

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jan 16 2025

SC Court of Appeals

Appeal from Richland County
Honorable Jocelyn J. Newman, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAMES TOATLEY,

APPELLANT

APPELLATE CASE NO. 2023-001059

RECORD ON APPEAL

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**STATE EXHIBIT #10 (CH. 5 VIDEO CLIP 1; CH. 5 VIDEO CLIP 2; CHANNEL 1) AND
STATE’S EXHIBIT #14 (CH. 4 CLIP 1, CH. 4 CLIP 2, CH. 4 CLIP 3, CH. 6 CLIP 2, CH.
6 CLIP 3, CH. 13 CLIP 1, CH. 13 CLIP 2)**

STATE OF SOUTH CAROLINA) SOUTH CAROLINA CIRCUIT COURT 5
COUNTY OF RICHLAND) DOCKET NO. 2021-GS-40-04725,
-04737 to 04740

STATE OF SOUTH CAROLINA,)
Plaintiff,)
versus)
JAMES TOATLEY,)
Defendant.)

H E A R I N G
BEFORE THE HONORABLE JOCELYN J. NEWMAN

DATE: June 20, 2023
TIME: 1:05 p.m.
LOCATION: South Carolina Circuit Court 5

TRANSCRIBED BY: Natasha Barrientos

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL SUCH MATERIAL IS

25 REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 THE CLERK: Yes, Your Honor.

2 THE COURT: Darko, Walton, Taylor, Zmroczek. Who's
3 with you Ms. Zmroczek.

4 MS. ZMROCZEK: Oh, I'm sorry, Your Honor. This is my
5 investigator Mr. Titry (phonetic).

6 THE COURT: Okay. Good enough. Thank you.

7 MS. ZMROCZEK: Thank you. I find that it's helpful to
8 have somebody.

9 THE COURT: Was just making sure he wasn't an attorney.

10 MS. ZMROCZEK: No, thank you.

11 THE COURT: Participating.

12 MS. ZMROCZEK: And while they come in, may I turn just
13 for the first part, may I turn my chair? Thank you.

14 THE CLERK: All in, judge.

15 THE COURT: Thank you. Good afternoon ladies and
16 gentlemen. You are here for jury selection for the trial of
17 a criminal case. That is the case of the state of South
18 Carolina versus James Jamal Toatley. I'm going to ask you
19 some questions to determine your fitness to serve as jurors
20 for the trial of this particular case. They're different
21 from the questions that you were asked this morning during
22 jury qualifications. The -- my questions will be more
23 specific to this case. But before I ask you those questions,
24 I'm going to have the clerk place you under oath.

25 THE CLERK: Please stand and raise your right hand to

1 relationship with Mr. Toatley who is sitting in front of you
2 in the striped shirt? If so, please stand. Thank you. You
3 may have a seat.

4 Mr. Toatley is represented by Ms. Aimee Zmroczek who is
5 a criminal defense attorney here in Columbia. Is it the AJZ
6 Law firm?

7 MS. ZMROCZEK: Yes, Your Honor.

8 THE COURT: Yes. AJZ law firm in downtown Columbia.
9 Is any member of the jury panel related by blood, connected
10 by marriage, or have any close personal relationship with Ms.
11 Aimee Zmroczek. Are you currently represented by her? Have
12 you been represented by her in the past? Do you have any
13 dealings whatsoever with the AJZ law firm? If so, please
14 stand. Thank you. You may have a seat.

15 There are several potential witnesses who may testify
16 in this case. The question is the same as to each of them
17 and that's whether you're related by blood, connected by
18 marriage, or have any close personal relationship with any of
19 the following people. Hisham. Oh goodness. Elgam
20 (inaudible 0:23:37) who is a store clerk at the easy spot,
21 used to be a store clerk at Motor City Market. Jamica
22 Bethel, Pope Hope, Bria Ruffin (ph0netic), also known as Bria
23 Toatley. Some of these folks are standing in the back of the
24 courtroom, the upper part of the courtroom. Chanel Burgess.
25 Thank you. You all can have a seat. Andre Riley, Bradley

1 MS. DARKO: Please present the juror.

2 THE CLERK: What says the defense?

3 MS. ZMROCZEK: Please seat the juror.

4 THE CLERK: Please have a seat in the jury box. Number
5 106. Robert Garrison.

6 JUROR NUMBER 106: I am Robert Garrison. I'm a
7 software developer.

8 THE CLERK: What says the state?

9 MS. DARKO: Please present the juror.

10 THE CLERK: What says the defense?

11 MS. ZMROCZEK: Please seat the juror.

12 THE CLERK: Please have a seat in the jury box.

13 THE BAILIFF: Watch your step up, sir.

14 THE COURT: All right. Any objections to jury
15 selection from the state?

16 MS. DARKO: Nothing from the state.

17 THE COURT: From the defense.

18 MS. ZMROCZEK: Nothing from the defense.

19 THE COURT: Actually, I ask that too soon. I will tell
20 you that I removed three jurors from consideration because of
21 their responses to voir dire. Those were jurors -- actually
22 the only ones that we would've gotten to were 256 and 37.

23 There is a third one that was 296, but that's farther down on
24 the list. We wouldn't have gotten there anyway. So given
25 that, are there now any objections to jury selection from the

1 Q. At any point, did anyone else go in the store with
2 him?

3 A. Yeah, maybe a couple minutes later Pope went
4 inside with him.

5 Q. And do you remember about how long they were
6 inside the store?

7 A. They weren't really in the store that long. I
8 can't remember exactly how long, but it wasn't a long time.

9 Q. And do you know whether or not Pope was with him
10 when he came back out of the store?

11 A. He was.

12 Q. And was anybody else with him?

13 A. Yeah, it was two guys.

14 Q. And at this point, are you fixated on Corey, or
15 excuse me, Curtis exiting the store with, with these people,
16 or were you doing something else at the time?

