you get a reaction for luminol,
11 | is it necessary that you'll -- would you
12 | necessarily find someone's DNA on the area that's
13 | swabbed where that reaction occurred?

14 | A. No, not necessarily. There's a couple
15 | of reasons for that. Maybe a small amount of DNA
16 | that I can't recover enough to make a comparison or
17 | also luminol has some what they call
18 | false/positives, so it will fluoresce with other --
19 | against other agents than just blood. So it will
20 | fluoresce against iron or copper. It will also
21 | fluoresce with chemical reagents such as bleach or
22 | household cleaners.

23 | Q. So household cleaning products can
24 | cause a false reaction, false/positive?

25 | A. Yeah, it can cause the luminol to

1 fluoresce.

2 Q. All right. And the last item I want to
3 show you is State's 64, it is a swab from an
4 electrical cord of a space heater. Do you
5 recognize that?

6 A. Yes, I do.

7 Q. And did it appear to have been tampered
8 with when you received it?

9 A. It did not.

10 Q. Okay. And did you do testing for DNA,
11 specifically touch DNA on this swab from this
12 electrical cord?

13 A. Yes, I did.

14 Q. And what were your results?

15 A. No DNA was obtained, so no DNA at all
16 was present or developed with my analysis.

17 Q. And you stated earlier that it can be
18 harder to find touch DNA when you're testing items.
19 And can you tell -- well, I guess, is it common to
20 not find touch DNA on items sometimes that you
21 would expect it to be on?

22 A. Yes, it's not uncommon. I've often had
23 swabs from cords and not found any DNA.

24 Q. And why is that you wouldn't be able to
25 find touch DNA on certain items?

1 A. It could be that not enough DNA was
2 deposited on the item or that especially with touch
3 DNA it can be easily removed sometimes just by
4 someone else handling the item or it being moved
5 around, the skin cells can come off.

6 Q. Can it be easily wiped off?

7 A. Yes, they can.

8 Q. Can it be easily cleaned off?

9 A. Yes.

10 MS. HUNTER: Your Honor, I don't have
11 any further questions for this witness.

12 THE COURT: Cross-examination?

13 MS. CORNWELL: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. CORNWELL:

16 Q. Ms. Webb, you talked a little bit about
17 touch DNA and how sensitive it is. Touch DNA is
18 gathered in just about every criminal case now,
19 isn't it?

20 A. Yes, it's standard procedure to gather
21 and collect touch DNA.

22 Q. And that's why there's a reason that
23 only five DNA swabs are allowed to be submitted on
24 any particular case?

25 A. I think the reason for the limit on

1 items submitted is because they want submitted the
2 most probative evidence. So you want to test the
3 most -- the evidence that can produce a DNA profile
4 more likely to. And then if those are tested and
5 nothing is recovered then additional items can be
6 submitted.

7 Q. So when law enforcement is submitting
8 items to be tested, they're submitting the most
9 probative are the ones that they think are going to
10 have the most evidence on it first?

11 A. Yes, correct.

12 Q. And then just because there's five, an
13 ask of five, that doesn't mean that later on they
14 can't submit additional evidence to be tested if
15 they think the case needs it?

16 A. Correct.

17 Q. You're not going to turn away evidence
18 and say, nope, you're over your five limit, I'm not
19 testing it?

20 A. Additional items can be tested, yes.

21 Q. And when we talk about touch DNA, I
22 mean, we leave skin cells everywhere; correct? And
23 so when we're talking about DNA --

24 A. Most usually.

25 Q. I'm sorry, I should have let you --

1 A. No, that's okay. Most usually, yes.

2 Q. So when we're talking about DNA,
3 typically people are thinking blood, sweat, you
4 know, semen, things of that nature, but it's also
5 in skin cells, it's in hair, it's everywhere;
6 correct, from a person's body?

7 A. Yes, it's on your skin cells and then
8 for hair, for our forensic testing that we do, it's
9 not in the shaft of the hair itself, it's actually
10 you need like the root material. So, like, you
11 know how like you pull a hair and you can see some
12 of the skin cells, that's where we get the forensic
13 DNA from is from the skin cells from the root
14 material not the hair itself.

15 Q. And different conditions are capable of
16 leaving touch DNA, for instance, if somebody it's
17 summer and they're a little bit more sweaty they
18 may shed skin more; or if their skin is dry they
19 may shed skin more; is that an accurate
20 description?

21 A. Yes, that's correct. I would think if
22 they were sweating they would shed more.

23 Q. And we've gone through the swabs that
24 you received in this case and the analysis that was
25 done and Ms. Hunter was very clear to say, you

1 know, you can't exclude Cara Hodges from these
2 results when you have an insufficient amount for
3 interpretation. But the realty is, you can't
4 include her, can you?

5 A. No, I couldn't include, no. That's
6 correct.

7 Q. So there is no evidence anywhere on any
8 of the swabs that you tested from the seal of the
9 trunk, from the floor mat, from the space heater or
10 anything in this case where you can sit up there
11 and say that Cara Hodges' DNA is present?

12 A. Not from the touch swabs, no.

13 Q. When you talk about swabs from the seal
14 of the trunk, Orangeburg Sheriff's Office item
15 C-1.1, does that tell you which swabs where on the
16 trunk, where on the seal of the trunk those swabs
17 came from?

18 A. No. The only thing I have is the chain
19 of custody description which says the swab was
20 taken from the seal of the trunk for touch DNA. I
21 don't know where on the seal that it was collected.

22 Q. And we talk about friction and length
23 of time something's touching and all that, a
24 person's naked body laying on a mat for a period of
25 time, that would have more likelihood of leaving

1 | some sort of skin cell or DNA if the body is just
2 | on the mat in a car driving around, you would
3 | expect some sort of skin cells to have been shed at
4 | that point?

5 | A. Not necessarily. I mean, there have
6 | been known for someone to touch an item or hold an
7 | item and not recover any DNA.

8 | Q. There have been, but that's not
9 | probable, is it?

10 | A. I don't really recall many studies
11 | about just a body being placed on an item and then
12 | trying to recover DNA, so I really can't -- I
13 | really can't say. I really can't testify to that.
14 | Because I don't know of any studies shown with
15 | that.

16 | Q. But in your experience, would you
17 | expect to find touch DNA on something that a naked
18 | body is laid on?

19 | MS. HUNTER: Objection, Your Honor.
20 | This has been asked and answered. She said that
21 | she can't testify to that.

22 | THE COURT: You can ask in her
23 | experience.

24 | A. In my experience, I'm usually surprised
25 | if I get anything from touch DNA. And if I do,

1 it's usually a mixture.

2 Q. You said you worked at SLED for four
3 years and now you're at Orangeburg Department of
4 Public Safety, what method do you use to test DNA?

5 A. STR PCR analysis.

6 Q. And that's fairly new within the last
7 couple of years; correct?

8 A. It's been probably 20 years.

9 Q. SLED switched over to the, we call it
10 STAR analysis back in 2000 and, I believe 18, does
11 that sound about right?

12 A. Sounds about right. I'm not certain
13 for sure.

14 Q. And there's also a method call
15 TrueAllele, are you familiar are that method?

16 A. Yes.

17 Q. And those are sophisticated methods
18 that have been designed specifically to extract and
19 strengthen touch DNA; correct?

20 A. It's not the extraction process, it's
21 not really the laboratory process. What those are
22 for is calculating the statistical match which is
23 where I stated the statistical match earlier.
24 Those programs are statistical software programs.

25 Q. And law enforcement switched over to

1 using those methods because it gives a more
2 detailed, a more accurate reading of these DNAs;
3 correct?

4 A. I wouldn't say more accurate, but you
5 can be able to interpret more low level samples.
6 Because it gives a different statistical
7 calculation. So you're able to compare and include
8 people on low level samples whereas you might not
9 with the testing that I used.

10 Q. So you didn't use the most
11 sophisticated testing methods to try to get the
12 best analysis on this DNA?

13 A. I used the most sophisticated forensic
14 laboratory methods, we just don't have the
15 statistical program to calculate the statistical
16 match.

17 Q. So, in going through your case, we
18 talked about the right clipped fingernails. Can
19 you tell and we don't have the fingernails anymore,
20 so can you tell which fingernail it was found
21 under? How many it was found under? Where on the
22 fingernail it was found?

23 A. I do remember viewing the fingernail
24 clippings when I was performing the analysis
25 because since I've been at Orangeburg this is the

1 | only case that had fingernail clippings, so that's
2 | why it's pretty good in my memory. But -- so the
3 | package said right fingernail clippings and another
4 | package said left fingernail clippings. And I did
5 | count them and I remember there being five
6 | clippings, individual clippings. So makes sense
7 | since there's five fingers to have five clippings.

8 | Q. But which fingers were the -- which
9 | clippings -- was it under all five clippings? Was
10 | it one? Was it two?

11 | A. Oh, I'm sorry. Yeah, I swabbed all
12 | five of the clippings. I took a Q-tip and swabbed
13 | underneath all five of the clippings and that's the
14 | way to recover the most DNA is to swab the most
15 | material that you can. So I swabbed all five on to
16 | one swab and then I performed my analysis on that
17 | one swab.

18 | Q. You said this was the first time you
19 | received clippings in Orangeburg, so is this the
20 | first murder case that you've done DNA analysis on
21 | in Orangeburg?

22 | A. No.

23 | Q. You don't typically receive nail
24 | clippings from autopsy for murder cases?

25 | A. We are a recently new lab, we just got

1 | accredited a couple of years ago and we only work
2 | evidence from the City of Orangeburg for Orangeburg
3 | DPS, so, fortunately, we don't have as any
4 | homicides as the county would, so we have maybe a
5 | dozen homicides a year.

6 | Q. And they don't typically submit the
7 | fingernail clippings from autopsy of those for
8 | testing?

9 | A. They would if there was an autopsy and
10 | if they thought that there might be DNA under the
11 | fingernails, but this was the first case I received
12 | them on.

13 | Q. And, again, with finding DNA on
14 | fingernails, you're not indicating in any way how
15 | that DNA got there; correct?

16 | A. Oh, that's correct, I don't know how it
17 | got there.

18 | Q. So people can get DNA under their
19 | fingernails from dancing, from holding hands, from
20 | giving back rubs or back scratches, there's a
21 | number of different ways that DNA can come under a
22 | fingernail; correct?

23 | A. That's correct. Yes, being in the same
24 | vicinity, dancing, close contact.

25 | Q. And then you testified that with the

1 left fingernail clippings that the minor
2 contributor is insufficient for interpretation; is
3 that correct?

4 A. Yes, that's correct.

5 Q. So you cannot say with any remote
6 certainty at all that my client's DNA is under her
7 left fingernails?

8 A. No, I cannot, not on the left.

9 Q. And you cannot say with any sort of
10 degree of any medical certainty that Cara Hodges'
11 DNA is anywhere on the swabs from the seal of the
12 trunk?

13 A. That's correct, I can't say.

14 Q. And you cannot say with any degree of
15 medical certainty that Cara Hodges' DNA is anywhere
16 on the floor mats from where the swabs you tested?

17 A. That's correct, I can't say.

18 Q. And, again, you cannot say with any
19 degree of medical certainty that the swabs from the
20 electrical cord of the space heater had any DNA
21 from Cara Hodges on it?

22 A. That's correct, no DNA was developed.
23 No DNA was recovered.

24 Q. So you can't exclude her or my client
25 and you also can't exclude me, you can't exclude

1 | yourself, you can't exclude the judge, you can't
2 | exclude anyone; right?

3 | A. That's correct.

4 | Q. Kind of a tainted question that you
5 | can't exclude this person, the real thing is, you
6 | cannot say that this person's DNA is anywhere in
7 | this car or on this space heater; correct?

8 | A. Right, I couldn't make a comparison.

9 | Q. You also received a hair from the
10 | victim's thigh?

11 | A. Yes, I did.

12 | Q. And you were not able to obtain a DNA
13 | profile from that?

14 | A. That's correct.

15 | Q. So based on your analysis -- so the
16 | evidence that was collected in this case, your
17 | understanding is that it was collected between
18 | December 12th and the 15th or so of 2019?

19 | A. I have the date of the incident is all
20 | I have of December 12, 2019.

21 | Q. And what were the dates that you
22 | actually tested this evidence?

23 | A. April of 2023.

24 | Q. So this evidence sat untested for over
25 | four years?

1 A. Yeah, three and a half, four. Yeah.

2 Q. And was this kept in your lab? When
3 did you receive the evidence?

4 A. I received the evidence in April of
5 2023, April 11th.

6 Q. And so you have no idea where it was or
7 what was going on with it, how it was stored, kept
8 or anything before you got it?

9 A. I know it was at SLED before I got it.

10 Q. But SLED did not do any testing that
11 you're aware of?

12 A. Not that I'm aware of except for
13 spotting the blood card for the victim.

14 Q. Because for SLED to have done it, the
15 package would have had to of been opened, items
16 would have been tampered with and you indicated
17 that you would have noted that and not tested it;
18 right?

19 A. Correct, yes, I would have seen that
20 the envelope had been opened and sealed by an
21 analyst at SLED. I would have seen their initials
22 on it if it had tested it.

23 Q. And at no point after you submitted
24 your report were you asked to analyze any
25 additional evidence or take any additional swabs?

1 A. That's correct, I didn't have that
2 request.

3 MS. CORNWELL: That's all the questions
4 I have. Thank you, Your Honor.

5 THE COURT: Any redirect?

6 MS. HUNTER: No, Your Honor.

7 THE COURT: You may step down, ma'am.
8 Thank you.

9 MS. HUNTER: Your Honor, may Ms. Webb
10 be excused?

11 THE COURT: Any objection?

12 MS. CORNWELL: No, Your Honor.

13 THE COURT: You're free to go, ma'am.
14 Thank you. You may call your next witness.

15 MS. HUNTER: Your Honor, can we take
16 like a ten minute break?

17 THE COURT: Sure.

18 MS. HUNTER: Thank you.

19 THE COURT: All right. Ladies and
20 gentlemen, we'll take about a ten minute break.
21 Please remember not to discuss the case amongst
22 yourselves.

23 (WHEREUPON, the jury left the courtroom
24 at 3:15 p.m.)

25 THE COURT: All right. We'll take a

1 ten minute recess.

2 (WHEREUPON, there was a short break.)

3 THE COURT: Are the parties ready to
4 proceed?

5 MS. HUNTER: Yes, Your Honor.

6 MS. CORNWELL: Yes, Your Honor.

7 THE COURT: All right. Let's have our
8 jury, please.

9 (WHEREUPON, the jury entered the
10 courtroom at 3:31 p.m.)

11 THE COURT: Please have a seat. You
12 may call your next witness.

13 MS. HUNTER: Thank you, Your Honor.
14 State calls Dr. Kelly Rose.

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

17 MS. ROSE: Kelly Rose.

18 KELLY ROSE,
19 being first duly sworn, was examined and testified
20 as follows:

21 THE CLERK: Thank you. You may be
22 seated.

23 THE COURT: Your witness.

24 MS. HUNTER: Thank you, Your Honor.

25 DIRECT EXAMINATION

KELLY ROSE - DIRECT EXAMINATION BY MS. HUNTER

1 BY MS. HUNTER:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Do you need to adjust that microphone?

5 Are you okay?

6 A. I'm usually so loud that I don't need
7 it, so.

8 Q. Fair enough. Are you ready, Dr. Rose?

9 A. Yes.

10 Q. Dr. Rose, can you tell the jury what
11 your occupation is?

12 A. I am a forensic pathologist. I do that
13 in Newberry, South Carolina at Newberry County
14 Memorial Hospital morgue.

15 Q. And as pathologist, are you a medical
16 doctor?

17 A. I am.

18 Q. Okay. And what do you do as a forensic
19 pathologist?

20 A. We use autopsies to determine the cause
21 and manner of death. So how someone died and then
22 the situation around how they died.

23 Q. And you perform those autopsies?

24 A. I do.

25 Q. And approximately how many autopsies

1 have you performed?

2 A. Six thousand.

3 Q. And what is Newberry Pathology?

4 A. It is a private practice forensic
5 pathology group.

6 Q. And does Newberry Pathology assist
7 multiple counties throughout the state of
8 performing these autopsies?

9 A. We do. We serve 16 counties, the South
10 Carolina Department of Corrections and the Federal
11 Bureau of Prisons.

12 Q. And where do you perform all of these
13 autopsies?

14 A. In the morgue at Newberry County
15 Memorial Hospital.

16 Q. Will you tell the jury about your
17 educational background?

18 A. I went to college and got my Bachelor
19 of Science at the College of Charleston. After
20 that, I went to medical school at MUSC, so down in
21 Charleston. I began my pathology residency which
22 is when you pick a specialty and you're going to do
23 extra training, I started that at MUSC. I finished
24 it at Emory in Atlanta. And then I chose to do an
25 extra year which we call a fellowship in forensic

1 pathology through Emory at the Fulton County
2 Medical Examiner's Office in Atlanta.

3 Q. And you testified you've performed
4 approximately 6,000 autopsies. Have you had the
5 occasion to testify in court about those findings?

6 A. I have.

7 Q. And approximately how many times do you
8 think you've testified in court?

9 A. Approximately 50.

10 Q. And were you qualified as an expert
11 when you testified?

12 A. I was.

13 MS. HUNTER: Your Honor, at this time,
14 I'd move to offer her as an expert in the field of
15 forensic pathology.

16 THE COURT: Any voir dire?

17 MS. CORNWELL: No, Your Honor, no
18 objection.

19 THE COURT: She's qualified.

20 MS. HUNTER: Thank you.

21 Q. Dr. Rose, did you perform an autopsy on
22 Cara Hodges?

23 A. I did.

24 Q. And when was this autopsy performed?

25 A. It was December 13, 2019.

1 Q. And where was it performed?

2 A. At the morgue at Newberry County
3 Memorial Hospital.

4 Q. Will you describe an autopsy to the
5 jury?

6 A. So an autopsy is an examination of the
7 body to, as I said, to determine cause of death.
8 What happens is we begin with an external
9 examination and look head to toe. We look for
10 injuries. We look for diseases. Signs of
11 diseases. We take a bunch of photographs. After
12 we've done the external examination, then the
13 body's opened and I look at each and every organ
14 for injuries and for disease.

15 Q. Do you collect fluids and specimens for
16 further study?

17 A. We do. So I collect pieces of tissue
18 to look at under the microscope. They get turned
19 into slides and then I look at them. And we
20 collect body fluids like blood in urine and ocular
21 fluid for toxicology. And depending on certain
22 cases, we might also collect other samples and it's
23 very case dependent.

24 Q. And did you do that in this case?

25 A. I did. So in this case, I collected a

1 CSC kit or a criminal sexual conduct kit like a
2 rape kit. I collected swabs from around the neck,
3 the inner thighs and around the legs which could be
4 used for DNA. And then I took fingernail clippings
5 of the deceased for DNA which might be under the
6 fingernails.

7 Q. Thank you. And after you received the
8 body of Cara Hodges, will you tell the jury how you
9 began your exam?

10 A. We photograph what the body is received
11 in. So we photograph the bag. We, you know, make
12 notes, document how it was labeled. We then open
13 the bag, we take photographs just as is. And then
14 we start the external examination. And if we see
15 other things we need to take close-up photos of, we
16 do that.

17 Q. And were you able to discern Cara's
18 height and weight?

19 A. Yes. We call it length because when
20 you're lying in back on something, it's a little
21 different than height when you're standing up. So
22 her length was 5'4" and her weight was 120 --
23 approximately 120.

24 Q. And was the body unclothed when you
25 received it?

KELLY ROSE - DIRECT EXAMINATION BY MS. HUNTER

1 A. Yes, she was nude. I remember she had
2 on some rings. She had, I believe, a ring on her
3 left finger and two rings on her right ring finger.

4 Q. Did she have any tattoos?

5 A. She did have tattoos. She had a tattoo
6 of angel's wings on her upper back. She had a
7 tattoo that said, "Big Pooh" on her lower back.
8 She had tattoos of a name on each upper arm. And
9 then she had AHB on her right forearm.

10 Q. And you were able -- were you able to
11 find any injuries in this case?

12 A. I was. There were an extensive amount
13 of injuries in this case.

14 Q. And if I showed you a couple of
15 pictures, would it help you to describe those
16 injuries?

17 A. Yes, definitely.

18 Q. Dr. Rose, I'm showing you what has been
19 marked as State's 13 and State's 33. Will you look
20 at those, please?

21 A. I will.

22 Q. Do you recognize these photos?

23 A. I do. They are photos that were taken
24 during the autopsy.

25 Q. Okay. And -- they were taken during

1 the autopsy.

2 MS. HUNTER: Your Honor, I'd ask to
3 admit these two photos into evidence.

4 MS. CORNWELL: Can I see them just a
5 second?

6 MS. HUNTER: Oh, you want to see them
7 again?

8 MS. CORNWELL: Yes, I apologize.

9 MS. HUNTER: It's okay.

10 MS. CORNWELL: No objection, Your
11 Honor.

12 THE COURT: All right. 13 and 33 are
13 in.

14 (WHEREUPON, State's Exhibit Numbers 13
15 and 33 were entered.)

16 MS. HUNTER: Your Honor, may we publish
17 those to the jury?

18 THE COURT: Yes, ma'am.

19 MS. HUNTER: Thank you.

20 Q. All right. We can start with State's
21 13. Dr. Rose, can you please describe some of the
22 injuries you received -- sorry, I think we're
23 waiting on the photo to appear.

24 A. Okay.

25 MS. HUNTER: Can everyone see? Sorry.

1 (Jury nodded.)

2 A. If you'll look right here around the
3 neck, there is a deep, what we call a furrow or an
4 abrasion. It is a ligature mark. So a ligature is
5 anything that is used to tie something tightly. So
6 she had this going across her neck here anteriorly.
7 She had abrasions of her knees which is like a rug
8 burn. She had scattered contusions throughout her
9 body. You know, all areas of her body. And also
10 just smaller abrasions all over her body.

11 Q. And I want to go back and talk about
12 that specific ligature mark on her neck that you're
13 talking about. Could you describe from your report
14 a little more detail about that ligature mark?

15 A. Okay. So what was noticeable first off
16 and very important was that it was horizontal, so
17 it was pretty straight across the neck and it was
18 over her Adam's apple or that's what the larynx
19 under there. So both of those factors is very
20 consistent with someone being strangled. So it
21 appeared doubled over, especially on the right side
22 and had a width over there of one half inch.

23 Q. Can you talk about any other injuries
24 to her neck?

25 A. On the right side, but you can't see in

1 | this picture, there were numerous scratches and
2 | fingernail marks like she was struggling to get the
3 | ligature off her neck.

4 | Q. Thank you. And can you talk about any
5 | of the internal injuries that the ligature mark --
6 | the ligature could have caused? Now you've briefly
7 | touched on the fact of the Adam's apple.

8 | A. Okay. So the neck muscles were
9 | bruised. The larynx or the Adam's apple was
10 | actually fractured.

11 | Q. And what kind of force is needed to
12 | fracture something like that?

13 | A. It's a significant amount of force.
14 | The exact amount, I don't know. But it's
15 | devastating because when someone is being choked
16 | they're not getting oxygen because of the vessels
17 | are getting blocked and then when their larynx or
18 | Adam's apple is fractured or broken it interferes
19 | with them being able to get air.

20 | Also very importantly, I saw what we
21 | call petechia in her eyes. They're little tiny
22 | blood vessels that burst. And she also had some
23 | significant areas of more hemorrhage than just that
24 | in her eyes. Like, when you looked at her eyes,
25 | she had some hemorrhage in those petechia.

1 Q. What causes that petechia?

2 A. So when someone is being choked, they
3 -- you have the jugular veins which are the main
4 veins that drain the blood out of your head. You
5 have your carotid arteries which are the main
6 vessels that carry the blood to your head. So when
7 someone is being choked, the first thing that gets
8 compressed or shut off are the veins. So the veins
9 are shut off so the blood can't drain. And the
10 blood is still getting up to the head through the
11 carotid arteries and it causes a buildup of
12 pressure and things start to bust.

13 Q. Thank you. Can you talk about what
14 these -- the injuries that you see -- well,
15 actually, let me move before I do that. Let me
16 move to State's 33, please, the other photo. Can
17 you talk about any specific injuries you see in
18 this one? I know that's a little more close-up.

19 A. You can see abrasions like rug burns,
20 some contusions or bruise, more abrasions here.
21 You know, more abrasions on her face. You can see
22 the ligature mark across her neck here. It just
23 shows you that there were multiple areas of injury.

24 Q. And what are her injuries consistent
25 with?

1 A. Of all of these findings are consistent
2 with a ligature strangulation. People are
3 strangled, it's usually a violent struggle because,
4 you know, you're struggling for your life. So not
5 only do they have the marks on the neck to try to
6 get the, whatever is being used off their neck,
7 they have bruises because they're fighting, you
8 know. And then they might be thrashing around on
9 the ground or wherever this is happening and
10 bumping into things. So it's very common to see
11 extra injuries on the body.

12 The petechia, the ruptured vessels in
13 the eyes, the ligature mark, the fractured thyroid,
14 all textbook basically for a ligature
15 strangulation.

16 Q. And, Dr. Rose, can you tell us whether
17 or not this would have been a quick death?

18 A. Once all of the blood was cut off, she
19 would have lost consciousness quickly. But you
20 know you fight back and so there's no telling how
21 long she was fighting back.

22 Q. Thank you. And you testified these are
23 all indicative of a violent struggle?

24 A. Yes.

25 Q. Okay. And you can sit down and I'm

1 happy to minimize the screen for everyone. Thank
2 you. You testified earlier that you went to
3 medical school?

4 A. Yes.

5 Q. And are you familiar with bruises?

6 A. (Nodded.)

7 Q. And you have to answer, "Yes or No,"
8 for the court reporter, I'm sorry.

9 A. I am, yes.

10 Q. Are you familiar with things that could
11 possibly cause bruises?

12 A. Yes.

13 Q. And things that could possibly cause
14 other injuries like scratch marks and abrasions
15 that you were testifying to?

16 A. Yes.

17 Q. Okay. I want to show you a couple of
18 pictures that are currently in evidence and we'll
19 talk about State's 41, 47, and 50.

20 MS. CORNWELL: Your Honor, can we
21 approach?

22 THE COURT: Yes, ma'am.

23 (WHEREUPON, there was a bench
24 conference.)

25 Q. All right. So, Dr. Rose, you're

1 familiar with common injuries such as scratches and
2 bruises?

3 A. I am. Particularly from being a
4 forensic pathologist that's part of our training
5 and what we do every day.

6 Q. Okay. I'd like to show you State's 41,
7 47 and 50 and I'm also going to put them up on the
8 big screen. We're going to show you State's 41.

9 Dr. Rose, I know you're not familiar
10 with who the actual person is in the photo, but can
11 you direct the jury's attention to any injuries you
12 see on this individual?

13 MS. CORNWELL: Your Honor, just for
14 purpose of the record, I'm going to object to this
15 line of questioning. She didn't examine my client,
16 she has no personal knowledge of his injuries.

17 THE COURT: She can testify regarding
18 what she sees as injuries within her field of
19 knowledge as a medical doctor.

20 MS. HUNTER: Thank you, Your Honor.

21 Q. All right. You can proceed, Dr. Rose.

22 A. I see bruises. These are bruises.
23 There's some like scratch abrasions maybe in these
24 bruises here. That is a bruise right there. And
25 possibly some on the arms. Sometimes that's hard

1 to tell in older people.

2 Q. And next I'd like to show you State's
3 47. All right. This is another photo a little bit
4 more close-up. Can you talk about the injury in
5 the upper right chest area that you were
6 describing?

7 A. These are definitely discreet
8 contusions. I see one, two, three, four. This is
9 an abrasion. If this were on someone's autopsy,
10 that's a little thicker than a thin scratch
11 abrasion. It almost looks like a fingernail mark.

12 Q. Does that -- is that consistent with a
13 human hand?

14 A. Very.

15 MS. CORNWELL: Objection, Your Honor.
16 That calls for speculation.

17 MS. HUNTER: Your Honor, again, she's a
18 medical doctor. She's familiar with scratches and
19 bruises and how they're caused. That's her field
20 of knowledge and expertise.

21 THE COURT: Just ask her if her
22 opinion's to a reasonable degree of medical
23 certainty.

24 Q. And is your opinion to a reasonable
25 degree of medical certainty, Dr. Rose?

1 A. Yes, it is.

2 Q. And would those injuries be caused by a
3 cat?

4 A. No cat that I've ever seen or seen
5 injuries from. That would have had to of been a
6 huge cat like a bobcat.

7 Q. And what about to the injury that you
8 noted on the lower part of the stomach?

9 A. This is also a contusion or bruise.
10 You see in the middle where it's still red and then
11 you see around the peripheral rings where it's a
12 lighter color, that was a -- some sort of a hard
13 blow of sorts. Because the deepest area of bruise
14 will take some days to come to the surface whereas
15 the lasty (phonetic) part of the bruise you can see
16 is starting to change.

17 Q. And what are bruises caused by?

18 A. Damage to blood vessels in your tissue
19 and then there's actually bleeding out in to the
20 tissues. And then all of this is blood in the
21 tissues that the body starts to try to clear.

22 Q. And do you often see bruises consistent
23 when there's been a struggle?

24 A. Yes.

25 Q. Next, I'd like to show you State's 50.

1 | What if any injuries can you describe in this
2 | photo?

3 | A. Here is an area of bruising. And here
4 | are abrasions. Again, if this was someone on my
5 | table, I would say that this one, the central one
6 | especially, is consistent with a fingernail mark
7 | and these are consistent with scratches.

8 | Q. Any other injuries?

9 | A. There is an abrasion or as I described,
10 | they're like rug burns right here on the elbow.

11 | Q. Thank you. You can sit down. Thank
12 | you. I know that you described the ligature marks
13 | and the injuries to the neck and to the arms and
14 | the bruising to the victim's body, Cara Hodges, did
15 | you have any other unusual findings?

16 | A. Yes, very unfortunately I did. There
17 | was significant postmortem changes and that
18 | included postmortem animal activity. And that's
19 | actually where some sort of meat eating animal,
20 | usually in South Carolina it's coyotes will eat the
21 | soft tissues on a dead body. There were also
22 | maggots. They were in her vagina. They were in
23 | her anus. Let's say coyote because it's probably
24 | the most likely had eaten her lip on the right --
25 | or both lips away and you could see basically the

1 skeleton right here. So, yes.

2 Q. Thank you. And as part of your
3 autopsy, Dr. Rose, do you collect a blood sample
4 from the deceased to have it sent to SLED for
5 toxicology analysis?

6 A. We do.

7 Q. And did you do that in this case?

8 A. I did.

9 Q. Okay. Did you send blood for any other
10 purposes?

11 A. In cases like this where we are -- it's
12 consistent with a violent crime, we send a purple
13 top tube of blood that can be used for DNA -- a DNA
14 standard.

15 Q. Now, the tube of blood that you sent to
16 SLED for toxicology purposes, when you sent it,
17 after you -- can you explain to the jury after you
18 drew the blood what you did with it and how it was
19 preserved?

20 A. So we put them in specific tubes, you
21 know, ones that are good for -- to see if they're
22 drugs. Others that are good for DNA. We label
23 them. I initial them. We place them in a clear
24 bag. We heat seal the top. We -- I initial over
25 the heat seal. I date the heat seal. We make an

1 | inventory of what it is and then we transfer there
2 | in person to a law enforcement individual so
3 | there's no possibility that it's not the blood from
4 | the autopsy.

5 | Q. Okay. And SLED performed the
6 | toxicology on Cara Hodges?

7 | A. They did.

8 | Q. Okay. And did you get a report back
9 | from SLED?

10 | A. I did.

11 | Q. And were there any drugs in Cara's
12 | system?

13 | A. There were no drugs, but there was
14 | alcohol.

15 | Q. Okay. And the fact that Cara's body
16 | and her blood was positive for alcohol, would that
17 | have contributed in any way to her death?

18 | A. Absolutely not.

19 | Q. Okay. And as part of the autopsy, I
20 | think you testified earlier that you collected some
21 | evidence. You collected swabs of the victim's
22 | inner thighs, ankles and neck for DNA?

23 | A. Yes.

24 | Q. You collected a CSC kit?

25 | A. Yes.

KELLY ROSE - DIRECT EXAMINATION BY MS. HUNTER

1 Q. You collected left and right fingernail
2 clippings from her you said?

3 A. Yes.

4 Q. And can you explain how you collected
5 those fingernails?

6 A. So you use sterile clippers and you cut
7 halfway across the nail, but you don't cut all the
8 way across because you know when you're cutting
9 your own nails they can fly away. So we cut
10 halfway across and then we peel the rest off. Once
11 we do that and place it into an envelope right
12 after we have peeled it off and we use gloves. We
13 place it in there. We do that to each finger of
14 each hand. Those also get sealed and initialed,
15 placed in a clear bag, sealed again, inventoried
16 and signed off in the autopsy to law enforcement.

17 Q. And was a law enforcement officer
18 present during the autopsy?

19 A. Yes.

20 Q. Okay. And did you seal the items
21 appropriately and initial them as you were saying?

22 A. Yes.

23 Q. And did you give the items to
24 Investigator McCormack with the sheriff's
25 department?

1 A. I did.

2 Q. And did he transfer those items?

3 A. He did. He was the one who in cases
4 like this they'll take it to SLED.

5 Q. And can you tell the jury the cause of
6 death in this case?

7 A. I called it asphyxia due to ligature
8 strangulation. And asphyxia is just a fancy word
9 of you don't have enough oxygen to your brain. And
10 then it was due to someone using something, a
11 ligature, to choke her.