17 A. Well, me and Corey were talking at the time. I
18 mean, we briefly looked, but that was about it.

19 Q. But you were aware of ---

20 A. My surroundings, yes, I was.

21 Q. And you've already stated that you knew that he
22 had come out with two other men.

23 A. That's correct.

24 Q. And did you recognize those men? Did you know
25 them?

1 the matters and things about which A. may testify. And the
2 way A. acts on A. stand. You have a right to consider
3 anything that is in the record that will help you to of
4 evaluate the testimony of A.es. That means that it is your
5 duty to pay close attention to A.es, to observe A.es, to
6 listen to them, and to pay close attention to the attorneys
7 and to the court.

8 Do not let your thoughts wander, but give strict
9 attention to the testimony in this case so that at the end of
10 all of the testimony, after the arguments of counsel and the
11 charge on the law by the court, you will then be in a
12 position to determine what the facts are and apply the law to
13 those facts, and thus render a true and just verdict. It
14 will be the added duty of the foreperson to preside in the
15 jury room and be the jury spokesperson here in court. But we
16 will discuss that in greater detail a little bit later. Now,
17 before we begin the trial, before you hear from the
18 attorneys, in order to preserve everyone's rights, I will
19 give the attorneys an opportunity to object to anything that
20 I've just said to you. Any objection from the state?

21 MS. DARKO: No objections from the state.

22 THE COURT: From the defense?

23 MS. ZMROCZEK: Nothing, Your Honor.

24 THE COURT: We'll now begin the trial of the case. I
25 ask you to give the state your undivided attention for

1 opening statement. Mr. Walton.

2 MR. WALTON: May please the court?

3 THE COURT: Yes, sir.

4 MR. WALTON: 1, 2, 3, 4, 5, 6, 7, 8. That is the
5 number of gunshots that the defendant James Toatley fired,
6 that ended the lives of Curtis Dickins and Corey Smith and
7 forever changed the lives of Pope Hope and Jamica Bethel an
8 instance of senseless gun violence, rooted in pride, ego, and
9 anger. It's far too common of an occurrence and
10 unfortunately this case is a tragic example of that type of
11 violence. In the early morning hours, December 19, 2020,
12 Christmas is a week away. People are spending time with
13 loved ones, friends, family. It's the holiday season.
14 That's exactly what Jamica be was doing. She was spending
15 time with her long, a lifelong friend, her estate that night.
16 They went out to a bar, they went out to a club they were
17 having good, having a good time. Jamica said that she wanted
18 to go home. So at that point they did. They got into the
19 car, drove got on.

20 I-20 drove to Monticello Road, exit 68. At some point
21 the car broke down, so they, Curtis got out the car, started
22 pushing it, but they ultimately gave up and decided that he
23 was just going to leave it parked in a parking lot near a
24 U-Haul rental location. They were on Fair Hill Road. They
25 were on the way Tole J they started to walk, but then Curtis

1 made a phone call and stated that he was going to have a
2 ride, pick them off. So as they're walking down Fairfield
3 Road, a car came. Curtis waved them down. Jamica and Curtis
4 got into the back seat of that vehicle. Inside that vehicle,
5 the driver was Corey Smith. The front seat passenger was a
6 man named Pope. Now Jamica and Curtis said they wanted to
7 go, continues to flying Jay, but Corey and Pope said they
8 wanted to go to the Motor City market, which is located at
9 [REDACTED] Road, Columbia, South Carolina.

10 It's also known as the Blue Store or the store. So as
11 they went to that store, initially Curtis Dickins got out the
12 car and went inside. A few minutes later, Pope Hope also got
13 out the car. Jamica and Corey remained inside the vehicle.
14 Now, at the same time that the four individuals arrived at
15 the Blue Store, the defendant and his friend were also at
16 that store. As Curtis and Pope went inside the store, the
17 defendant and his friend followed him behind them. Curtis
18 was at the front -- front counter purchasing some cigarettes.
19 Pope was standing to his left just speaking with them, the
20 defendant standing behind. He grabbed some potato chips from
21 the ca -- from the aisle and stood directly behind. And his
22 friend was standing for his right now. While Curtis and Pope
23 were speaking, Pope accidentally waved his hand back and
24 grazed the defendant's hand.

25 Pope immediately turned around, said, my bad, bro. At

1 that point, Curtis and Pope went back outside. Well, after
2 his hand was grazed, the defendant got angry. He's like,
3 nah, you're not going to do this. So he walked up, put the
4 chips on the counter, and followed the two men outside of the
5 store. He wanted to confront them about his hand being
6 touched. Now, Curtis and Pope, they didn't want any problems
7 that night. They were trying to deescalate the entire time,
8 and they were speaking with him, speaking with the defendant
9 and his friend. So eventually Pope said, you know what? I
10 have enough. He just walks and gets back into the front seat
11 passenger of the vehicle that they arrived in. The defendant
12 follows after him and stands next to and stands next to Pope
13 inside. While he's inside the vehicle and continues to try
14 to confront him, Curtis is still outside the store trying to
15 be the peacemaker.

16 He's speaking with the defendant's friend, telling him,
17 trying to make, saying, we didn't come here for this. Calm
18 everything down. Eventually Curtis walks to the side of the
19 vehicle. The rear passenger side vehicle is where he got to
20 where, where he got came from. While he was there, the
21 defendant then started standing next to him, speaking with
22 him, and he's continuing to try to be the peacemaker in this
23 situation. He's speaking, saying, look, who's not going to
24 do this? And at one point he even shakes the defendant's
25 hand and says, Hey, we good Curtis. As Curtis opens the door

1 to try and get inside of the car to leave, things change.
2 The defendant pulls out a pistol from his waistband and fires
3 six shots on the passenger side of the vehicle. The first
4 two shots were aimed at Pope. Pope was sitting in the front
5 seat.