12 Q. And with a reasonable degree of medical
13 certainty that's what the cause of death was?

14 A. Beyond a reasonable medical certainty
15 it was very classic for that.

16 Q. And with a reasonable degree of medical
17 certainty what was the manner of death?

18 A. Homicide.

19 Q. Thank you, Dr. Rose. Please answer any
20 questions the Defense may have.

21 THE COURT: Cross-examination?

22 MS. CORNWELL: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. CORNWELL:

25 Q. Ms. Rose, when you're performing these

1 | autopsies, you indicated that you're trying to
2 | determine cause and manner of death through the
3 | autopsy; correct?

4 | A. Correct.

5 | Q. And when you talked about the cause of
6 | death in this case was asphyxiation due to ligature
7 | strangulation?

8 | A. Yes.

9 | Q. And the manner of death is homicide?

10 | A. Yes.

11 | Q. When you talk about the manner of
12 | death, there's only really three, some people say
13 | four manners -- five you're telling me?

14 | A. Five.

15 | Q. Five manners of death, can you tell the
16 | jury what those manners are?

17 | A. So in forensic pathology we have five
18 | manners of death. Those don't always translate to
19 | legal definitions. So we have suicide which is
20 | when someone intentionally takes their own life.
21 | Homicide is when someone intentionally takes the
22 | life of another. Accident is when something that
23 | was not intended to cause death causes death. Such
24 | as, if someone accidentally overdoses or if you get
25 | a bee sting and die. Natural, if you have a heart

1 | attack, it's a nature disease. And then
2 | undetermined where we just cannot determine. Often
3 | those are skeletal remains that we find.

4 | Q. And prior to performing an autopsy on a
5 | body, in a criminal investigation, do you receive
6 | any information or any reports or photographs or
7 | anything about the body prior to doing the autopsy?

8 | A. We receive a case history from the
9 | coroner just to schedule the case. Because I need
10 | to know what type of case it is to know how much
11 | time to allow for the autopsy.

12 | Q. When you say, case history from the
13 | coroner, are you getting the coroner's report or
14 | just a brief?

15 | A. They will call and say, hey, I have a
16 | case that looks like this and can I get a time for
17 | an autopsy.

18 | Q. In addition to cause of death and
19 | manner of death in criminal investigations, are you
20 | also attempting to determine a time of death?

21 | A. Sometimes time of death is very much
22 | like -- they make it seem like it's so specific on
23 | TV, it's really not. There are so many variables.
24 | So I'll note things that make it -- me think that
25 | it's been longer than say, two days or a day, and

1 | then if they're very much starting to decompose,
2 | you know it's been a good while. But even that is
3 | variable.

4 | Q. So on your report where you've got date
5 | of death, you're not giving -- saying that she died
6 | on this day? That's just an estimation or an
7 | approximation based on what you were told?

8 | A. That is determined by the coroner.
9 | Actually, in this state that's part of their role.

10 | Q. And when it goes to determining and
11 | estimating time of death, what are you looking for
12 | to do those estimations?

13 | A. Okay. So several changes occur in the
14 | body. Have y'all ever heard of ri-gor or rig-or
15 | where the body gets stiff. So I will look for
16 | that. I especially will look for it if it's past.
17 | Like it's just -- it's been there and now it's not.
18 | We look for lividity which is once you're dead
19 | where your blood settles. And then we'll look to
20 | see if it's blanchable, meaning it's not -- you can
21 | press on it and you'll see a white, you know, the
22 | lividity will go away. Or if it's fixed, that
23 | gives you kind of some guidelines of all very
24 | variable though.

25 | After that, you look for green

1 discoloration on the abdomen. That usually occurs
2 48 to 72 hours after death. If someone is out in a
3 cold environment, it changes that. And then beyond
4 that you get to where the body starts to bloat and
5 things become very different on the body.

6 Q. So you're looking at basically lividity
7 and the phase of decomposition to kind of make an
8 estimate?

9 A. If there is any, you know,
10 decomposition really going on. I mean, the changes
11 that happen upfront without what we think of
12 decomposition like bad smell and stuff, so there
13 are things that happen first.

14 Q. And it's your testimony that in South
15 Carolina the coroner determines the date of death?

16 A. They through investigative means
17 determine the time of death, day of death, but they
18 -- they'll ask me my opinion sometimes and/or if
19 I'm saying that -- describing changes that happen
20 that don't match what they have determined, that's
21 all part of their investigation to determine the
22 day and time of death.

23 Q. And that's why it's important in your
24 report to note what your external examination
25 shows?

1 A. That's part of it. And I'll be honest,
2 the things that I described that happen after
3 death, there are lots of variables. So that
4 probably one of the least important things that I
5 describe, coroners are well-trained in time of
6 death determination and they look for the same
7 findings that I do.

8 Q. So in this case when you were given
9 cause of manner of death, you did not give an
10 opinion on date of death?

11 A. I did not. And to be honest, I try not
12 to form any kind of opinion based on information
13 given to me until I see what I see for myself.

14 Q. You indicated that this was a brutal
15 death; correct?

16 A. A horrific.

17 Q. The injuries were severe, you would
18 need a lot of strength and force to cause those
19 injuries?

20 A. No, not necessarily. You just need to
21 be stronger than the person that's being strangled.

22 Q. But you indicated that it would take a
23 significant amount of force to break the Adam's
24 apple to some things?

25 A. It's indicative of violence. If you

1 | accidentally hurt someone's neck, they're not going
2 | to have a fractured larynx or Adam's apple.
3 | They've done studies to know the exact pressure,
4 | but then you have to consider a younger person
5 | takes less force or actually takes a little more
6 | force than an older person because things change in
7 | the neck.

8 | Q. So it would take more force to cause
9 | injuries on a younger person of this nature than it
10 | would an older person that's more brittle?

11 | A. That's a good summary.

12 | Q. And -- but in order to cause, you know,
13 | like you said, this amount of force, it's going to
14 | take some strength. Because you said they're going
15 | to struggle, they're going to fight to...

16 | A. Yeah. And it was obvious that she did.
17 | I would.

18 | Q. Absolutely. And so, basically, I mean,
19 | what we saw in those photographs are, I mean, she
20 | went through a violent struggle, she fought, she
21 | looked like she basically got beaten before she
22 | died?

23 | A. That there was a struggle, but
24 | sometimes when people are just strangled, they're
25 | flailing around and they're bumping into things.

1 So I can't say that she was beat up and then
2 strangled. I know she was strangled and she fought
3 back because of the clawing that she did to her own
4 neck and that she had bruises and other abrasions
5 that are very consistent with being strangled
6 because you are fighting for your life.

7 Q. And so within that, I mean, you would
8 think that there would be evidence of struggle
9 where they were flailing around, flashing around
10 unless they were in a completely sterile room;
11 correct?

12 A. There's evidence of struggle. The
13 exact -- when it exactly happens during the
14 strangulation, only god knows and the person that
15 did it, honestly.

16 Q. And I want to talk to you about these
17 photographs of my client. You've never examined my
18 client; correct?

19 A. No.

20 Q. You weren't present when these
21 photographs were taken?

22 A. No.

23 Q. You've never looked at my client's
24 medical history or anything like that?

25 A. No.

1 Q. And you would agree with me that if
2 somebody's on medications or, you know, depending
3 on their state of health that they can be affected
4 and their body can bruise more easily or less
5 easily, bruising can also be signs of different
6 diseases and things like that; correct?

7 A. Correct.

8 Q. And you indicated that the scratch
9 marks that you saw on his chest, that in order for
10 them to be an animal it would have to be a bobcat
11 or something?

12 A. In order for to it be a cat it would
13 have be a very big cat because of the distinctness
14 of the bruises. It's reminiscing of fingers or
15 knuckles.

16 Q. If it was something that strong
17 wouldn't the claw marks or scratch marks be more
18 significant?

19 A. Not if they're punching -- someone is
20 punching something with a ring on.

21 Q. I mean, and I have animals, there's a
22 German Shepherd in this house, there's a cat, it's
23 your testimony that, you know, those scratch marks,
24 the little bit of scratch marks that are there
25 could not have been caused by a house animal such

1 as a German Shepherd or a cat?

2 A. It's my testimony that it could not
3 have been caused by a house cat. They are most
4 consistent with being inflicted by a human based on
5 my autopsies that I've done, but I cannot entirely
6 exclude a large dog.

7 Q. And then we talk about you had pointed
8 out some of the injuries on his elbows and some
9 things on his arms, when people get older their
10 skin gets thinner; correct?

11 A. Correct.

12 Q. And so anybody that has experience with
13 anyone over the age of about 65, you bump up
14 against a door frame and you get bruising or, you
15 know, the little blood clots, you can tear your
16 skin real easily?

17 A. Yes.

18 Q. I know I experience it with my parents
19 every time I see my mom she's got a different, you
20 know, little, something on her elbow, something on
21 her arm where she's bumped into something.

22 A. Right.

23 Q. When it comes to bruises and things
24 like that, if somebody has a job where they are
25 lifting heavy boxes and pulling those boxes up and

1 supporting boxes and supporting things with their
2 abdomen, with their knees, with their arms, those
3 can also cause bruises and contusions; correct?

4 A. Correct.

5 Q. Particular those boxes around 40 and 50
6 pounds?

7 A. Depends on the fragility of the skin
8 really.

9 Q. And you have no idea when these
10 injuries occurred on this man; correct?

11 A. I don't know the specific time, but I
12 know they are showing healing, so they were not
13 very recent. They were days. To me they looked
14 days old.

15 Q. And --

16 A. And they look the same age. That's
17 also important.

18 Q. And you're also not here to testify as
19 to how those injuries occurred?

20 A. Correct.

21 Q. Because, again, there are a number of
22 different ways people can get bruises on them,
23 people can get scratches on them particularly
24 people of an older age?

25 A. Correct.

1 Q. So based on your findings, you
2 indicated some of the animal activity, you also
3 indicated maggots. Now, you document all that in
4 your report; correct?

5 A. I mention that in the report.

6 Q. In your report, it seems that you got
7 the maggots were in the anus, but that's the only
8 area. And your testimony now is that it was in
9 other areas as well?

10 A. They were in the anus and in that --
11 crawling out of the anus. So by the time she got
12 -- we got partly through the autopsy, they could
13 have been everywhere crawling out. So those two
14 things are so close together that...

15 Q. And maggots can form on bodies and
16 stuff and the longer the body decomposes the more
17 you're going to see that maggot activity; correct?

18 A. It want depends on the environmental
19 temperature. But, yes, you're correct. And the
20 vulva, the outside part of the -- her genitals also
21 had been eaten by, let's just say a coyote.

22 Q. And when you were going through and
23 marking -- looking at organs, looking at the body
24 cavities and stuff, you make it a point to make any
25 notation of anything of importance or that could

1 have an impact on findings; correct? So that's why
2 you take the weight of each organ and that's why,
3 you know, take the measurements and all that;
4 correct?

5 A. Correct.

6 Q. And in your report it looks like you
7 indicated that there was some stomach contents that
8 she still had in her system?

9 A. Correct.

10 Q. Is that significant in any way, does
11 that give any estimate of death or decomposition?

12 A. Well, you know, it gives you an
13 indication of, you know, how long they -- after
14 they ate that they died. But once you're dead and
15 especially if you're out in cold whether like
16 December, it's not going to go away. Your body --
17 your stomach can't digest it, you're dead.

18 Q. And so obviously there are a lot of
19 variables that come into determining cause of
20 death, manner of death, time of death?

21 A. Yes, that's why I had to go to school
22 for 13 extra years.

23 Q. And based on those variables, different
24 people can be killed on the same time, but if one
25 is a bigger person than the other or a smaller

1 person or if one is killed in a very hot climate
2 verses a very cold climate, it can have
3 distinctions on it even though they were killed at
4 the same time, on the same day and everything else,
5 their bodies can look very different?

6 A. Yes, that's true.

7 Q. And you would agree that based on that,
8 marking your findings consistently and giving
9 detailed findings on how the body is discovered,
10 the lividity of the body at the time it was
11 discovered, the decomposition phases, all of those
12 things are very important in making sure that you
13 preserve all the evidence and make factual
14 findings; correct?

15 A. They are important, however, sometimes
16 we don't know all the variables. Also, when you
17 take a body and you put it in a cooler, like at a
18 morgue, it's very cold, it can affect some of those
19 findings. One finding that I do find particularly
20 helpful is when the abdomen starts to get a
21 discoloration. Because that usually is 48 to 72
22 hours.

23 Q. And the ligature mark around her neck,
24 you indicated that it was -- had a width of about a
25 quarter of an inch, appeared doubled over and had a

1 width of about half an inch?

2 A. Correct.

3 Q. And there is -- so based on what your
4 finding is, is that like a loop that somebody tied
5 around? Is it somebody holding two ends? How was
6 that ligature mark significant to you with it
7 doubled over and all that?

8 A. Not so much as how it was happening,
9 but that there is the possibility that it was
10 doubled over and/or tied and made two of, you know,
11 whatever was used is making two marks. Another
12 possibility is someone gets -- starts to get
13 strangled and you make a mark and then they're
14 thrashing and then you move a little and it
15 overlaps with the other mark.

16 Q. So for this injury and based on what
17 we've seen in the photographs, there would have
18 been a lot of friction and a lot of force applied
19 to that neck with whatever is being used for that
20 strangulation; correct?

21 A. What do you mean by friction?

22 Q. Well, you had indicated how deep it was
23 and the fact that, you know, it created substantial
24 marks and stuff, so it would have had to of really
25 imbedded in the skin; correct?

1 A. It wouldn't have perforated the skin or
2 anything. And a lot of how deep it goes, a lot of
3 times depends on how much excess fat someone has on
4 their neck. So if you have a thin neck, you can't
5 really indent the tissue that much because there's
6 no tissue to indent.

7 What it did tell me was it's
8 horizontal, that's consistent with strangulation.
9 The thyroid or the cartilage or your Adam's apple
10 was fractured. That is consistent with
11 strangulation. The clawing marks to get something
12 off her neck is consistent with strangulation.

13 Q. And that whatever was used to strangle,
14 would have had to of been pressed firmly against
15 her neck?

16 A. Firmly enough to cut off oxygen to her
17 brain.

18 Q. Thank you.

19 MS. CORNWELL: That's all the questions
20 I have.

21 THE COURT: Any redirect?

22 MS. HUNTER: No, Your Honor.

23 THE COURT: You may step down, Dr.
24 Rose. Thank you.

25 MS. HUNTER: May this witness be

1 | excused?

2 | THE COURT: Any objection?

3 | MS. CORNWELL: No, Your Honor.

4 | THE COURT: Would counsel please
5 | approach?

6 | (WHEREUPON, there was a bench
7 | conference.)

8 | THE COURT: You may call your next
9 | witness.

10 | MS. HUNTER: Your Honor, at this time
11 | the State rests.

12 | THE COURT: Thank you, Counsel. Ladies
13 | and gentlemen of the jury, the State has rested
14 | their case at this juncture, so it's a good
15 | opportunity for us to stop for the evening. Please
16 | remember that although the State has rested their
17 | case, there's still more for you to hear as far as
18 | arguments of counsel and the charge on the law and
19 | whether or not the Defense chooses to make --
20 | present any evidence, again, they're not required
21 | to do so. So it is a good time for us to take our
22 | evening recess.

23 | We have some other scheduling issues
24 | that I don't want to keep you waiting in a jury
25 | room unnecessarily, so if you would report to your

1 jury room at 10 in the morning, that should give us
2 sufficient time to take care of the other matters
3 so you don't have to wait around just sitting in a
4 jury room.

5 Again, please remember not to discuss
6 the case or do any independent research. We will
7 see you in the morning at 10 o'clock. Have a nice
8 evening.

9 (WHEREUPON, the jury left the courtroom
10 at 4:22 p.m.)

11 THE COURT: Any motions?

12 MS. CORNWELL: Your Honor, at this time
13 Defense would ask for a directed verdict. As Your
14 Honor knows, when giving a directed verdict you're
15 looking at the existence of the evidence not the
16 weight. However, when it comes to this case, I
17 don't believe that there's been any evidence that
18 supports the murder allegation that she was killed
19 with malice aforethought. There's no DNA on any of
20 the items that the State claims that my client used
21 to strangle this person. Her DNA is not anywhere
22 in the car. It's not consistent with anything
23 that's given.

24 The confession that they played for the
25 Court, obviously, the Court knows that before a

1 confession can be considered as evidence it's going
2 to have some sort of reliable trustworthiness.
3 There's got to be some sort of significant
4 corroboration with that confession. The fact that
5 the confession is about the only thing they've been
6 able to present to this jury of any evidence of my
7 client being the person that committed this crime.
8 I believe that this case should be dismissed a
9 directed verdict should be issued.