6 Now, by some miracle, Pope Hope was not hit. However,
7 one of those shots actually hit Corey Smith. If you
8 remember, Corey Smith was the driver of the vehicle. The
9 defendant then switched his attention to Curtis -- Curtis
10 Dickins, where he fired four additional shots at close range.
11 Curtis unfortunately died from those shots at close range.
12 Now you, you remember Jamica Bethel is also in that car. So
13 when Curtis is being shot, she's feared for her license and
14 she jumps off the car. He is trying to get away. She
15 doesn't know what to do, she's just trying to get away.
16 Curtis has been shot. Corey has been shot. Pope has been
17 shot at -- she needs to go. So as Jamica is running away,
18 the defendant then walks around the rear side of the car to
19 the passenger, to the driver's side, and he reaches the gun
20 inside the door. That Ika left open points the gun inside
21 and fires two shots. The back of Corey Smith's neck, Corey
22 Smith, died from those two shots. At this point, the
23 defendant walks away to his vehicle. Jamica fear for her
24 life runs back inside the store to get help from the nine.
25 Call 911 from the store clerk, quote, quote, also fearing for

1 his life jumps out the passenger seat and runs down Fairfield
2 Road.

3 Now, in the state of South Carolina, a person committed
4 a crime of murder when they unlawfully killed another with
5 novice support. Now what does that mean? Malice of
6 forethought means ill will or hatred. Additionally, in the
7 state of South Carolina, a person commits a crime with
8 attempted murder if they age, if they attempt to kill another
9 person with malice of forough. Additionally, murder and
10 attempted murder are both violent crimes in South Carolina.
11 So if a person uses a pistol to commit either of those
12 crimes, they're guilty of possessing a weapon during a
13 violent crime. Now you've heard the charges murder,
14 attempted murder, gun possession. It's needless to say that
15 it's the criminal trial. And the reason why I say that
16 because because it's a criminal trial, it means the state of
17 South Carolina bears the burden of proof. And that burden is
18 proof beyond a reasonable doubt. But it's important for all
19 of you to understand that proof beyond reasonable doubt does
20 not mean proof beyond all possible doubt.

21 There are a few things in this world that we know
22 absolute certainty. And the law does not require that of the
23 state. Where proof beyond a reasonable doubt actually means
24 he's proof. That means you firmly convinced that the
25 defendant is guilty. So as a means of proving that one of

1 the things we're going to do is show you evidence, but we're
2 also going to call several witnesses to the stand. Now it's
3 your job as a juror to listen to each witness and you make a
4 determination as to whether or not they're credible, whether
5 you believe them or not. But when you're making that
6 determination about whether or not a witness is credible, I
7 ask you to do a few things. First, ask yourself, is this
8 witness consistent? Is something they've said in the past?
9 Second, does this witness have any reason to be less than
10 truthful in this situation?

11 And third, I ask that you use your common sense. Each
12 and every one of you have all individual life experiences and
13 common sense that you bring to this courtroom today. It's
14 important for you to know that just because you're a juror
15 does not mean that you're supposed to just leave the common
16 sense to utilize your day-to-day lives at the front door of
17 this courthouse. It's the most, I think it's the one of the
18 most important tools that you have as a juror. So I'm asking
19 you to utilize it when assessing A.es and the evidence in
20 this case. So what does the evidence look like? What are you
21 going to see? Well, you're going to hear from a man named
22 Andre Riley. Andre Riley just happened to run out of gas and
23 was parked at the Motor City market that night and he's just
24 sitting in the car waiting for a ride and he sees all this
25 transpire in front of him.

1 He witnesses the murder, he sees it and he did the
2 right thing because he spoke with law enforcement and told
3 him his side, his side. So told him his perspective. You're
4 going to hear from a woman named Jamica Bethel. You guys
5 heard about Jamica already, but Jamica is going to get on the
6 stand and she's going to tell you how did they, how they
7 arrived at the murder city market that day. She's going to
8 tell you what she was saying to Curtis, what she heard the
9 defendant say, what she was thinking when she heard the
10 gunshot going off, what she did when she ran outside trying
11 run away from defendant because she felt that she was about
12 to be killed. She ran inside the store, asked the store
13 clerk to to lock the door and call 911. You're going to hear
14 from a man named Pope Hope. You also heard about Pope
15 already.

16 Pope was in the front seat, passenger the front seat
17 passenger of the vehicle. Pope's going to tell you the same
18 thing he's going to, he was afraid for his life. Gunshots
19 hit, the window shattered next to him. He got injured from
20 the glass. He said he thought he was going to die and ran
21 down the street trying to call for help in any way that he
22 could. You ultimately found law enforcement and was able to
23 receive that help. But you also going to hear him describe
24 what happened inside the store. He just razed the
25 defendant's hand and he got angry if he was trying to

1 deescalate. Didn't need to be that way.

2 You are also here from a man named Hesham Elgan. Now
3 (inaudible) has Young, who's the store clerk who worked at
4 the Motor City Market. He's going to show you, explain to
5 you what happened inside the store, what transpired inside
6 the store, what he saw. And most importantly, he's going to
7 tell you that he saw the defendant walk inside the store and
8 he saw the defendant with a gun. You're going to hear from
9 the responding officer Thomas Matthews. He heard the
10 gunshots as he was patrolling around Richland County. He
11 heard the gunshots and his windows down and he started ride
12 driving in that direction. And as he was driving in that
13 direction, he received a notification that there was a
14 shooting at that location. He's going to tell you about what
15 he did when he arrived, what he saw, who he spoke to, the
16 steps that he took to set up before the case was transitioned
17 to the Briley County Sheriff's Department.

18 You're going to hear from CSI investigators in this
19 case, Carrie McCleary and Michelle C. They're going to
20 explain the process of crime scene investigation. The
21 evidence that they collected and why they do the steps they
22 take to make sure the scene is as secure and accurate
23 as possible. Photographs, documentation. You're going to
24 hear from Investigator Vicki Rains. She's a criminal
25 investigator with the Brion County Sheriff's Department and

1 she was the on call investigator the night of the shooting.
2 She's going to tell you the steps that she took when she
3 arrived, what she heard, what she did, who she spoke to, but
4 also she's going to explain to you how the law enforcement
5 was able to create, make the logical change that defendant
6 James Toatley as being the shooter in this case. You're
7 going to hear from investigator Kevin Isenhoward. Kevin
8 Isenhoward is the lead investigator in this case, and he's
9 going to explain to you the step-by-step process that he took
10 that ultimately placed James to be under arrest for the
11 charges. You'll hear from Dr. Marcus Bradley Marcus. He's a
12 pathologist in this case, and he conducted the two autopsies
13 on Corey Smith and Curtis Dickins. He's going to describe to
14 you the nature of all their injuries. He's going to tell you
15 that the cause of death for both the managers, the gunshots
16 that they suffered as a result of the defendant's actions.
17 Now it's important. Normally in criminal cases, jurors have
18 to rely on witness testimony to understand how a -- a
19 specific incident transpired.

20 This case is different in this case, in the entire
21 incident at the Motor City market is captured on surveillance
22 both inside the store and outside the store. So what that
23 means is you can hear, you'll hear po po po talk about
24 grazing his hand, the defendant's hand. But you're going to
25 actually see it happen and you'll see the defendant's

1 reaction to it. You'll see the try to deescalate and
2 defendant try to escalate, but it also means that you're
3 going to see the defendant fire the shots. You're going to
4 see the defendant fire two shots in the direction of Pope
5 Hope who's sitting in the front seat, passenger seat, and the
6 glass shatter. You're going to then see him turn his
7 attention to Curtis Dinkins and gun him down. You'll see
8 Jamica -- Jamica Bethel run for her life and run back inside.
9 But you're also going to see the defendant walk around the
10 rear rear of the vehicle to the driver's side and execute
11 Corey Smith by placing two Bo two gunshots in his neck.
12 Now I recognize that I just said a lot. There's a lot of
13 names, there's a lot of moving parts video, there's evidence,
14 I get it. But I'm just asking you to pay close attention to
15 the evidence and the testimony today because I'm confident
16 that after you've heard the evidence or after you've heard
17 the testimony and seen all the evidence and apply your common
18 sense to both, you'll be firmly convinced that the defendant
19 is guilty of the murder of Corey Smith. Guilty of the murder
20 of Curtis Dinkins, guilty of the attempted murder of Jamica
21 Bethel, guilty of the attempted murder of Pope Hope and
22 guilty of possessing a weapon during a violent crime. Thank
23 you.

24 THE COURT: Ms. Zmroczek.

25 MS. ZMROCZEK: Thank you. Please court. Good

1 afternoon. So one thing that I took note of because I knew I
2 was going to talk to you about it because you all did it this
3 morning, you did it twice I think yesterday. Did you raise
4 your hand to be sworn in by all of the judges that have asked
5 you questions? There's a unique story behind why you do
6 that. A long time ago, more barbaric ages, people who were
7 convicted of perjury used to get a brand on their hand in the
8 form of peace. So when they say, please raise your hand, it
9 was so the people that were listening to that testimony could
10 see whether or not they had told a lie or been convicted of
11 perjury before. The reason that that becomes important is
12 because I agree with the prosecutor on one thing, and that is
13 your common sense.

14 Because your common sense will tell you that when you
15 are listening to A.es and questioning why they would say
16 something different now or say something different, then why
17 their story has changed. And you get to answer that question
18 when you're determining the facts. Because when you do all
19 that, ladies and gentlemen, you'll understand that this is
20 not murder, this is voluntary manslaughter. There are
21 different levels of murder. And when the judge at the end of
22 the case gives you the charge on the law, she'll tell you the
23 elements, the things that you need to consider in applying
24 that law to the facts. And that's why we have you all here
25 to listen to those facts and determine what the right answer

1 is. She's going to tell you about the specific intent that
2 is required in in attempted murder. She's going to have you,
3 she's going to provide you with all this law and then you
4 apply it to the facts.

5 So how do we get to those facts? Well by witness
6 testimony, by pictures, by things like that, but also by
7 cross-examination. So one of the hard things that I have to
8 do is ask some hard questions for you. I don't like calling
9 people liars. I don't like pointing out inconsistencies, but
10 I do when it is representing the Constitution, the reason
11 that we are here, there are multiple different charges that
12 are available and that are applicable in this scenario. What
13 you'll learn is fueled by drugs, fueled by alcohol. What
14 kind of situation took -- took place that night. And ladies
15 and gentlemen, that's what's going to make the difference in
16 this case. And after you look at all the evidence, judge it
17 for yourself, determine what the facts are and when the judge
18 gives you the law to apply, we will come back up here at the
19 end of the case and ask you to find the applicable law and
20 the correct charges in this case (inaudible). Thank you for
21 your time.

22 THE COURT: State can call his first witness.

23 MR. WALTON: State calls Andre Riley.

24 THE BAILIFF: Raise your right to praise the clerk.

25 THE CLERK: State your full name please.

1 MR. RILEY: (Inaudible).

2 THE CLERK: Could you speak up a little bit?

3 MR. RILEY: Andre Riley.

4 ANDRE RILEY,

5 being first duly sworn, testifies as follows:

6 THE BAILIFF: And we got all this glass in front of the
7 judge has and all need jurors out here. Just they can do the
8 microphone.

9 MR. RILEY: Okay.

10 THE BAILIFF: Don't get too close here.

11 MR. RILEY: Okay.

12 THE BAILIFF: All right.

13 THE COURT: Your witness.

14 MR. WALTON: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MR. WALTON:

17 Q. Good afternoon, Andre. Call you Andre?

18 A. Yes.

19 Q. All right. Where are you from

20 A. (inaudible) Swanson.

21 Q. Swanson. And do you live in Columbia?

22 A. Yes.

23 Q. And how long have you lived in Columbia?

24 A. Over 20 years.

25 Q. What do you do for a living?

1 A. I work at Train.

2 Q. Okay. And what is that?

3 A. We build -- manufacture air conditioners.

4 Q. Okay. How long have you been doing that for?

5 A. I've been doing about three years.

6 Q. Are you familiar with Fairfield Road?

7 A. Yes.

8 Q. And do you know where the Motor City market is

9 located? Off Fairfield?

10 A. Yes.

11 Q. And you ever -- have you ever heard of somebody

12 refer to it as a Blue store?