10 THE COURT: Thank you, Counsel.
11 Considering the evidence that has been presented at
12 this juncture, there is direct and circumstantial
13 evidence tending to establish the guilt of the
14 Defendant on each of the elements required for the
15 charge of murder, your motion is respectfully
16 denied.

17 MS. CORNWELL: Thank you, Your Honor.

18 THE COURT: All right, Counsel. So in
19 the morning I'll place your client under oath and
20 ask him regarding his decision whether or not he
21 wishes to testify. That way you have overnight to
22 talk to him about that so he's prepared first thing
23 before we get started.

24 MS. CORNWELL: Thank you, Your Honor.

25 MS. HUNTER: Your Honor, the last thing

1 to put on the record. You had asked right before
2 the lunch break for counsel to mark as Court's
3 Exhibits the -- all the autopsy photos because only
4 two were actually introduced at trial and a disc --
5 I'm sorry, and more photos from crime scene that we
6 chose not to introduce for purposes of
7 gruesomeness. So I have marked those as Court's
8 Exhibits 3 and 4.

9 THE COURT: All right. Thank you,
10 ma'am, I appreciate that. Anything else before we
11 adjourn?

12 MS. HUNTER: No, Your Honor.

13 MS. CORNWELL: No, Your Honor.

14 THE COURT: All right. Well, what
15 we'll do too is we'll work on jury instructions,
16 I'll email them to y'all tonight. I know we've got
17 tomorrow to go through, but that way we're ready,
18 you know, to roll whenever the time comes for that
19 to proceed.

20 MS. HUNTER: Thank you.

21 MS. SPIRES: I don't have a Court's 2.

22 MS. HUNTER: I can mark them as Court's
23 2 and 3, I apologize.

24 (WHEREUPON, Court's Exhibit Numbers 2
25 and 3 were marked and entered.)

1 (WHEREUPON, court was adjourned at 4:26
2 p.m.)
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 **(NOVEMBER 8, 2023)**

2 THE COURT: Ms. Cornwell, have you
3 discussed with your client the fact that I will
4 place him under oath to discuss with him whether or
5 not he wishes to testify?

6 MS. CORNWELL: I have, Your Honor.

7 THE COURT: Mr. Eastwood, if you would
8 please stand.

9 THE CLERK: Please raise your right
10 hand. And just state your name for the record.

11 MR. EASTWOOD: Kenneth Henry Eastwood.

12 KENNETH EASTWOOD,
13 being first duly sworn, was examined and testified
14 as follows:

15 THE CLERK: Thank you.

16 EXAMINATION BY THE COURT:

17 THE COURT: Good morning, Mr. Eastwood.

18 MR. EASTWOOD: Morning.

19 THE COURT: Mr. Eastwood, at this time
20 I'm going to explain to you certain of your rights.
21 If you do not understand anything that I say at
22 anytime, please stop and ask me, okay?

23 MR. EASTWOOD: Okay.

24 THE COURT: You have now reached the
25 stage of the trial where you may present your

1 defense. You have the right to claim the
2 protections given to you by the Fifth Amendment of
3 the Constitution of the United States. This
4 amendment states in part that no person shall be
5 compelled in any criminal case to be a witness
6 against himself. This means that you cannot be
7 required to testify in this case. You have the
8 right to testify on your behalf; however, no one
9 can make you testify. This is your personal right
10 and no one can waive this right except for you.

11 If you decide to testify, you'll be
12 subject to the same rules that govern other
13 witnesses and you may be examined and
14 cross-examined on any issue in this case. In
15 addition, if you have any convictions involving
16 dishonesty or for false statement or for crimes
17 punishable by imprisonment for more than one year
18 and I determine that the probative value of
19 admitting this testimony outweighs the prejudicial
20 effect to you, the Solicitor will be able to
21 introduce your record and attack your credibility.

22 If you decide to testify, this decision
23 on your part must be made freely, voluntarily and
24 intelligently with the knowledge of the protections
25 given to you by the Fifth Amendment and the

KENNETH EASTWOOD - EXAMINATION BY THE COURT

1 | consequences of your decision to testify. If you
2 | decide not to testify, I will instruct the jurors
3 | that they cannot give that fact any consideration
4 | whatsoever and that there is to be absolutely no
5 | prejudice to you because you did not testify. It
6 | is left entirely up to you whether or not you wish
7 | to testify, but, again, your decision must be made
8 | freely, voluntarily and intelligently.

9 | Have you understood my questions?

10 | MR. EASTWOOD: Yes.

11 | THE COURT: Have you talked to your
12 | attorney about this?

13 | MR. EASTWOOD: Yes, I have.

14 | THE COURT: Do you need any more time
15 | to talk to your attorney about this?

16 | MR. EASTWOOD: (Speaking with Ms.
17 | Cornwell.)

18 | THE COURT: You don't need any more
19 | time to talk to your attorney?

20 | MR. EASTWOOD: No.

21 | THE COURT: Are you comfortable with
22 | your decision?

23 | MR. EASTWOOD: Yes.

24 | THE COURT: Do you wish to testify?

25 | MR. EASTWOOD: No, ma'am.

1 THE COURT: All right, sir, you can
2 have a seat. Thank you.

3 MR. EASTWOOD: Thank you.

4 THE COURT: So, Ms. Cornwell, the
5 witnesses will not be available until 3 o'clock?

6 MS. CORNWELL: No, Your Honor, I
7 apologize.

8 THE COURT: OKAY. All right. I'm
9 going to bring the jury out and let them know.

10 MS. HUNTER: Thank you.

11 MS. CORNWELL: Thank you.

12 THE COURT: All right. Let's have our
13 jury, please.

14 MR. SCOTT: Judge, we were told a juror
15 is missing?

16 THE COURT: He showed up. He's here.

17 MR. SCOTT: Okay.

18 (WHEREUPON, the jury entered the
19 courtroom at 10:21 a.m.)

20 THE COURT: Good morning, ladies and
21 gentlemen of the jury. You may have a seat.
22 Ladies and gentlemen of the jury, we were prepared
23 to start, again, with the trial this morning;
24 unfortunately, there were some unforeseen
25 circumstances through no fault of either of the

1 parties and we will not be able to begin the
2 testimony until 3 o'clock this afternoon. I'm very
3 sorry for the inconvenience that that causes upon
4 you.

5 Unfortunately, sometimes there's things
6 that arise. One actually involved a death in
7 someone's family, so we're trying to work as best
8 as we possibly can to get this matter before you in
9 a timely fashion. But, again, it's through no
10 fault of either party and we certainly apologize
11 for the inconvenience.

12 I'm going to ask that you please return
13 to your jury room at 2:50 in the afternoon that way
14 we can get started right at 3 o'clock when everyone
15 is present and ready to proceed. Again, I
16 apologize, but please remember my previous
17 instruction again to not to discuss this case with
18 anyone or allow anyone to discuss the case with
19 you. We will see you this afternoon. Thank you so
20 much.

21 (WHEREUPON, the jury left the courtroom
22 at 10:23 a.m.)

23 THE COURT: Anything before 3?

24 (No response.)

25 (WHEREUPON, court was adjourned until 3

1 p.m.)

2 THE COURT: Are the parties ready to
3 proceed?

4 MS. HUNTER: Yes, Your Honor.

5 MS. CORNWELL: Yes, Your Honor.

6 THE COURT: Let's have our jury,
7 please.

8 (WHEREUPON, the jury entered the
9 courtroom at 3 o'clock p.m.)

10 THE COURT: You may have a seat.
11 Welcome back, ladies and gentlemen of the jury.
12 Thank you for your patience with us today.

13 You may call your first witness.

14 MS. CORNWELL: Thank you, Your Honor.
15 Defense calls Ms. Valencia Golden.

16 THE CLERK: May I have you place your
17 left hand on the bible and raise your right hand.
18 And state your name for the record.

19 MS. GOLDEN: Valencia Golden.

20 VALENCIA GOLDEN,
21 being first duly sworn, was examined and testified
22 as follows:

23 THE CLERK: Thank you. You may be
24 seated.

25 DIRECT EXAMINATION

1 BY MS. CORNWELL:

2 Q. Good afternoon, Ms. Golden. Can you
3 please tell the jury where you currently work?

4 A. Orangeburg County Coroner's Office.

5 Q. And what is your position with the
6 Orangeburg County Coroner's Office?

7 A. Deputy coroner.

8 Q. Can you please describe for the jury
9 what the duties of a deputy coroner are?

10 A. Deputy coroners to assist in
11 determining the cause of manner of death.

12 Q. And what training have you received in
13 making those determinations?

14 A. I received training from the South
15 Carolina Justice Academy in addition to the death
16 academy in Springfield, Missouri and my experience
17 on the job.

18 Q. Is the coroner in South Carolina the
19 person who determines time of death or date of
20 death?

21 A. Yes.

22 Q. And how do you go about making that
23 determination?

24 A. Based on what evidence is given to us
25 or presented to us at the moment.

1 Q. And do you have a report that you
2 complete when...

3 A. Yes.

4 Q. In this case, were you the person who
5 responded to June Court on December 12th of 2019?

6 A. Yes.

7 Q. And what time did you arrive?

8 A. I don't have the exact time that I
9 arrived, I do know what time I actually viewed the
10 body.

11 Q. What time was that?

12 A. That was at 19:39.

13 Q. And 19:39, that's basically 7:39 p.m.?

14 A. Yes.

15 Q. Once you arrived on scene and viewed
16 the body, what did you do?

17 A. Once we actually get access to the
18 body, we do secure it or take the body into our
19 care. We do place it in the body bag, tag it,
20 label it and remove it from the scene.

21 Q. And when you remove it from the scene,
22 you're placing that body in a van or transport?

23 A. Yes.

24 Q. Are you the person that's picking up
25 the body and putting it in there or are you getting

1 help?

2 A. I am. Sometimes help is required. I
3 will make sure that it's available.

4 Q. And in going through your report in
5 this case, you made specific findings as to the
6 description of the body?

7 A. Okay.

8 Q. Can you tell the jury just looking at
9 your description of the body, obviously, she was
10 found unclothed?

11 A. That's correct.

12 Q. And she was not wearing any clothing?

13 A. That's correct.

14 Q. And you indicate that there was
15 evidence of struggle or violence and then with
16 insect infestation. Can you tell the jury what you
17 saw on the body from that?

18 A. At the time, I saw ants.

19 Q. If you would have seen maggots or any
20 other insect or animal on the body, would you have
21 documented that at the time?

22 A. At the time, yes.

23 Q. And you also indicated the environment
24 of the body?

25 A. Yes.

1 Q. What was that?

2 A. Cool.

3 Q. And was there anything else of
4 significance that you noted in your description of
5 the body?

6 A. No.

7 Q. When -- looking at this case, you
8 determined a date of death?

9 A. I determined an estimated date of
10 death, timeframe.

11 Q. What was that?

12 A. That was November 8th to November 9th
13 of 2019.

14 Q. You mean December?

15 A. I'm sorry. We're in November. My
16 apologies. December 8th to December 9th of 2019.

17 Q. And you stated before that you made
18 that determination based on, you know, what you
19 view of the body, so what was it that you viewed on
20 the body that allowed you to determine that date of
21 death?

22 A. Well, it was what was presented to me
23 at the time. So she was last seen alive to --
24 information that was given to me was December 8th
25 of 2019 and the time that a missing person report

1 | was placed on her, so it was a timeframe.

2 | Q. Okay. So a lot of what your
3 | determination came from is based on what was in law
4 | enforcement's reports what you knew of as far as
5 | the last date that she was seen and when she was
6 | reported missing?

7 | A. That's correct.

8 | Q. I believe that's all the question I
9 | have for you. If you'll answer any questions from
10 | the State, please.

11 | THE COURT: Cross-examination?

12 | MS. HUNTER: Yes, Your Honor.

13 | CROSS-EXAMINATION

14 | BY MS. HUNTER:

15 | Q. Hey, Ms. Golden, how are you this
16 | afternoon?

17 | A. I'm okay, thank you.

18 | Q. Good. Did you identify the body as
19 | Cara Hodges?

20 | A. Yes.

21 | Q. And what did you rely on to make that
22 | determination?

23 | A. It was based on her family description
24 | of the tattoos that was on her.

25 | MS. HUNTER: Beg the Court's

1 | indulgence.

2 | Q. And, Ms. Golden, can you tell the jury
3 | what you rely on to make your determination as to
4 | cause of death?

5 | A. She was -- I scheduled an autopsy for
6 | her in which she was taken to autopsy to determine
7 | cause of manner of death.

8 | Q. Thank you.

9 | MS. HUNTER: No further questions.

10 | THE COURT: Anything on redirect?

11 | MS. CORNWELL: No, Your Honor.

12 | THE COURT: You may step down, ma'am.

13 | Thank you. You may call your next witness.

14 | MS. CORNWELL: Your Honor, may I step
15 | out to see if she's --

16 | THE COURT: Yes, ma'am.

17 | MS. CORNWELL: Your Honor, our next
18 | witness is Dr. Amy Durso. She was required in
19 | Columbia this morning. She did indicate that she
20 | was on her way about 2:20, so I believe she should
21 | be here any moment.

22 | THE COURT: You want to step out and
23 | call her?

24 | MS. CORNWELL: Yes, Your Honor.

25 | (WHEREUPON, there was a pause in the

AMY DURSO - DIRECT EXAMINATION BY MS. CORNWELL

1 | hearing.)

2 | MS. CORNWELL: Your Honor, Defense
3 | would call Dr. Amy Durso.

4 | THE CLERK: Hi, may I have you to place
5 | your left hand on the bible and raise your right
6 | hand. Thank you. And state your name again for
7 | the record.

8 | MS. DURSO: Amy Durso.

9 | AMY DURSO,
10 | being first duly sworn, was examined and testified
11 | as follows:

12 | THE CLERK: Thank you. You may be
13 | seated.

14 | THE COURT: Your witness.

15 | MS. CORNWELL: Thank you, Your Honor.

16 | DIRECT EXAMINATION

17 | BY MS. CORNWELL:

18 | Q. Dr. Durso, can you please tell the jury
19 | why you're here today?

20 | A. Well, I was asked to review an autopsy
21 | report, a coroner's report, to review about the
22 | time of death estimation given and to give my
23 | expert opinion based on my experience as a forensic
24 | pathologist.

25 | Q. Tell the jury a little bit about your

1 | educational background.

2 | A. All right. So I went to Emory
3 | University. Got my bachelor's degree in
4 | psychology. I then went to the UNC School of
5 | Medicine in Chapel Hill where I got my four year
6 | medical degree, my MD. After medical school, I did
7 | a four year residency in anatomic and clinical
8 | pathology at Wake Forest in Winston Salem, North
9 | Carolina. And then I spent an additional year at
10 | Wake Forest doing a fellowship specifically in the
11 | field of forensic pathology.

12 | Q. After completing your forensic
13 | pathology fellowship, what did you do?

14 | A. Since then I have been working doing
15 | autopsies mostly for the Richland County Coroner's
16 | Office in Columbia, South Carolina since 2010, so
17 | about 13 years now.

18 | Q. What does the field of pathology,
19 | specifically forensic pathology involve?

20 | A. So forensic pathology is a subsidive
21 | (phonetic) pathology where we learn how to examine
22 | bodies after death, determine cause and manner of
23 | death, learn about injuries, patterns of injuries,
24 | estimating time of death and all of the things
25 | having to do with postmortem, observations, so

1 after death as well as I guess in looking at
2 patterns of injury and illness.

3 Q. Are you certified by the American Board
4 of Pathology?

5 A. I am.

6 Q. Do you have any other board
7 certifications or licenses relating to the field of
8 pathology?

9 A. So I'm board certified in anatomic
10 pathology, clinical pathology and forensic
11 pathology and I have my state medical license at
12 the South Carolina and North Carolina.

13 Q. Approximately how many autopsies have
14 you performed in your career?

15 A. Just under 4,000.

16 Q. And have you ever testified in court as
17 an expert in the field of pathology?

18 A. Yes.

19 Q. Approximately how many times?

20 A. I would say about 70 or 80 times now.

21 Q. And just out of curiosity, do you
22 typically testify as a witness for the defense?

23 A. No. I almost always testify -- I get
24 called by the prosecution because usually I'm the
25 one that did the autopsy and they want to talk

1 | about the cause of death and the manner of death.
2 | But occasionally I'm asked to review cases outside
3 | of where I did the autopsy just to give another
4 | opinion or an outside opinion and look over the
5 | case.

6 | MS. CORNWELL: Your Honor, at this time
7 | I'd move to have Dr. Durso qualified as an expert
8 | in pathology.

9 | THE COURT: Any voir dire?