13 A. Pretty much, yeah. A lot of people refer to it as

14 that.

15 Q. And what type of store is it Motor City Market?

16 A. It's like a hood store.

17 Q. What's about this for?

18 A. It's right next to the, pretty much like the hood,

19 you know.

20 Q. Okay. And they have like groceries in there?

21 A. Nah, that looks like, you know, pretty much just a

22 -- a little small convenience store.

23 Q. Okay. Small convenience. Yeah. And Boulder

24 City, is that in Columbia, South Carolina?

25 A. Yes.

1 Q. Is that in Richmond County?

2 A. Yes, sir.

3 Q. So I'm going to switch gears real fast to December
4 19, 2020. Did you go to the Motor City store on that day?

5 A. Yes sir.

6 Q. And did you witness the shooting at the Motor City
7 Market on December 19, 2020?

8 A. Yes.

9 Q. And around what time did you get there?

10 A. Think it was like 2:04, somewhere around there.

11 Q. Okay.

12 A. Between 2 -- 2:30.

13 Q. Now before we really get into the shooting can you
14 tell the jury how you ended up at the Motor City Market?

15 A. My wife came to pick me up and we was going back
16 to a friend's house and she didn't tell me anything and the
17 truck ran out of gas and so that's how I ended up at the
18 Motor City Sports.

19 Q. And after you ran out of gas, what'd you do?

20 A. I got out and been in the store, asked the -- the
21 guy that was in the store asking how much of the gas goes.
22 He was like \$16. So I was like, man, the road that's way too
23 high. So I walked out the store, went to the trash can and
24 tried to find me a bottle to contain some gas and I observed
25 a black Crown Vic pulling in and I thought, no -- nothing of

1 it. So I -- I couldn't find no gas jug. So I went back to
2 the truck city side, the truck calling roadside assistance to
3 bring me some gas and called some friends to bring me a gas
4 jug. And I was just sitting in the car and I seen the guys
5 went in the store. They came out the store and then they sit
6 in the car for a minute, another little gray car pulled up.
7 They went in the store, the guys in the black crown Vic got
8 out the car, went in behind them and they came out, they were
9 arguing and before I knew it, I -- all I heard was gunshots
10 and I seen the guy just shoot.

11 Q. So I'm going to back you up a little bit. You
12 said you saw a black Crown Vic. Where did, at what point did
13 you see the Black Crown Vic??

14 A. When I was walking back from the the garbage ---
15 the garbage can.

16 Q. And where's the garbage can located?

17 A. It's on the left side of the building, left side.

18 Q. So not this front. Okay.

19 A. Yes.

20 Q. And did you see how many people were inside the
21 Black Crown Vic?

22 A. All I seen was two. The two guys that got out.

23 Q. Did you speak with anybody that was in the car?

24 A. No.

25 Q. Okay. Did you look at each other?

1 A. We kind of glanced eye to eye and they passed me
2 but wasn't nowhere really like eye to eye contact, you know.

3 Q. So when you -- you said you saw them go in and
4 then another car came, you start shooting. So before the
5 other car came, did you see them go back to their car?

6 A. Yes.

7 Q. Okay. And then -- then what happened? Once they
8 went back to their car?

9 A. They sat in the car for a while. And when the
10 gray car pulled up, they they got back out the car and they
11 walked in behind them. And when I -- all I know is when they
12 came out the store, they was arguing.

13 Q. And you mentioned that you saw the people said
14 people in the gray car. How many people did you see get out
15 of the gray car?

16 A. Three. No, four.

17 Q. Four people get out gray car?

18 A. Yes.

19 Q. How many did you see get out of the gray car and
20 go inside the store?

21 A. I think it was -- it was three -- three, got out
22 the car. I think the driver stayed in the -- in the car.

23 Q. The driver. And then do you remember seeing a
24 girl?

25 A. Yes.

1 Q. Okay. Did you see the girl go inside the store?

2 A. Yes.

3 Q. Okay. Did you see the girl go inside the store
4 before the shooting?

5 A. Yes.

6 Q. Okay. So you mentioned that you saw four men
7 arguing from of the store. Did you hear what they were
8 saying?

9 A. No, I couldn't hear nothing. I had my windows up.
10 Windows were so dark you couldn't -- they couldn't see me
11 inside the car.

12 Q. So how did you know that they were arguing?

13 A. I could hear it. I could hear the arguing and it
14 came out the store. Because I had a little light cracking
15 the window, but I wasn't hearing what they were saying.

16 Q. Now, do you remember what the people that were in
17 the ground, black Crown Vic, what they were wearing?

18 A. I think one had on like, some red shorts and I
19 think some kind of dark colored shirt.

20 Q. And what about the other guy?

21 A. I'm not sure. I forgot exactly what he had on.

22 Q. Okay. And do you remember what color his clothing
23 was?

24 A. I'm not sure. I couldn't really remember exactly
25 what color he had on.

1 Q. Okay. And you say, okay, clarify who shot -- who
2 was the shooter?

3 A. The driver.

4 Q. The driver. And what color clothing was the
5 driver? Was it dark, was it light?

6 A. It was dark. I know it was something dark. I
7 can't remember the exact colors.

8 Q. Okay -- okay. So after the shooting, where did
9 you see the woman go?

10 A. She ran back in the store.

11 Q. She ran. And did you see her come back out?

12 A. No, not until the police arrived.

13 Q. Okay. And man in black or dark clothing? You,
14 you said driver did the shooting. What did he do after?

15 A. They got in the car, they tried to leave, but the
16 car wasn't going in reverse. So they they got out the car
17 and ran and they ran down the street and they came right back
18 and tried it again and they realized the car wouldn't go in
19 reverse and they were too close to the poles because they
20 couldn't back out. So they they was sitting there con just
21 sitting there for a second and I reckon they was talking,
22 going over what they was going to do and the passenger got
23 out and was like, come on man, come on man. The police
24 coming. And he sitting there for a second. But the the
25 passenger, he got up and ran across the street and the

1 driver, he finally got up and ran back towards the the
2 neighborhood back behind there.