10 | MS. HUNTER: No, Your Honor.

11 | THE COURT: She's qualified.

12 | Q. Dr. Durso, please explain to the jury
13 | what the role of a pathologist is in a criminal
14 | investigation.

15 | A. So for criminal cases it's really about
16 | documenting any injuries, determining the cause of
17 | death, the manner of death, giving estimations as
18 | far as time of death can be helpful in certain
19 | cases and really just noting patterns of injury and
20 | being able to answer questions, so whatever needs
21 | to be heard from during trial can be heard from a
22 | scientific point of view.

23 | Q. And you had indicated that you became
24 | involved in this case when you were asked to review
25 | the findings regarding the date of death?

AMY DURSO - DIRECT EXAMINATION BY MS. CORNWELL

1 A. Yes.

2 Q. So you didn't actually perform the
3 autopsy in this case?

4 A. I did not.

5 Q. And you haven't reviewed the body at
6 anytime or date?

7 A. No, I've never seen the body, I just
8 became involved maybe about a week ago and asked to
9 review the coroner's report and the autopsy report
10 and look over the photos.

11 Q. Other than the coroner's report, the
12 autopsy report and the photographs, was there any
13 other information that you saw or that you got to
14 assist you in your review?

15 A. So I requested because you wanted me to
16 look at estimation of time and date of death for
17 the weather records from the days around the
18 decedent's death from when she was last seen to
19 when she was found.

20 Q. Can you explain to the jury how you
21 determine a time or date of death?

22 A. So it's really not an exact science.
23 They make it sound on TV like we can go in and be
24 like clearly there's full rigor, there's lividity,
25 this is definitely the time and date of death, but

1 | unfortunately that's not the way it works in the
2 | real world. There are a lot of variables to
3 | consider such as the size of the person, the
4 | temperature, if they're underground, aboveground
5 | and water, all of those things can affect the
6 | estimation for time and date of death.

7 | So it's not an exact science, but we
8 | can give some rough estimates based on the
9 | information collected. So some of the things we
10 | look for is rigor, so how stiff the body is. We
11 | look at lividity which is the settling of the blood
12 | on the back or whatever gravity dependent person
13 | usually. If you're laying on the back, it will be
14 | this red discoloration just from the blood cells.
15 | So your blood's not circulating anymore, so it's
16 | just going to settle gravity into the vessels that
17 | gravity is pulling down to.

18 | And at some point, you know, it goes
19 | from being able to be blanching where you can press
20 | on it and you can see the fingerprint to not being
21 | blanching where it's really settled in, so these
22 | are all things that we consider.

23 | Q. And in your review of the documents and
24 | everything, were you able to determine an estimate
25 | on time of date or date of death?

1 A. A rough estimate of I would say two to
2 three days prior to when she was found. Just based
3 on the fact that she's a relatively small person,
4 120 pounds. She's not huge, so she's not going to
5 -- she's going to be exposed to all the elements.
6 So the things that we look for about two or three
7 days in you start getting some greenish
8 discoloration over the abdomen that precedes to
9 what we call marbling close to, you know, three,
10 three and a half days where you start seeing a lot
11 of bacteria kind of breaking down the blood
12 vessels. And then you start seeing bloating
13 usually around three or four days. And after four
14 days you really can't even get any vitreous fluid
15 out of the eyes anymore.

16 But, again, there's plenty of variables
17 that go into this. But just my experience, I would
18 have expected more decompositional changes if she
19 had actually expired on the 8th of December just
20 based on her lack of any kind of bloating. There
21 was very early decomposition and that is also why I
22 asked her to pull the weather records. Because,
23 again, the weather's going to have a lot to do with
24 it. So if it's freezing outside, if it's subzero
25 then obviously, yeah, she totally could have almost

1 no compositional changes. But if it's, you know,
2 90 degrees out in the summer you would expect a lot
3 more.

4 And what was surprising is that, you
5 know, this is South Carolina so it actually got up
6 to 80 degrees on December 10th and the average
7 temperature was listed to be 54 degrees
8 approximately during that time. So it's not as
9 cold as I would have initially thought it would be.
10 With that being said, I mean, that's a rough
11 estimate. I don't think anyone can scientifically
12 say that she definitely died on the 8th, she
13 definitely died on the 9th or she definitely died
14 on the 10th. I think there is very much you would
15 have to take into other consideration other
16 findings in the investigation to know exactly when
17 she became deceased.

18 Q. So just want to kind of walk you
19 through some of this stuff. You said that you
20 looked at the coroner's report was there anything
21 about the coroner's report that was of particular
22 interest to you?

23 A. So the coroner's report I asked to look
24 at because they're the ones that respond to the
25 scene. So in the county where I work, you know,

1 | they respond to the scene, the coroners, they look
2 | at lividity if it's blanching or not. That's the
3 | discoloration. They look at the rigor, you know,
4 | as far as how stiff the body is. Because usually
5 | after about 36 hours it would have come and gone.

6 | So these are the things I was looking
7 | for in the coroner's report because then she gets
8 | placed in the cooler overnight before the autopsy
9 | is done and now the cooler's going to slow
10 | everything down. But I was a little disappointed
11 | to see that the coroner's office did not document,
12 | there's an opening for it to talk about rigor and
13 | livor, but there's nothing checked in those boxes.
14 | Decomposition, it has, you know, skin discoloration
15 | and, again, there's nothing listed there.

16 | So it makes it a little bit more
17 | difficult in how exactly they came to determine
18 | that she -- to list, you know, the date of death as
19 | December 8th. I just think there's a lot of wiggle
20 | room for that. I don't think that's scientifically
21 | you can say that that is definitely the date that
22 | she died. I think it's possible she could have
23 | died the 9th or the 10th even.

24 | Q. And we talked about the weather reports
25 | and everything, I want to specifically talk about

1 | it because you kind of gave a broad overview of
2 | some of the things that you look at and some of the
3 | things that you don't. In the autopsy report, the
4 | fact that the body was the size that it was, would
5 | you have expected that to have an affect on the
6 | rate of decomposition?

7 | A. Right. I would expect, you know, with
8 | warmer temperature, smaller people, I mean, you're
9 | going to have the heat, you know, driving into the
10 | body a little bit faster to smaller people to
11 | decompose a little bit faster as far as that goes.
12 | It's because there's less tissue there and what
13 | tissue is there it's going to go ahead and be
14 | exposed to those environmental temperatures and the
15 | bacteria in the gut are closer to the skin and they
16 | break down faster.

17 | Q. And the fact that the only insect
18 | infestation that was located on the body at that
19 | time was ants, so there was no indication of
20 | maggots or anything like that when the coroner
21 | found the body, is that indicative of anything?

22 | A. Right. So, you know, 80 degree weather
23 | I would have expected, you know, flies to be on
24 | there. So the flies lay the eggs and in about 24
25 | hours they hatch into small maggot like larva.

1 Those are very common. We definitely get them all
2 during the summer. But, again, they were noted
3 just to be small maggots, I believe, limited to the
4 anus. So it was very limited. And ants, I mean,
5 ants can get on the body in two seconds. I mean,
6 that really doesn't give much of a time estimation
7 at all. I mean, unfortunately, we live in a place
8 heavily infested with ants and they'll get to you
9 even before you're dead, so I'm sure we've all been
10 bitten.

11 Q. So the coroner's report is what noted
12 the maggots. They also noted that the abdomen is
13 flat and the lower right quadrant is green?

14 A. Right. That's not the coroner's
15 report. That's the autopsy report, yes.

16 Q. What finding does that have on your
17 estimation for time of death?

18 A. Right. So green discoloration of the
19 abdomen, you know, roughly 36 hours you start to
20 see that. Again, by three days, you start to see
21 marbling, four days you see bloating. But that,
22 again, depends on a lot of different factors.

23 Q. And does that green start lower
24 quadrant and then progress across the stomach upper
25 body, how does that --

1 A. It often progresses because of the
2 intestinal bacteria or basically producing that in
3 combination with the bile that is in our intestines
4 and so you start to get that green discoloration
5 and does spread some bodies turn entirely green it
6 really kind of depends on the biologic makeup.
7 But, yeah, obviously, usually by four or five days
8 outside you would expect to see more green
9 discoloration than just a slight bit on the
10 abdomen.

11 Q. Was there anything else in the
12 coroner's report that you found significant? You
13 indicate there was some partially digestive food
14 consistent with hash browns?

15 A. Right. So the rule of thumb that we go
16 through that's in our forensic pathology textbook
17 that everyone uses, Spitz and Fisher, is that if
18 you can still recognize the food, it's usually been
19 about two hours, less than two hours. That's, you
20 know, talking about otherwise healthy person that's
21 not obviously hospitalized in ICU and she was not.
22 Because IC patients are a whole other deal they
23 cannot digest for days. But, generally, within
24 about two hours if you can still recognize what
25 kind of food it is.

AMY DURSO - CROSS-EXAMINATION BY MR. SCOTT

1 Q. And so in your expert opinion regarding
2 the time of death, it is more likely that she was
3 killed around the December 10th time and December
4 8th based on the rate of decomposition that you
5 saw?

6 A. Right, the 9th or 10th is very
7 possible.

8 Q. Could she have been alive as late as
9 the 11th?

10 A. Possible, yes.

11 Q. Thank you.

12 MS. CORNWELL: That's all the questions
13 I have.

14 THE COURT: Cross-examination?

15 MR. SCOTT: Thank you.

16 CROSS-EXAMINATION

17 BY MR. SCOTT:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. My name is Tommy Scott and I work in
21 the First Circuit Solicitor's Office. You said
22 very early on in your testimony this is not an
23 exact science; correct?

24 A. It's not. Which is why I said it's
25 possible, but, yeah.

1 Q. I gotcha. And coroners in South
2 Carolina, they're not doctors typically; right?

3 A. Typically, no.

4 Q. Okay. And they're relying on the
5 pathologist to fill out a lot of their reports;
6 correct?

7 A. Yes.

8 Q. Okay. And when -- did you do a report
9 in this case?

10 A. I did not. Like I said, I just was
11 involved about a week ago and I told her I wasn't
12 sure how much I would be able to help, but I was
13 happy to look at it and just tell her what those
14 findings mean.

15 Q. I gotcha. And would it make a
16 difference if someone is killed in one location and
17 then transported to another location?

18 A. Right. So if they stay in one location
19 that's warmer, they're going to decompose faster.
20 If they stay in a location that's colder that would
21 slow it down. Again, that's also why it's so
22 important for the coroners to notate that stuff.
23 As for as rigor and lividity at the scene because
24 once again now we're moving them to another
25 location where they're in a cooler. So it's really

1 helpful to have all of that documented. I go after
2 our deputy coroners where I work and make sure they
3 always put that down.

4 Q. Okay. And you found some mistakes in
5 this coroner's report?

6 A. I wouldn't say mistake, I would just
7 say it's not thorough. It's not enough information
8 because they are there to investigation the scene.
9 We're there to do the autopsy and they're supposed
10 to be investigating the scene and the findings of
11 the body there. So I would have like to have seen
12 more, yes.

13 Q. And did you read Dr. Rose's report?

14 A. I did.

15 Q. Okay. And when she noted maggots are
16 in the anus?

17 A. Yes.

18 Q. But Ms. Cornwell brought up that the
19 coroner's report only mentions ants?

20 A. Yes.

21 Q. Okay. But you found other mistakes in
22 the coroner's report?

23 A. I'm sorry.

24 Q. You found other inconsistencies in the
25 coroner's report as well; right?

AMY DURSO - CROSS-EXAMINATION BY MR. SCOTT

1 A. Such as?

2 Q. She brought them up. You said you
3 pointed out something in the coroner's report that
4 didn't seem consistent or a box that wasn't
5 checked?

6 A. Right. The rigor and lividity. Just I
7 would say that it wasn't thorough. It wasn't even
8 completed.

9 Q. So maybe we should rely on Dr. Rose's
10 report; correct?

11 A. Correct.

12 Q. And, in fact, coroner's offices, they
13 typically rely on the pathologist's report to fill
14 out their forms, don't they?

15 A. Yes.

16 Q. And, in fact, the coroner's report,
17 it's a bunch of fill in the blanks; right?

18 A. Right. But, again, I rely on the
19 coroner's report for estimating time of death when
20 I need to know what the rigor and lividity were
21 when they were found.

22 Q. And like you said --

23 A. Because maggots can -- sorry. But the
24 thing with the maggots in the anus, again, they
25 could have hatched overnight in the morgue. So,

1 again, it's just good to have that on-scene
2 information. I'm not saying that. Dr. Rose was
3 very thorough.

4 Q. And that's why we use -- in forensic
5 pathology helps you in the legal field too; right?
6 I mean, that's what you're called to do to come
7 into a courtroom; right?

8 A. Exactly, to make sure everyone has a
9 fair trial. Exactly.

10 Q. And in the legal field we use terms
11 like on or about; correct?

12 A. Yes.

13 Q. Because as you say, it's not an exact
14 science?

15 A. It is not.

16 Q. She could of -- the victim in this case
17 could have easily been killed on the early morning
18 hours of December 9th?

19 A. Possible, yes.

20 Q. But, I mean, that -- your opinion is
21 that's very possible?

22 A. It's possible.

23 Q. Is it possible?

24 A. I would say that that's not
25 definitively the time and date of death, there are

1 other possibilities is kind of what I was getting
2 at.

3 Q. And I'm just curious, the weather
4 temperatures that you drew -- that you pulled from,
5 what location was that?

6 A. It was pulled by Charleston
7 International Airport Station.

8 Q. Charleston International Airport
9 Station?

10 A. Is what she gave me. I didn't know
11 where this occurred. She was giving me all of the
12 information.

13 Q. Can location make a difference within a
14 state like in South Carolina?

15 A. Yes.

16 Q. Okay. Would you have rather have had
17 better information like Orangeburg, South Carolina
18 or Santee, South Carolina or Eutawville, South
19 Carolina?

20 A. I mean, I don't know how far
21 Charleston's -- I didn't map it to where -- and I
22 don't know -- I was not given the location of where
23 she was murdered, so I know -- I thought Charleston
24 and Orangeburg bordered each other.

25 Q. No.

AMY DURSO - CROSS-EXAMINATION BY MR. SCOTT

1 A. They don't. Okay.

2 Q. I don't have any further questions.

3 Thank you.

4 THE COURT: Any redirect?

5 MS. CORNWELL: No, Your Honor.

6 THE COURT: You may step down, Doctor.

7 Thank you.

8 MS. CORNWELL: Your Honor, that would
9 be our last witness of the day. We do have one
10 witness tomorrow.

11 THE COURT: Ladies and gentlemen of the
12 jury, it's 3:20, we do have one witness tomorrow
13 morning and then we will conclude with the trial.
14 Again, please remember my previous instruction not
15 to discuss the case amongst yourselves or with
16 anyone else. We will see you back in the morning.
17 If you'll be back say -- let's say 9:20, that way
18 we have everyone together and we'll get started
19 right at 9:30. Thank you. Have a nice evening.

20 (WHEREUPON, the jury left the courtroom
21 at 3:28 p.m.)

22 THE COURT: Anything before we recess
23 for the evening?

24 MS. CORNWELL: No, Your Honor.

25 THE COURT: Y'all have a good night.

1 (WHEREUPON, court was adjourned.)

2 **(NOVEMBER 9, 2023)**

3 THE COURT: Are the parties ready to
4 proceed this morning?

5 MS. HUNTER: Yes, Your Honor.

6 MS. CORNWELL: Yes, Your Honor.

7 THE COURT: And before we get started,
8 I believe all the jury instructions were emailed to
9 both parties. Anybody have any objections to the
10 proposed jury instructions or the verdict form?

11 MR. HINDS: Not from the state, Your
12 Honor.

13 MS. CORNWELL: No, Your Honor.

14 THE COURT: Let's bring our jury in,
15 please.

16 (WHEREUPON, the jury entered the
17 courtroom at 9:56 a.m.)

18 THE COURT: Ladies and gentlemen of the
19 jury, you may have a seat.

20 Counsel, you may call your next
21 witness.

22 MS. CORNWELL: Thank you, Your Honor.
23 Defense would call Professor Alan Hirsch.

24 THE CLERK: Place your left hand on the
25 bible and raise your right hand. Thank you. And

ALAN HIRSCH - DIRECT EXAMINATION BY MS. CORNWELL

1 state your name for the record.

2 MR. HIRSCH: Alan Hirsch.

3 ALAN HIRSCH,

4 being first duly sworn, was examined and testified
5 as follows:

6 THE CLERK: Thank you. You may be
7 seated.

8 THE COURT: Your witness.

9 MS. CORNWELL: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. CORNWELL:

12 Q. Professor Hirsch, would you please tell
13 the jury why you're here today.

14 A. To discuss with the jury or inform the
15 jury what is known about false confessions.

16 Q. And tell us a little bit about your
17 educational background.

18 A. I received a Bachelor of Arts from
19 Amherst College, it's a liberal arts college in
20 Massachusetts and I received a law degree from Yale
21 Law School.