3 Q. And after you ran the second time, did you see him
4 again?

5 A. No.

6 Q. Okay. What did you do next?

7 A. I just sit there until the police got there.

8 Q. Did you call a ride?

9 A. I called some rides, but I -- at that time they
10 had done block a scene, so I -- I was part of the crime
11 scene.

12 Q. When -- when law enforcement arrived, did you
13 speak with them?

14 A. Yes.

15 Q. Okay. And did you give a written statement to
16 Investigator Vicki Rains?

17 A. Yes.

18 Q. After you gave that statement to Investigator
19 Rains, what did you do next?

20 A. I just -- I just sit there, I sit there till they
21 -- they told me I was free to go.

22 Q. And earlier you said that you witnessed the
23 shooting. Were you able to hear the gunshots?

24 A. Yes.

25 Q. And are you aware that there is an audio recording

1 of those gunshots?

2 A. Yes.

3 Q. And have you had a chance to listen to those
4 gunshots before coming to court?

5 A. Yes, sir.

6 MR. WALTON: The court's indulgence?

7 THE COURT: Yes sir.

8 MS. ZMROCZEK: Your Honor, we may have an evidentiary
9 issue.

10 MR. WALTON: Mr. Riley, I'm showing you what's been
11 here to see marked for identification notices as State's
12 Exhibit number 1?

13 (State's Exhibit 1 was marked for identification.)

14 BY MR. WALTON:

15 Q. Do you recognize what that is?

16 A. Yes.

17 Q. And what is that?

18 A. That's my initial and the date I -- I watched the
19 video.

20 Q. Okay. And this is the video of the audio of the
21 gunshots?

22 A. Yes.

23 Q. And does this video truthfully and accurately
24 depict the gunshots that you heard?

25 A. Yes, sir.

1 Q. In December of 2020?

2 A. Yes, sir.

3 Q. Okay. And Mr. Riley, are you also aware that the
4 Motor City market was equipped with surveillance footage,
5 surveillance cameras on the exterior?

6 A. Yes, sir.

7 Q. And have you had a chance to review those videos
8 before coming to court today?

9 A. Yes, sir.

10 Q. Mr. Riley, I'm showing you it's been previously
11 marked as State's Exhibit number 10.

12 A. Yes.

13 Q. Do you recognize that?

14 A. That's my signature.

15 Q. And what is that?

16 A. That's the footage of all the video of the clips
17 outside.

18 Q. And you said -- and you already said that's your
19 signature?

20 A. Yes, sir.

21 Q. And did you date that?

22 A. Yes, sir.

23 Q. And is it true and accurate depiction of the, the
24 scene on December 19, 2020?

25 A. Yes.

1 MS. ZMROCZEK: Your Honor, I -- I have an -- I'll have
2 an objection to them trying to enter it through this witness.

3 THE COURT: Well, they have not even offered it yet.

4 MS. ZMROCZEK: Okay.

5 MR. WALTON: Your Honor, the state offers State'
6 Exhibit 10 into evidence.

7 THE COURT: The legal basis of your objection.

8 MS. ZMROCZEK: Authentication and foundation -- the you
9 authentication, if we may approach Your Honor, I can explain.

10 MS. DARKO: Not yet, they're coming back.

11 THE COURT: Defense counsel ended up the case of State
12 v Gray 438 SC 130. It is a 2022 case. Having reviewed that
13 the objection's overruled. You may proceed, Mr. Walton.

14 MR. WALTON: Thank you, Your Honor. Permission
15 publish?

16 THE COURT: Yes sir. What was the number on that? 2

17 ---

18 MR. WALTON: Ten.

19 THE COURT: Ten. Thank you.

20 BY MR. WALTON:

21 Q. All right, Mr. Riley, where is your car at this?

22 A. It's my gray SUV closer to the road. All that
23 side.

24 Q. Right here?

25 A. Yes.

1 Q. Okay. This -- this the black Crown Vic.

2 A. That's the Black Crown Vic right there.

3 Q. Okay. And who's that walking right there?

4 A. That's me walking right there.

5 Q. Okay.

6 A. Coming back from the trash can.

7 Q. What were you doing at this point in time?

8 A. Making phone calls.

9 Q. Now, earlier you said that the driver was the
10 shooter. Is that who you were referring to?

11 A. Yes.

12 Q. Earlier you mentioned that he goes back to the car
13 -- you go back to the car. Is this what you were talking
14 about?

15 A. Yes.

16 Q. You mentioned another car. That car -- has that
17 car arrived yet?

18 A. No, I haven't pulled up yet.

19 Q. Is that the car?

20 A. Yeah, that's the car I pulled up.

21 Q. Okay. I don't think I asked you, but do you know
22 any of these people?

23 A. No.

24 Q. Okay. You mentioned earlier that you heard
25 arguing. Is this what your attorney to?

1 A. Yes.

2 Q. What are you doing at this point?

3 A. I'm just sitting there watching.

4 Q. Is that what you're referring to when they left
5 the car?

6 A. Yeah, they left the car. Now they going -- they
7 going to come back to the vehicle and try it again.

8 Q. You're backing the car. Did they try to back it
9 up with you? What were they doing?

10 A. I don't know exactly what it was doing. I don't
11 know what they -- they going to try to I don't know if they
12 come up with a game plan or what. I don't know.

13 Q. Did you ever see that guy again?

14 A. No.

15 Q. Looks like the driver just went in that direction.
16 Does he come back?

17 A. No.

18 Q. Looks like law enforcement arrived. Is that
19 accurate?

20 A. Yes.

21 Q. Andre, who's that pulling up next to you?

22 A. Matter of fact, that was one of my friends come
23 bring back gas. The police told her to pull on the side.

24 Q. And what else happens from here?

25 A. Pretty much it is on the investigation starts from

1 there, but that's about it.

2 Q. (inaudible), what's this clip of?

3 A. This, the guy's running off the first time.

4 Q. Is this them coming back to the vehicle?

5 A. Correct.

6 Q. And what's this the video of?

7 A. That's the -- when he finally left.

8 Q. Okay. He doesn't come back after?

9 A. No.

10 Q. And then you talk to law enforcement?

11 A. Yes.

12 Q. Just one more question. Andre. So earlier you
13 said you saw three people get out of the car after watching
14 the video. How many people got out of that cam?

15 A. Two.

16 MR. WALTON: Thank, I have no further questions.

17 THE COURT: Ms. Zmroczek.

18 MS. ZMROCZEK: Thank you. Well just, yeah, sorry.

19 While this is up state's 10.

20 BY MS. ZMROCZEK:

21 Q. What time does that say, can you read that?

22 A. Say again?

23 Q. What time does this say?

24 A. Three oh -- 3:53.

25 Q. 3:03 a.m.

1 A. Yeah.

2 Q. Okay. Did you maintain this equipment?

3 A. No.

4 Q. Okay. Did you have any part in making sure that
5 it was always running?

6 A. I don't have nothing to do with the equipment.

7 Q. Don't have anything to do with the equipment,
8 right?

9 A. No.

10 Q. Okay. You said that you could hear arguing,
11 right?

12 A. Yeah. All I heard was loud conversation.

13 Q. Loud conversation.

14 A. Yeah.

15 Q. I think you referred to it as arguing?

16 A. Yeah, that's exactly.

17 Q. Okay. And and you would agree with me that the
18 video reflects that there was no significant period of time
19 between that arguing when it stopped the arguing and then the
20 shots happened, right?

21 A. It -- it happened right after the dog.

22 Q. One right after the other. You couldn't, so and
23 you couldn't see what any of the parties had in their
24 waistbands?

25 A. No.

1 Q. And you couldn't -- so when you were watching it
2 you were back at your car, right?

3 A. Yes.

4 Q. And so there was at least where the incident was
5 taking place, if I'm standing to the right of the podium and
6 I'm representing your car I think the video saw that the,
7 this was happening on the other side, the passenger side of
8 the second car that pulled up, right?

9 A. Yes.

10 Q. And so there was a car in your way you couldn't
11 see?

12 A. No, I was right, right there. I could see
13 clearly.

14 Q. Okay. But could you see what any of them were
15 doing on the other side of the car?

16 A. I -- I could see exactly where there was ---

17 Q. Right -- right.

18 A. --- and what was going on.

19 Q. Okay.

20 A. And all I know I should pulled a gun at the last
21 minute and started shooting.

22 Q. Right. but you couldn't hear anything that was
23 being said back and forth amongst them?

24 A. Yes, I couldn't hear anything.

25 Q. Okay. So somebody was threatened, somebody you

1 could -- you wouldn't have been able to hear that?

2 A. No.

3 Q. Okay. And I think you called this a hood store,
4 right?

5 A. Yeah. Pretty well.

6 Q. They sold alcohol?

7 A. Yes.

8 Q. They sold rollers that you can roll blunts into?

9 A. Correct.

10 Q. Okay. I think you said you were looking for a gas
11 can, but it was they wanted to charge too much for that.

12 A. Yes. I was trying to find a container to put it
13 -- put my gas in.

14 Q. So you, there -- there were -- there was -- it was
15 there were trash and other materials around the outside of
16 the store, right?

17 A. Yeah, that's why I went, checked it all trash can.

18 Q. Okay. You were looking for just like a, something
19 to put the gas in for your car. Right?

20 A. Exactly.

21 Q. Okay. The court's controlled. And I
22 know that you -- you saw everyone enter the store, right?

23 A. Yes.

24 Q. But you were not inside a seat. Could you see
25 what was going on inside?

1 A. No.

2 MS. ZMROCZEK: Okay. Well, nor what was being said, no
3 thank you. I have no further questions.

4 THE COURT: Anything further from this witness, Mr.
5 Walton?

6 MR. WALTON: Yes, Your Honor.

7 BY MR. WALTON:

8 Q. Mr. Riley, I'm approaching and showing you have
9 been previously marked as state's Exhibit 7 and 8. Do you
10 recognize these?

11 A. Yes.

12 Q. And what are they?

13 A. That's the image of the store.

14 Q. Okay. And both are?

15 A. Yes. Okay.

16 Q. And are these true and accurate depictions of the
17 Blue store?

18 A. Yes.

19 MR. WALTON: All right. Your Honor, at this time the
20 State wishes request (inaudible) marked State's Exhibit 7 and
21 8 as evidence.

22 THE COURT: Any objection?

23 MS. DARKO: No objection.

24 THE COURT: State 7 and 8, admitted without objection.

25 (State's Exhibits 7 and 8 were admitted into evidence.)

1 MR. WALTON: Permission to publish?

2 THE COURT: Yes, sir.

3 BY MR. WALTON:

4 Q. So, Mr. Riley, is this the Blue store?

5 A. Yes.

6 Q. Okay. And where were you sitting in your vehicle?

7 A. In actually right in front the store, but farther
8 to the road.

9 Q. Over here you're saying?

10 A. Yeah, over -- right over there.

11 Q. Okay. All right. Let me show you, this one might
12 be a little bit better. This is State's Exhibit number 7.
13 This is an overhead. All right. So where is this the front
14 of the store?

15 A. Yes.

16 Q. All right. So where were you in your vehicle?

17 A. Straight ahead. Right, right in front. Like the
18 front door almost.

19 Q. Here?

20 A. Yeah, somewhere right up there.

21 Q. Okay. So at that angle you were able to see, were
22 you able to see what transpired?

23 A. All I could -- I couldn't see what the all, when
24 it was arguing on the side of the car, but when it got to the
25 back of the car when the shot was fired, I seen that.