22 Q. While at Yale Law School, did you
23 concentrate on any particular area of law?

24 A. I took a particular interest in the
25 intersection of law and psychology.

1 Q. Upon graduating from Yale Law School,
2 where all have you worked and what are you
3 currently doing?

4 A. So I spent a year as a law clerk for a
5 judge on the United States Court of Appeals for the
6 Third Circuit in Philadelphia. I spent three years
7 roughly at a government agency called the Federal
8 Judicial Center as an attorney/writer. Ever since
9 then, my work has been primarily teaching and
10 writing about the law and serving as a trial
11 consultant and expert witness. And I'm currently,
12 I teach law related courses at Williams College in
13 Massachusetts and I'm chair of the justice and law
14 studies program.

15 Q. Throughout your career, is there any
16 particular subject that you have continued to focus
17 on?

18 A. For the last 20 years or so, my
19 principle focus has been on criminal interrogations
20 and false confessions.

21 Q. And is that focus a continuation of
22 your interest in law school?

23 A. Yes.

24 Q. And from what I understand, it's kind
25 of the play in the intersection between law and

1 psychology that kind of folds, end up in false
2 confessions?

3 A. Yes.

4 Q. Just to be clear, you're not a
5 psychologist; correct?

6 A. That's correct.

7 Q. And are there different types of
8 experts that focus on false confessions?

9 A. Yes. There is the mental health
10 professional who would be a clinical psychologist
11 or a psychiatrist who may evaluate individuals to
12 determine whether they are particularly susceptible
13 to confess falsely. And then there are those of
14 social psychologist or legal scholars like myself
15 whose primary expertise is in the interrogation
16 methods that contribute to false confessions.

17 Q. And in your role as a legal scholar or
18 social psychologist, are you acquainted with the
19 various other aspects of false confessions despite
20 not being a mental health professional?

21 A. Yes, that's correct. As I said, my
22 emphasis is on interrogation methods, but I'm well
23 acquainted with the entire literature.

24 Q. But typically you don't evaluate the
25 defendant themselves; correct?

1 A. That's correct.

2 Q. Is there a lot of research and
3 literature focused on false confessions?

4 A. There's voluminous literature. There
5 are many books and countless articles.

6 Q. And have any of those articles or books
7 been published studies that have been peer reviewed
8 and accepted by other professionals in this field
9 of study?

10 A. Yes.

11 Q. Are the methods used to evaluate false
12 confessions and interrogation methods accepted by
13 the scientific community?

14 A. Yes.

15 Q. And has there been expert testimony
16 regarding these published studies and other
17 literature that's been accepted by our judicial
18 system in both state and federal court?

19 A. Yes, there are numerous cases in which
20 experts like myself have testified.

21 Q. And are you well acquainted with this
22 literature on the articles and everything that
23 you've just mentioned?

24 A. Yes. I've contributed quite a bit to
25 it and in order to do that you have to be well

1 acquainted with the literature.

2 Q. So tell the jury a little bit about how
3 you personally contributed to the ongoing studies
4 and research of the subject.

5 A. I've written many scholarly articles.
6 These are long articles intended primarily for the
7 legal community and then I've also written in
8 mainstream publications like the *Los Angeles Times*
9 intended for lay people.

10 Q. And some of these lengthy scholarly
11 articles that you've written, are any of those
12 published and peer reviewed articles?

13 A. Yes.

14 Q. And they've been accepted by the
15 scientific community?

16 A. Yes.

17 Q. Have you also collaborated with other
18 recognized experts in this field?

19 A. I've done some work with Professor Saul
20 Kassin who is probably the leading authority on the
21 subject and maybe in the world, a colleague of mine
22 at Williams and we've collaborated and discussed
23 and he refers cases to me and, yeah, so he would be
24 the main one.

25 Q. And have you ever testified in court as

1 an expert on false confessions and interrogation
2 methods?

3 A. I have, I believe, 49 times.

4 Q. And is that in both state and federal
5 courts?

6 A. Almost all in state, but, yes.

7 Q. Have there ever been any occasions
8 where your testimony was excluded by the court?

9 A. It's been excluded maybe half a dozen
10 times.

11 Q. Was one of those times the *US v.*
12 *Jacques* case, the 2011 federal case out of
13 Massachusetts?

14 A. Yes.

15 Q. What was the basis for your testimony
16 being excluded in that case?

17 A. The primary basis was the judge just
18 did not believe that the field of false confessions
19 at that time was sufficiently robust as to support
20 that kind of testimony. That was a viewpoint
21 uncommon then, but a lot more common than it is now
22 because the literature has developed so much since
23 then. And he also questioned my qualifications
24 specifically he complained that I -- my
25 publications did not deal specifically with

1 | interrogation methods which was what I would have
2 | testified about in that case, which wasn't true,
3 | but that's another matter.

4 | Q. Since that decision, have you done more
5 | work in the field of interrogation methods?

6 | A. Yes. So, in fact, since then I've
7 | published several articles including one in the
8 | peer review, the *Ohio State Journal of Criminal*
9 | *Law*. I've devoted to -- the most thorough
10 | examination of the leading interrogation method and
11 | I've had several other articles published with
12 | respect to interrogation methods.

13 | Q. Since the finding in the *Jacques* case
14 | have other prosecutors tried to use that case to
15 | have your testimony excluded?

16 | A. They almost always bring it up, yes.

17 | Q. And what's been the results of those
18 | prosecutors attempting to exclude your testimony?

19 | A. They've been almost uniformly rejected.
20 | My testimony has been allowed dozens of times
21 | subsequent to that case.

22 | Q. And does that include testimony in
23 | South Carolina?

24 | A. I've testified at four cases in South
25 | Carolina, yes.

1 Q. And all four times that you testified
2 in South Carolina, you've been qualified as an
3 expert?

4 A. Yes.

5 Q. And that was in the field of false
6 confessions and interrogation methods?

7 A. Yes.

8 MS. CORNWELL: Your Honor, at this
9 time, I'd move to have Professor Hirsch qualified
10 as an expert witness in false confessions and
11 interrogation technics.

12 THE COURT: Voir dire?

13 VOIR DIRE EXAMINATION

14 BY MR. HINDS:

15 Q. She asked you about the *Jacques* case,
16 there have been other cases where you failed to be
17 qualified as an expert also; right?

18 A. There have been other cases where my
19 testimony was excluded. I don't believe there were
20 any other cases in which I was distinctly not
21 qualified as an expert.

22 Q. But your testimony was excluded?

23 A. Yes, field.

24 Q. How many interrogations have you
25 conducted yourself?

1 A. Personally like criminal
2 interrogations?

3 Q. Right.

4 A. None.

5 Q. Okay. Have you ever been present
6 during an interrogation?

7 A. No.

8 Q. Have you ever conducted any independent
9 studies other than writing and commenting on
10 interrogation technics?

11 A. I've written many articles not all of
12 which are just about interrogation technics. But
13 did I -- does that answer your question?

14 Q. Other than writing articles, have you
15 done any independent studies?

16 A. You mean the original study, laboratory
17 studies? No.

18 Q. Okay.

19 MR. HINDS: We take no position, Your
20 Honor.

21 THE COURT: Any objection to him being
22 qualified?

23 MR. HINDS: No.

24 THE COURT: The Court finds that he's
25 qualified.

1 MR. HIRSCH: Your Honor, would it be
2 possible for me to have some water?

3 THE COURT: Certainly.

4 MR. HIRSCH: Thank you very much.

5 MS. CORNWELL: Did you find him
6 qualified, Your Honor?

7 THE COURT: I did find him qualified.

8 Q. Professor Hirsch, please tell the jury
9 why the study of false confessions and
10 interrogation technics are so important in our
11 criminal justice system.

12 A. So studying the early '90s -- 1990s,
13 DNA revealed that many people have been wrongly
14 convicted of crimes, much more than anyone had
15 imagined. And it turned out that roughly
16 one-fourth of those people had confessed. And that
17 was the beginning of a great deal of research in
18 this area in which hundreds of false confessions
19 have been identified and experts have richly
20 unanimous that they represent just the tip of a
21 very large iceberg.

22 So number one, the problem is very
23 widespread; number two, when people confess
24 falsely, they almost always end up wrongfully
25 punished. Because people tend to believe

1 | confessions and that includes judges, juries,
2 | prosecutors, even defense attorneys. Almost
3 | everybody has trouble wrapping their minds around
4 | the fact that innocent people might confess. So
5 | for those reasons it's become a subject of great
6 | interest.

7 | Q. Okay. And has most of what's been
8 | learned regarding false confessions been learned
9 | through DNA exonerations?

10 | A. No, that's part of it. That's one way
11 | in which people are revealed to be innocent. There
12 | are several who have been convicted. There are
13 | several other ways as well. And then in terms of
14 | what we've learned about false confessions, a lot
15 | of it is looking at cases of proven false
16 | confessions, but there are also some laboratory
17 | studies. And, in addition, there's a literature
18 | which applies basic principles of human decision
19 | making. How people decide what to do and it
20 | applies it to this area and when it does, we begin
21 | to realize that it actually makes sense under
22 | certain circumstances that innocent people would
23 | confess.

24 | Q. Are there any particular types of cases
25 | that people are more prone to falsely confess to?

1 A. In the leading study of proven false
2 confessions, the majority were in homicides, sexual
3 assaults are a distant second and then a
4 miscellaneous array of cases.

5 Q. And there are -- I mean, actual cases
6 have gone through court and everything that support
7 these false confessions?

8 A. There were numerous cases of proven
9 false confessions. These are cases where we know
10 the confession was false.

11 Q. Why would someone falsely confess to a
12 crime they did not commit it especially one as
13 serious as murder?

14 A. So there are several reasons and that
15 requires me to go into the different categories of
16 false confessions. There are what are called
17 coerced -- well, I'm probably better starting with
18 voluntary false confessions. There are people who
19 come forward on their own and take credit for a
20 crime. This happens surprisingly often typically
21 in notorious crimes. Just a quick example, when
22 the Lindbergh baby was kidnapped, more than 200
23 people came forward and said they did it. So
24 that's a voluntary false confession.

25 The other two categories tend to

1 | involve interaction with law enforcement. So what
2 | is called the coerced compliant false confession is
3 | when the suspect under interrogative pressure comes
4 | to believe -- I'm sorry, concludes that they are
5 | better off confessing. That it's the best way out
6 | or the only way out of a desperate situation. And
7 | I'd be happy to explain about what it is about
8 | interrogation methods that leads them to conclude
9 | that. You want me to do that?

10 | Q. Sure.

11 | A. Okay. So the leading interrogation
12 | method very widespread in the American law
13 | enforcement. It involves two principle steps. The
14 | first is confrontation. The suspect is confronted
15 | with evidence that he is guilty. He is told we
16 | know you are guilty. Sometimes that evidence is
17 | fabricated or exaggerated, but the point is to
18 | communicate to him you will never convince us you
19 | are innocent, we know you are guilty.

20 | At the same time, the second step is
21 | what's called minimization. Where the suspect is
22 | told directly or it's implied, if you confess,
23 | things won't be that bad. Either it's suggested he
24 | had a secondary role, there may be mitigating
25 | substances like substance abuse or alcohol or

1 | someone may have provoked him, there are many, many
2 | numerous -- there are numerous minimization themes.
3 | So it's that combination.

4 | If you convince -- the problem -- this
5 | is a great method for breaking people down. The
6 | problem is it's too good. It breaks down innocent
7 | people as well as guilty people. And the reason is
8 | simple, if you are actually convinced that you will
9 | never convince people you are innocent, but
10 | confessing to guilt will get you off fairly easy,
11 | it actually makes sense that you would confess even
12 | if you were innocent.

13 | The third category is what's called the
14 | internalized false confession. And this is
15 | counterintuitive. It's surprising, but we find it
16 | in a surprising number of cases where the suspect
17 | under interrogative pressure typically when
18 | confronted with evidence that proves he's guilty, a
19 | suspect who mistrusts his memory, maybe because of
20 | blackouts from alcohol or some other reason, comes
21 | to conclude that they might actually have committed
22 | the crime.

23 | So this is, again, called an
24 | internalized false confessions where the suspect,
25 | the reason he confesses falsely is he actually

1 | thinks he might have done it. So those are all
2 | circumstances in which innocent people may confess
3 | to crimes.

4 | Q. In the cases where people falsely
5 | confessed have been exonerated, do they typically
6 | standby their confession or do they retract it at
7 | some point?

8 | A. More typically at some point after the
9 | confession usually quickly, but not always, they
10 | recant it and claim they are innocent.

11 | Q. Does being under the influence of
12 | alcohol factor in false confessions?

13 | A. The way it factors in most is
14 | internalized false confessions. Because as I
15 | described those involve people who distrust their
16 | memories and have some reason to. So that's where
17 | we would most often find alcohol is relevant.

18 | Q. And when we talk about, you know, some
19 | of the risk factors regarding the circumstances of
20 | the interrogation, what kind of risk factors are we
21 | looking at regarding the circumstances of
22 | interrogation?

23 | A. So, again, the principle thing would be
24 | the use of the interrogation tactics I described.
25 | But there are other situational factors that are

1 relevant such as the length of the interrogation,
2 the circumstances and maybe the condition of the
3 suspect.

4 Q. Touch briefly on alcohol and how it can
5 make somebody distrust their memories, what about
6 sleep depravation?

7 A. So there's one specific study on that
8 which shows that sleep deprivation in creases the
9 susceptibility of a suspect to confess falsely.
10 And then there's just the general literature on
11 sleep deprivation which shows that it compromises
12 people's ability to make rational decisions. It
13 has sorts of effects on their cognitive state which
14 is not that surprising.

15 Q. And in addition to alcohol and sleep
16 deprivation, are there other factors that have been
17 found to lead to these internalized coerced
18 confessions?

19 A. The internalized confession tends to
20 involve factors I described. The presentation of
21 allegedly objective evidence of guilt coupled with
22 the distrust of memory on the part of the suspect.
23 It's those two conditions which when combined
24 produce internalized false confessions.

25 Q. Can you give some examples of what the

1 presentation of false or misleading evidence or
2 subjective evidence might be?

3 A. Sure. They may tell the suspect that
4 his DNA is at the crime scene or there was an
5 eyewitness. Often they're told that they flunked a
6 polygraph. And often these claims aren't true.
7 They're just trying to frighten the person into
8 confessing.

9 Q. So in these cases where they're told
10 that they flunked a polygraph, did they actually
11 flunk the polygraph and does that matter?

12 A. Well, first polygraphs are considered
13 unreliable and inadmissible in virtually all
14 jurisdictions. But in some of the cases I've seen
15 there wasn't even a polygraph. They don't even
16 really have the charts there. They're using the
17 polygraph just as a ruse to convince the person to
18 confess.

19 Q. So it's not based on reliability it's
20 based on the, I guess, how the suspect perceives --

21 A. Correct.

22 Q. -- evidence against him?

23 A. And often the polygrapher will tell the
24 suspect, this is one hundred percent accurate.
25 This never fails. This is science. And the

1 average person may believe that.

2 Q. When we talk about the forensic stuff,
3 the DNA, the fingerprints, you know, things like
4 that, how are those used to mislead and coerce
5 internalized confession?

6 A. The same thing. They've frightened the
7 suspect into believing he can't get off. They say
8 my DNA's at the crime scene, what am I going to do?
9 Even if they know they're innocent, that something
10 went wrong or whatever. And, again, in the
11 internalized confession, it will convince a, huh,
12 my DNA is there, maybe I did it and then they start
13 racking their brains and think, oh, my god, you
14 know, I'm prone to blackouts or loss of memory, I
15 could have actually done it.

16 Q. And law enforcement are allowed to use
17 these deceptive technics?

18 A. They are. Yes.

19 Q. Other than studying the actual cases of
20 coerced confessions, particularly internalized
21 coerced confessions where we now know that they've
22 been proven that these people were innocent, are
23 there any studies that have been conducted to
24 support these findings of the actual court cases?

25 A. Yes. There are a few laboratory

1 experiments. The most interesting one I think is
2 the so called alt key experiment in which students
3 at a college were told that they -- just given an
4 assignment to enter data on a computer. But they
5 were warned that they if they hit the alt key it
6 would cause the computer to crash. And then low
7 and behold after they start their input, the
8 experimenter charges in and says, oh, my god, you
9 hit the alt key, you've caused the system to crash.
10 And of course they didn't.

11 And so all of them at first deny it and
12 then some of them are confronted with an
13 eyewitness, the person who's a confederate of the
14 experiment who's just sort of milling around who
15 says, yeah, I saw you do it, you definitely hit the
16 key. And what is shocking is when that happens, I
17 believe it was 29 percent of the people -- actually
18 more than that, a higher percentage confess.
19 Twenty-nine percent when they are debriefed think
20 they actually hit the alt key. And something like
21 nine percent even supplied details into how they
22 hit the alt key.

23 Q. Despite never having hit the alt key?

24 A. Despite never even hit it.

25 Q. But, I mean, you would agree that

1 confessing to hitting a wrong computer key is
2 vastly different from committing murder?

3 A. Absolutely. So this experiment has
4 limited value, but it does dovetail with what we
5 know about false confessions, ie, that the
6 presentation of false evidence can mess with a
7 person's mind. And what's particularly interesting
8 about it is that 29 percent who thought, wow, maybe
9 I did hit it and then especially the roughly 10
10 percent who would explain how they hit it. Which
11 is very revealing about how the mind games we can
12 play with ourselves especially when confronted with
13 false evidence.

14 Q. And is that a large part of the reason
15 that these false confession cases are studied so
16 much?

17 A. I think the reason is -- they're --
18 false confessions are so much more widespread than
19 we think and they almost always result in someone
20 wrongfully convicted.

21 Q. And so the purpose of these studies and
22 you testifying in cases such as this is to kind of
23 educate the jury and the public on how these false
24 confessions happen and why they might happen?

25 A. Yes.

1 Q. And just to be clear, do you ever give
2 an expert opinion as to whether or not you actually
3 believe a person's confession is false?

4 A. No, I wouldn't be allowed to do that
5 even if I wanted to. That's for the jury based on
6 all of the evidence presented in court most of
7 which I don't even see.

8 Q. So when a jury is considering a
9 statement, you know, is there anything else that
10 they should consider outside of a statement to help
11 determine the trustworthiness?

12 A. Definitely.

13 Q. What would that be?

14 A. Well, I would say a couple of things.
15 I think they definitely want to look at the
16 circumstances in which the confession was produced.
17 And then of course they want to look to see is it
18 corroborated by other evidence.

19 Q. Let's talk about Mr. Eastwood's case
20 specifically. When you were first contacted about
21 consulting on this case, what were you asked to do?

22 A. To review the materials in particular
23 the interrogations and the confession and to assess
24 whether there was anything concerning.

25 Q. And based on your review of these

1 materials, were you able to make an assessment in
2 Mr. Eastwood's case?

3 A. Yes. The confession is consistent with
4 an internalized false confession.

5 Q. And how did you come to that
6 assessment?

7 A. So he's interviewed or interrogated on
8 two occasions. On the first occasion he's
9 cooperative, maintains his innocence, wants to take
10 a polygraph, everything's hunky-dory. By the
11 second interrogation he's already confessed. We
12 don't see it. So that limits my ability to assess
13 this case, but we know what happened in between.
14 Which is he is told, we know you --

15 MS. HUNTER: Objection, Your Honor --

16 THE COURT: Sustained. Ladies and
17 gentlemen of the jury, I'm going to ask you to step
18 outside for just one brief minute. If you would
19 please not discuss the case amongst yourselves,
20 we'll be right back with you.

21 (WHEREUPON, the jury left the courtroom
22 at 10:20 a.m.)

23 THE COURT: So, Dr. Hirsch, I sent the
24 jury out because there were pretrial rulings that
25 testimony of polygraphs is not admissible in this

1 case. You're not to mention a polygraph whatsoever
2 or that the Defendant took a polygraph.

3 MR. HIRSCH: Your Honor, just to be
4 clear, I wasn't going to say that.

5 THE COURT: I just wanted to stop it in
6 case that's where you were going.

7 MR. HIRSCH: No, I was going to say he
8 was -- I apologize. I was going to say he was told
9 there was evidence that proved he was guilty.

10 THE COURT: Well, be very mindful on
11 how you tiptoe on that because depending on what he
12 was told obviously that will come up on
13 cross-examination and you can certainly go forward
14 on that. I just wanted to make sure that that was
15 not presented.

16 MR. HIRSCH: I understand.

17 MS. CORNWELL: Your Honor, I did inform
18 him of those pretrial rulings that he should not
19 mention a polygraph when it becomes specifically to
20 Mr. Eastwood's case.

21 THE COURT: Yes, ma'am, I just wanted
22 to make sure we didn't --

23 MS. CORNWELL: I wasn't disrespecting
24 your ruling --

25 (Talking over each other.)

1 THE COURT: -- because it looked like
2 that's where that was heading. Anything else?

3 MR. HIRSCH: I'm sorry I used
4 misleading language that led to your concern.

5 THE COURT: Anything further?

6 MR. HINDS: As long as he -- obviously
7 respects the ruling that there's no evidence that
8 the polygraph -- any evidence regarding the
9 polygraph of Mr. Eastwood or he was told about his
10 polygraph results or anything like that.

11 THE COURT: So, Dr. Hirsch, if anything
12 is mentioned as far as the polygraph is concerned,
13 I will ask the jury to strike your entire
14 testimony.

15 MR. HIRSCH: Okay.

16 THE COURT: All right. So let's bring
17 the jury back in.

18 MS. CORNWELL: May I just tell him what
19 we said? So what we said before is that he was
20 taken to Columbia and spoke with a SLED agent and
21 that he was told that they knew he was lying and
22 that's it. There's nothing about results or tests
23 or anything like that, just that he was taken to
24 another location and told he was lying.

25 MR. HINDS: So, I'm not sure --

1 THE COURT: We did discuss that
2 pretrial due to the fact that there was a 10 hour
3 circumstance. I'm not going to allow any of the
4 part of that -- or part of that questioning or
5 interrogation, whatever you want to call it, was a
6 polygraph that he was talked to by SLED as an
7 outside source to assist in investigation. And
8 that subsequent to that discussion, he was told
9 that they thought he was lying, but we did exclude
10 all of the polygraph issues.

11 MR. HIRSCH: So they knew he was lying,
12 they knew he was guilty.

13 (Mr. Hinds, Ms. Cornwell and Judge
14 talking at same time.)

15 MR. HINDS: He can't -- I would object
16 to that.

17 MR. HIRSCH: Okay. They knew he was
18 lying.

19 THE COURT: All right. So everybody on
20 the same page now?

21 MR. HINDS: As long as he doesn't go
22 any further than that. I mean, I don't...

23 MR. SCOTT: And it's also what he was
24 lying about. He was asked, do you know where she
25 is? Not, did you kill her? Not, did you murder

1 her? Not, did you strangle her? He was asked, do
2 you know where the victim is?

3 MS. CORNWELL: We're not getting into
4 any of that. That was...

5 MR. SCOTT: Well, I mean, you're
6 talking about SLED investigating him and being
7 interrogated, I guess, in Columbia. But he was
8 never asked in Columbia, did you murder Cara
9 Hodges?

10 THE COURT: Okay. So I suppose then
11 the line of questioning should be more so he was
12 questioned by SLED and that that was the extent of
13 the question that he was told was, do you know
14 where she is?

15 MS. CORNWELL: We haven't -- you said
16 that we couldn't get into any of that. So that's
17 why I specifically just said he was interrogated
18 and he was told he was lying. We haven't said what
19 he was told he was lying about or anything of that.
20 And, in fact, I think we show in Carrigg's report
21 that he was taken up there, they had still told him
22 that she was just missing. He wasn't aware that
23 her body had been found at that point, so there's
24 no reason for him to have thought that they would
25 have asked him any of those questions.

1 THE COURT: Solicitor, that would be
2 proper questioning on your cross-examination.

3 MR. SCOTT: That's fine. We're not
4 going to go into it, I don't think. I just wanted
5 him to be aware --

6 THE COURT: Right. I just wanted to
7 make sure we're all on the same page so we don't
8 get to that point before the jury.

9 MR. HIRSCH: Appreciate it.

10 THE COURT: Let's have our jury,
11 please.

12 (WHEREUPON, the jury entered the
13 courtroom at 10:26 a.m.)

14 THE COURT: Thank you, ladies and
15 gentlemen, you may have a seat. You may continue.

16 MS. CORNWELL: Thank you, Your Honor.

17 CONTINUED DIRECT EXAMINATION

18 BY MS. CORNWELL:

19 Q. Professor Hirsch, I believe where we
20 left off is we were talking about your assessment.
21 You had indicated that he had been interviewed by
22 law enforcement on December 13th, was cooperative,
23 gave a statement, was asked if he could go speak to
24 a SLED agent in Columbia. He did that. And upon
25 doing that, he was told he was lying and they knew

1 he was lying and at that point, what else was
2 involved in your assessment?

3 A. Right. So it's two things. It's that
4 he was told they knew he was lying and he
5 mistrusted his memory. It was many references to
6 his alcohol abuse and difficulty recalling. And
7 that combination of a person who distrusts his
8 memory being confronted with the suggestion that
9 he's lying, that is what leads people to an
10 internalized false confession. And apparently it
11 was at that point that he confessed or shortly
12 thereafter.

13 Q. And at some point, he was made aware
14 that Ms. Hodges was deceased?

15 A. Yes.

16 Q. This was during the time that he was at
17 his home, his home was being searched, photographs
18 were being taken of injuries, would all that also
19 play into where his suggestibility and mind is
20 going at that point?

21 A. It all could have influenced him to
22 start thinking I must have done it.

23 Q. And then you had mentioned the alcohol,
24 would sleep deprivation if after hearing all this
25 he hadn't gone to sleep and had been remaining up

1 | until the moment that he makes his confession have
2 | any part of it?

3 | A. It couldn't help.

4 | Q. And so we talk about these factors, why
5 | are those factor important in your assessment that
6 | this is consistent with an internalized false
7 | confession?

8 | A. Because we have seen so many cases that
9 | have these similarities to this case in which
10 | people were found guilty and then it was later
11 | proven that they were innocent.

12 | Q. And so when we talk about your distrust
13 | in memory and how that's relevant in this case, if
14 | he didn't commit this crime, how could he supply
15 | details in the case in his confession?

16 | A. Right. So we find that in the alt key
17 | experiment, but also in many actual cases of
18 | internalized false confessions. The suspect picks
19 | up details from law enforcement, sometimes they're
20 | shown photos or taken to a crime scene or just by
21 | leading questioning and sometimes it's just a case
22 | of their imagination taking off. But suspects
23 | supplying details even when they are innocent,
24 | sometimes the details are wrong, sometimes they're
25 | right, but that's something that we see

1 | surprisingly often.

2 | Q. So in your expert opinion, even though
3 | Mr. Eastwood's initial confession was not to law
4 | enforcement during an interrogation, is it still
5 | consistent with what you know about internalized
6 | coerced confessions in the interrogation methods?

7 | A. Yes.

8 | Q. Thank you. Please answer any questions
9 | the State may have.

10 | A. Sure.

11 | THE COURT: Cross-examination?

12 | CROSS-EXAMINATION

13 | BY MR. HINDS:

14 | Q. Professor, two days ago I called you;
15 | right?

16 | A. Yes.

17 | Q. And I wanted to talk to you about your
18 | testimony here today?

19 | A. Yes.

20 | Q. And you didn't want to talked to me
21 | about it before you talked to Ashley; right?

22 | A. Right. I said that I would be happy to
23 | talk to you, but I did first want to bring her in
24 | the loop.

25 | Q. Do you have a copy of your report you

1 made in this case?

2 A. I didn't make one.

3 Q. Do you make reports in other cases
4 where you testify?

5 A. When asked I make a report.

6 Q. Why didn't you make one in this case?

7 A. I wasn't asked to.

8 Q. Okay. All right. Professor, you would
9 agree with me, regardless of the interrogation
10 technic used, defendants -- or suspects rather can
11 confess truthfully; right?

12 A. Of course.

13 Q. Okay. All right. And let's talk about
14 your preparation that you did specifically for this
15 case. Did you ever interview or speak to Mr.
16 Eastwood?

17 A. No.

18 Q. Did you ever interview or speak with
19 Investigator Shumpert?

20 A. No.

21 Q. Investigator Council?

22 A. No.

23 Q. Hayes?

24 A. No.

25 Q. Carrigg?

1 A. No one.

2 Q. Anyone from the Orangeburg County
3 Sheriff's Office?

4 A. No.

5 Q. Got it. And regardless of the
6 interrogation technique used, you would concede
7 that people can confess truthfully; right?

8 A. Yes.

9 Q. Okay. All right. And you talk about
10 factors that would play into a false confession,
11 what about a truthful or confession -- a truthful
12 confession, what about -- what are some factors
13 that you would consider that would be towards a
14 truthful confession?

15 A. The most important would be when they
16 lead the authorities to evidence, what we call a
17 generative confession, it generates evidence. So
18 law enforcement -- the most obvious case is you
19 say, where the murder weapon is. You know, I
20 through the gun out in some trash can, law
21 enforcement looks in the trash can and low and
22 behold there's the gun. That's the most obvious.
23 But any kind of corroboration is obviously crucial.

24 Q. What if a suspect provided information
25 to law enforcement that only the killer would know

1 | that's later corroborated?

2 | A. Right. I mean, the problem is, we so
3 | often find that that's what prosecutors argue in
4 | court and that's what law enforcement claims and
5 | then the confession turns out to be false, there's
6 | an entire literature on how false confessions
7 | sometimes provide accurate details.

8 | Q. You reviewed the Defendant's confession
9 | to Investigator Shumpert and Investigator Council;
10 | correct?

11 | A. Yes.

12 | Q. And you watched them advise him of his
13 | Miranda rights?

14 | A. Yes.

15 | Q. And to be clear, you're not alleging
16 | they did anything illegal?

17 | A. No.

18 | Q. All right. And that advisement and the
19 | whole running through the form lasted about three
20 | and a half minutes; right?

21 | A. Sounds right.

22 | Q. Okay. And by the 10 minute mark, he
23 | says, I choked her and I did it with an extension
24 | cord; right?

25 | A. The thing is, he had already confessed

1 | previously. So it could have been in the first
2 | minute, that wouldn't have surprised me.

3 | Q. Okay. You stated in previous testimony
4 | that appealing to a suspect's conscience can be a
5 | good way -- or a reliable way to produce
6 | confession; right, interrogation method?

7 | A. It can be a legitimate tactic.

8 | Q. Okay. All right. And you saw
9 | Investigator Shumpert tell Mr. Eastwood to some
10 | extent the truth will set you free?

11 | A. Sir, as I said, he'd already confessed
12 | by the time he was confronted by Lieutenant
13 | Shumpert.

14 | Q. But isn't that appealing to his
15 | conscience?

16 | A. Yes.

17 | Q. Okay. All right. And you agree that
18 | can be a good method to produce a reliable
19 | confession?

20 | A. Yes.

21 | Q. All right. Do you understand in your
22 | review of this case that Mr. Eastwood was allowed
23 | to go home on Friday, the 13th about 9 p.m.?

24 | A. I don't know the time, but, yes.

25 | Q. Okay. And he in fact didn't talk to

1 | law enforcement to Investigator Shumpert and
2 | Investigator Council until about 5 p.m. the next
3 | day?

4 | A. Yes.

5 | Q. Okay. And you talk about sleep
6 | deprivation. A deprivation implies that law
7 | enforcement has in some capacity refused him the
8 | ability to sleep; right? That's different than --
9 | let me phrase it a different way. That's different
10 | than just saying, I'm tired, I need to get some
11 | sleep?

12 | A. I mean, I think the -- I'm actually not
13 | particularly aware of the circumstances in this
14 | case with respect to that, but I think the relevant
15 | factor is whether the person has slept and not why.

16 | Q. In all of your research and all of your
17 | writing, ever known a dairy manager at a local IGA
18 | to be trained in the read technic or interrogation
19 | methods?

20 | A. No.

21 | Q. Okay. And you would agree in a violent
22 | case such as this where someone has been strangled
23 | to death, it's important to corroborate or to see
24 | if a defendant's confession is corroborated with
25 | other evidence; right?

1 A. Definitely.

2 Q. All right.

3 MR. HINDS: I have no further
4 questions. Thank you.

5 THE COURT: Any redirect?

6 MS. CORNWELL: Briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. CORNWELL:

9 Q. Professor Hirsch, you were just asked
10 about the sleep deprivation and length of
11 interrogation on the 14th when he gives the
12 confession and he's already confessed at the IGA.
13 The fact that he was with law enforcement for ten
14 hours and then during his second confession tells
15 law enforcement, I didn't sleep at all, I've been
16 thinking about Cara, you know, I don't want to give
17 a statement now, I just want to sleep. Would that
18 have led into his suggestibility and his, you know,
19 this coerced confession?

20 A. There's no question that the length of
21 interrogations and time in custody is a concern as
22 false confessions are typically elicited longer
23 periods of time.

24 Q. And would you agree that it is
25 generally the best practice of law enforcement in

1 | their interrogation tactics to record all of their
2 | interactions with a suspect?

3 | A. Absolutely.

4 | Q. And based on what you were able to
5 | review in this case, did that happen?

6 | A. No. The 13th and the 14th, the two
7 | interrogations were recorded and the one in between
8 | with SLED was not.

9 | Q. So we have no idea what happened in all
10 | of those times that weren't actually recorded?

11 | A. Exactly. And that's the main reason
12 | it's so important to record all interrogations.

13 | Q. And so depending on what was said to
14 | him during his time with law enforcement, his sleep
15 | deprivation, the fact that he's acknowledged that
16 | he hasn't slept, he's been confronted with this
17 | evidence and distrusts his memory, those are the
18 | factors that you've made in your assessment that
19 | this is consistent with a coerced internalized
20 | confession; correct?

21 | A. Correct.

22 | Q. And, again, you're not saying that law
23 | enforcement necessarily did anything abusive, but
24 | the deception technics are what often lead to these
25 | types of confessions?

1 A. That's correct.

2 MS. CORNWELL: Thank you, Your Honor.

3 THE COURT: You may step down, sir.

4 Thank you.

5 MR. HIRSCH: Thank you, Your Honor.

6 THE COURT: You may call your next
7 witness.

8 MS. CORNWELL: At this time, I've got a
9 matter of law that I need to bring up to the Court.

10 THE COURT: Yes, ma'am. Ladies and
11 gentlemen of the jury, if you would please go to
12 your jury room briefly we'll be right back with
13 you. Again, please remember not to discuss the
14 case amongst yourselves.

15 (WHEREUPON, the jury left the courtroom
16 at 10:33 a.m.)

17 MS. CORNWELL: Thank you, Your Honor.
18 At this time, I want to ask the Court reconsider
19 their pretrial ruling regarding the polygraph and
20 this is my reason why. I respect Your Honor's
21 ruling. I actually agree with it. After I looked
22 into the things that you talk about with 702 and
23 the *Jones* standards and all that. That there was
24 no testimony regarding reliability with the actual
25 polygraph itself.

1 In looking at 702, the *Jones* factors
2 and Rule 403 now that Professor Hirsch has
3 testified, certainly there's scientific evidence
4 that assists the trier of facts, the expert's
5 qualified and the underlying science is reliable
6 through Rule 702.

7 When we look at the *Jones* factors,
8 there's now been testimony that there's been
9 publication of peer review of the technic with the
10 interrogation methods and the production of false
11 confessions based on being confronted with things
12 specifically with the failed polygraph and how
13 those play into the internalized false confessions.

14 There's no prior application of the
15 method to the type of evidence involved in the
16 case. Professor Hirsch did indicate that there
17 have been numerous cases where after being
18 confronted that a suspect has failed a polygraph,
19 they have coerced and have later been found
20 exonerated and that confession was false.

21 We look at the poly control procedures
22 used to ensure the reliability, these studies have
23 been conducted outside of a courtroom to
24 corroborate what has been found inside the
25 courtroom with actual cases. They've been peer

1 reviewed. They have been accepted in the
2 scientific community in these fields. The
3 consistency of the method with the recognized
4 scientific laws and procedures have been testified
5 to that, you know, they've been presented in court.
6 That they have in both federal and state court that
7 they've been peer reviewed. That they have been
8 accepted by the scientific community. That they
9 have been found reliable. And that there are cases
10 directly on point with evidence that can be
11 presented in this case which is that when being
12 presented with evidence of a failed polygraph that
13 often times that is the objective evidence that
14 will cause somebody to mistrust their own memory
15 prompting these false confessions.

16 Those are all the *Jones* factors that I
17 think have been met at this point. As far as Rule
18 403 goes, I do believe the probative value of this
19 information does outweigh the prejudicial effect.
20 Certainly the confession is a main part of this
21 case. And when we talk about, you know, the state
22 of mind of my client when this confession was made
23 and what could have prompted his state of mind to
24 lead him to make this type of confession, I think
25 being that it would assist the trier of fact to

1 know all of the things that could happen when we're
2 going through, which should include being
3 confronted with this, you know, failed polygraph.

4 I understand in *Wright* that we have to
5 make, you know, there's evidence of limitation or
6 something that doesn't confuse the juror, the trier
7 of fact in that. And, again, I would be more than
8 willing to allow the results of the polygraph to
9 come in. I think Professor Hirsch has already
10 testified that the results don't matter. They're
11 generally inadmissible because they're unreliable.
12 Again, this is not testimony in trying to go to
13 the, you know, reliability of the polygraph, just
14 the state of mind that the knowledge of a failed
15 polygraph placed my client in.

16 I think it does meet 403 based on those
17 standards. What I would propose to the Court that
18 I would like to do is simply recall Investigator
19 Carrigg to the stand just to clarify that when you
20 took him to Columbia, the purpose of that was to
21 administer a polygraph test. Yes. And after that
22 polygraph was administered, he was advised that he
23 failed that test. Yes. And then those are all the
24 questions that I would ask. Certainly if the State
25 wanted to get up and introduce the results of the

1 polygraph test through Investigator Carrigg, I
2 would not object to that. I think that is the
3 appropriate limitation under *Wright*.

4 THE COURT: Solicitor?

5 MR. HINDS: Thank you, Judge. First of
6 all, just like in *Wright*, she provided no
7 limitation to how we should use this polygraph.
8 Your Honor's already ruled on this pretrial, we
9 request that, you know, we -- South Carolina case
10 law is clear that mention of the Defendant's
11 submission to a polygraph is taboo. We do not
12 think it should come in respectfully in your
13 pretrial rulings.

14 You know, she elicited testimony that I
15 think took a line of some of your pretrial rulings,
16 but did not cross it. You know, I do not think
17 that any appropriate door has been opened to change
18 that ruling. So, that's our position.

19 THE COURT: In considering the
20 testimony that has been presented, I respectfully
21 deny your motion, the 702 analysis is the same.
22 That your own witness testified that it was
23 unreliable type of evidence and that's why it is
24 excluded to jurors that I do find that it would not
25 assist the trier of fact pursuant to 702 and the

1 probative value is outweighed by the prejudicial
2 effect under the 403 standard, the same ruling
3 applies, your motion is respectfully denied.

4 Do you have any further witnesses?

5 MS. CORNWELL: No, Your Honor, I do
6 not.

7 THE COURT: All right. So what we'll
8 do is I will allow you to rest before the jury and
9 then we'll hear any other motions.

10 MS. CORNWELL: Thank you, Your Honor.

11 THE COURT: Let's bring the jury out,
12 please.

13 (WHEREUPON, the jury entered the
14 courtroom at 10:44 a.m.)

15 THE COURT: Thank you, ladies and
16 gentlemen, you may have a seat. You may call your
17 next witness.

18 MS. CORNWELL: Thank you, Your Honor.
19 At this time, the Defense rests.

20 THE COURT: Thank you, Ms. Cornwell.
21 Ladies and gentlemen, the Defense has rested their
22 case, I must ask you to leave the courtroom just
23 one more time. We're very health conscious here,
24 we're just making sure you get your steps. We'll
25 be right back with you in just a few minutes.

1 Again, although both sides have rested
2 their case, please remember not to discuss the case
3 amongst yourselves. We'll be right back with you.

4 (WHEREUPON, the jury left the courtroom
5 at 10:45 a.m.)

6 THE COURT: Yes, ma'am.

7 MS. CORNWELL: Thank you, Your Honor.
8 At this time we would re-raise our motion for a
9 directed verdict. Based on the fact that there's
10 no objective evidence, no direct or circumstantial
11 evidence other than my client's confession which
12 has not been corroborated. There's no testimony
13 regarding false confessions and we believe that the
14 reliability standard regarding his confession has
15 not been met, so we would respectfully request a
16 directed verdict at this time.

17 THE COURT: There is strong and direct
18 and circumstantial evidence tending to establish of
19 the Defendant's guilt on each element of the charge
20 of murder and your motion is respectfully denied.

21 MS. CORNWELL: Thank you, Your Honor.

22 THE COURT: All right. Are we ready
23 for closings?

24 MS. HUNTER: Can we just have a
25 bathroom break?

1 THE COURT: Sure.

2 MS. HUNTER: Just about ten minutes.

3 THE COURT: That's fine. All right.

4 We'll take a brief recess.

5 (WHEREUPON, there was a short break.)

6 THE COURT: Are the parties ready for
7 the jury?

8 MS. HUNTER: Yes, Your Honor.

9 MS. CORNWELL: Somebody needs to bring
10 my client out.

11 (They brought Mr. Eastwood into the
12 courtroom.)

13 THE COURT: Let's have our jury,
14 please.

15 (WHEREUPON, the jury entered the
16 courtroom at 11:02 a.m.)

17 THE COURT: You may have a seat.
18 Ladies and gentlemen of the jury, both sides have
19 rested their case, it's now time for the closing
20 arguments of counsel. Please pay close attention.
21 Solicitor?

22 MS. HUNTER: Thank you, Your Honor.
23 May it please the Court?

24 THE COURT: Yes, ma'am.

25 CLOSING ARGUMENTS

CLOSING ARGUMENTS BY MS. HUNTER

1 BY MS. HUNTER:

2 How can there be any doubt much less a
3 reasonable doubt that Kenneth Eastwood violently
4 strangled Cara Hodges and dumped her body in the
5 woods? Cara Hodges was a mother. She is a
6 daughter and she was a sister. Little did she know
7 that when she went home from Fishtales bar with
8 that man right there that she was going home with a
9 killer. Violent crime is becoming more and more
10 prevalent in our communities. And what we can do
11 is bring the people who commit those acts into this
12 courtroom and hold them accountable. And that is
13 exactly what the State of South Carolina is seeking
14 to do this week with Mr. Eastwood.

15 The evidence has been presented the
16 past several days proves not just beyond a
17 reasonable doubt, but beyond any doubt that Kenneth
18 Eastwood violently strangled Cara Hodges, murdered
19 her and left her in the woods to rot.

20 Ladies and gentlemen, I want to thank
21 you on behalf of the First Circuit Solicitor's
22 Office for your time and attention this week. I
23 know it's been a long four days and you guys are
24 ready to get out of here. Jury duty, it's been
25 said that it's one of the most important services

CLOSING ARGUMENTS BY MS. HUNTER

1 | that you can perform for your country. And I
2 | certainly agree with that.

3 | Now, at the beginning of this trial,
4 | Judge Murphy instructed you all that we each have a
5 | job to do. It's a prosecutor's job to administer
6 | justice. Ms. Cornwell's job to be a zealous
7 | advocate for her client. It's Judge Murphy's job
8 | to rule on the law and it's your job to closely
9 | consider the evidence that's been presented in this
10 | case and to render a verdict. Now you took an oath
11 | at the beginning of this trial that you would set
12 | aside any bias or prejudice that you may have
13 | against the State or the Defense and render your
14 | verdict based on the evidence and the law.

15 | Now I'm going to briefly go over the
16 | law before we talk about the evidence and the facts
17 | in this case. Can everyone see the TV?

18 | (No response.)

19 | As you all heard in opening statements,
20 | the Defendant is charged with murder. Murder is
21 | the unlawful killing of another with malice
22 | aforethought either expressed or implied. Now,
23 | malice has a number of definitions. It's often
24 | called ill will. It's a reckless disregard for the
25 | safety of others. Malice can be inferred from

CLOSING ARGUMENTS BY MS. HUNTER

1 | conduct that shows a total disregard for human
2 | life.

3 | And one thing's important,
4 | premeditation, that is not an element. You don't
5 | need to consider that. But malice does not mean
6 | premeditation. And there's no time limit for
7 | malice. It can happen in the snap of a finger or
8 | the blink of an eye. And Malice can be expressed
9 | like someone saying, I'm going to kill you and then
10 | pulling out a gun and shooting you. But the law
11 | recognizes that killers don't often state their
12 | intentions before their actions. So the law
13 | recognizes what we refer to as implied malice.
14 | Implied meaning you can look at the circumstances
15 | that surround the killing.

16 | And, ladies and gentlemen, violently
17 | strangling someone while they gasp for air and claw
18 | their neck to remove that extension cord, that is
19 | evidence of malice. Now, I don't think there's any
20 | dispute that Cara Hodges was murdered. All that's
21 | left for you to decide is who did it.

22 | The next thing I want to talk about is
23 | voluntary intoxication. You've heard a lot this
24 | week about there was drinking going on, they were
25 | at a bar, that they both could have been drunk.

CLOSING ARGUMENTS BY MS. HUNTER

1 Voluntary intoxication, that is not a defense in
2 South Carolina. Going out and getting drunk,
3 that's not a defense.

4 And in all criminal cases, the State
5 has the burden of proving criminal intent. And
6 criminal intent is a mental state. It is a
7 conscience wrongdoing. So how do you go about
8 proving criminal intent? You look to the
9 Defendant's actions before, during and after the
10 crime to know what his intent was.

11 We've heard from numerous witnesses
12 from that witness stand this week. And the judge
13 will instruct you that you and you alone determine
14 the credibility of witnesses. You can believe all
15 of them, none of them, some of them. You can
16 believe one over many. You can choose to believe
17 some of what one witness says, but disregard other
18 parts of what they said.

19 And there are certain factors that will
20 assist you in determining credibility. Ask
21 yourself, what was the demeanor of the witness when
22 he testified. Was the witness forthright or
23 hesitant? Was the witness consistent? Was the
24 witness' testimony corroborated? And that's a big
25 one you guys need to pay attention to. Did the

CLOSING ARGUMENTS BY MS. HUNTER

1 witness have a reason to be bias or prejudice? And
2 these are just some of the things that you can
3 consider. You've been trained for this your entire
4 life using your every day life experiences. It's
5 the most important factor you can use is your
6 common sense.

7 I want to talk to you about one more
8 legal phrase, that's reasonable doubt. In all
9 criminal cases, the State of South Carolina has
10 burden of proof. It is our responsibility to prove
11 the Defendant's guilt to you beyond a reasonable
12 doubt. We must convince you of his guilt beyond a
13 reasonable doubt. And that phrase means exactly as
14 it sounds. It is not proof beyond any and all
15 doubt. It is proof beyond a reasonable doubt. And
16 what that means is, if after hearing all the
17 evidence in this case, you are firmly convinced
18 that of the Defendant's guilt, you must return a
19 guilty verdict. Ladies and gentlemen, we have
20 presented more than enough evidence in this case
21 for you to find Mr. Eastwood guilty of murder.

22 Next I want to talk about some of the
23 facts and how it relates to these charges. So
24 let's first talk about what makes this case proof
25 beyond a reasonable doubt. You've heard testimony

CLOSING ARGUMENTS BY MS. HUNTER

1 | throughout the week that the Defendant leaves the
2 | bar with Cara Hodges on December 8, 2019. That
3 | evening they left Fishtales bar together. Both Mr.
4 | Eastwood and Cara had been drinking and they seemed
5 | intoxicated and the victim is never seen alive
6 | again after that.

7 | All of this was corroborated by Jean
8 | Burns, the bartender from Fishtales when she
9 | testified on Monday. She told y'all they were
10 | taking shots, they were dancing around the pool
11 | table, they were drunk. And at one point, they
12 | were so drunk they fell over on to the floor.

13 | We know that the victim's body was
14 | found naked in the woods and that it is
15 | approximately six miles from the Defendant's
16 | residence. The victim had been strangled and there
17 | was evidence of a struggle. You all saw from those
18 | autopsy photos. Some of those wounds include rug
19 | burns. Now, Dr. Rose, the forensic pathologist
20 | that testified, she testified that Cara had been
21 | strangled by some type of a ligature and you all
22 | saw that mark around her neck. She had been
23 | fighting for her life and her injuries were
24 | consistent with a violent struggle. She also had
25 | abrasions on her knees and on her elbows that

CLOSING ARGUMENTS BY MS. HUNTER

1 | looked like rug burn.

2 | And when you guys go back into your
3 | jury room, you're going to be able to take all the
4 | evidence that you've seen up on this screen with
5 | you back there. I want y'all to go back and look
6 | through some of those pictures and notice what the
7 | floor is in the Defendant's bedroom. It's carpet.
8 | It's consistent with Dr. Rose's testimony.

9 | There was also some hints from the
10 | Defense this week that the Defendant wouldn't have
11 | been strong enough to commit this act. Ms.
12 | Cornwell asked the pathologist, wouldn't you have
13 | to of been able to exert extreme amount of force to
14 | strangle someone like that. And Dr. Rose told you,
15 | no, it's not an extreme amount of force, you just
16 | need to be stronger than the person you're
17 | strangling. Dr. Rose testified that Cara Hodges
18 | was 5'4", 120 pounds. She was a petite person.
19 | When I'm not pregnant, I'm usually about that size.
20 | So if you take 40 pounds away you can see what her
21 | stature would have been.

22 | And the Defense wants you to believe
23 | that he's some feeble old man. When this act was
24 | committed four years ago, he was going to work at
25 | the IGA and you heard testimony that he was lifting