1 MR. WALTON: Okay. No further questions.

2 THE COURT: Anything further, Ms. Zmroczek?

3 MS. ZMROCZEK: Nothing further Your Honor.

4 THE COURT: All right, thank you. You may step down,
5 sir.

6 Ladies and gentlemen, we are going to take a short
7 break. I -- I indicated we wouldn't really take a lunch
8 break, but then I sort of forgot that the court staff needs
9 to eat. So we're going to take a 45 minute break. That's
10 just to allow court staff to eat. It's probably not enough
11 time for you to drive somewhere and come back. Maybe it is,
12 maybe you're fast. I don't know. So I'm going to excuse you
13 for 45 minutes. Have you be back at -- we'll make it just
14 over 45 minutes. So at -- why can't I do that? 2:20 is when
15 I want you back in the jury room, and we will resume at that
16 time, a couple extra minutes just so you all can get your
17 cell phones. You don't have to leave the building. You can
18 stay in the jury room if you like. You can step outside if
19 you like, make phone calls, that kind of thing, whatever you
20 want to do. But be back in your jury room at 2:20. Don't
21 discuss the case ---

22 THE BAILIFF: Everyone remain seated to the jury.

23 THE COURT: I can't have my bailiffs and deputies
24 falling out on me, so 2:20. I'll see you all then. Thank
25 you.

1 MS. ZMROCZEK: I was wondering when you said that
2 yesterday, I was like.

3 THE COURT: One, the thing I was thinking about myself
4 and not anyone else.

5 THE BAILIFF: You may be seat, all cell phones
6 electronic device are turned off, except the one that's
7 authorized to have a on. We'll have to confiscate. Thank
8 you.

9 THE COURT: All right. Actually, before we do that,
10 let's, Mr. Zmroczek, let's turn back to your previous
11 objection as to the videos authentication and State v Gray.
12 Please let me know when I was supposed to glean from State v
13 Gray.

14 MS. ZMROCZEK: Your Honor. So the information that I
15 gleaned from that was that they said that the authentication
16 was okay because it was authenticated by the person who was
17 in charge of the video, maintained the video at, I think was,
18 you know, in charge of collecting it, running it. And so
19 that -- that's -- that -- that was the argument that -- that
20 I was arguing for proper authentication, Your Honor.

21 THE COURT: Well, your argument at the -- during the bench
22 conference was that it had to be the store owner or
23 shopkeeper or something like that. And I -- I simply do not
24 see that anywhere in this case.

25 MS. ZMROCZEK: Okay.

1 THE COURT: Am I missing something?

2 MS. ZMROCZEK: No, I mean, just the holding that I read
3 was that the authentication was because they challenged the
4 authentication because the timestamp, sorry, they challenged
5 the authentication in that case because the timestamps were
6 off and ---

7 THE COURT: And the appellate court affirmed the trial
8 court's ruling despite the timestamps being off. So how does
9 this case support your argument that the timestamps being off
10 means that the, the court should suppress the evidence
11 because the -- the appellate court upheld it because the
12 person who was in charge of maintaining that equipment was
13 the one who in through whom it was introduced. So that --
14 that -- that's what -- that was what my argument was -- was
15 that that's not what this says at all. A witness with
16 knowledge may authenticate evidence by testifying that a
17 matter is what it claimed to be. The authentication standard
18 is not high, and a party need not rule out any possibility.
19 The evidence is not authentic. It goes on and on. But
20 nowhere in here does it say this person happened to be a
21 shopkeeper. They could have happened to be a dog keeper or a
22 chimney sweep. This one happened to be the shopkeeper, but
23 the standard is that A. may authenticate evidence by
24 testifying that a matter is what it is claimed to be. It --
25 there's nothing that relies on shopkeeper timestamps or

1 anything like that. And to the extent that timestamps were
2 mentioned, the trial court properly overruled that objection.

3 MS. ZMROCZEK: Thank you, Your Honor.

4 THE COURT: Well, I'm just confused and I -- I don't
5 want to spend any more time in this trial wasting time on
6 arguments that are unsupported and -- and certainly counsel
7 has a duty to -- to either inform the court that your
8 argument is contrary to the case law or to ---

9 MS. ZMROCZEK: Well, the ---

10 THE COURT: --- tell the court that the case law says
11 what it says, but I -- I don't see anywhere in here. I'm
12 confused by this case even being handed up.

13 MS. ZMROCZEK: Okay. You, Your Honor, and then I
14 apologize. The way that I read it was that the -- in the
15 holdings was that the court was proper in court -- in
16 authenticating it because it was the shopkeeper. If I
17 misread it, then certainly I'm not trying to argue that, but
18 I -- I -- I don't have a copy. I handed it up to you, but
19 that's -- that's -- that's the way that I read it, which is
20 why I was arguing that authentication.

21 THE COURT: Okay. Just making sure I wasn't missing
22 something.

23 MS. ZMROCZEK: Thank you.

24 THE COURT: Bring the jury please.

25 THE BAILIFF: Juror seat, (inaudible).

1 THE COURT: Thank you. Welcome back. Ladies and
2 gentlemen. We're still in the state's case state can call
3 its next witness.

4 MR. WALTON: State calls Tia Frey.

5 THE BAILIFF: (inaudible) on the Bible, raise your
6 right and face the clerk.

7 TIA FREY,
8 being first duly sworn, testifies as follows:

9 THE CLERK: Do you swear or affirm in this case
10 (inaudible)?

11 MS. FREY: Yes.

12 THE CLERK: Thank you. Seat -- stand and state your
13 full name for the record, please. Spell your last name.

14 MS. FREY: Name is Tia Frey. Last name is F-R-E-Y.

15 THE COURT: Your witness.

16 DIRECT EXAMINATION

17 BY MR. TAYLOR:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Are you doing well?

21 A. I am.

22 Q. What's your name again?

23 A. Tia Frey.

24 Q. What -- what is your job, Ms. Frey?

25 A. I am the custodian of records for Columbia

1 Richland 911.

2 Q. What does that mean?

3 A. I maintain and organize all of our 911 calls, our
4 dispatch records, records at our agency.

5 Q. Okay. So please walk us through what happens when
6 a 911 call is made.

7 A. When a 911 call is placed from a citizen, it's
8 either answered by our call taker at our agency or a
9 dispatcher that's working at the capacity of a 911 call
10 taker. So they get your location what the nature of your
11 emergency is. They process the call and they send it off to
12 a dispatcher to dispatch the proper resources.

13 Q. What are the proper resources?

14 A. If you're in need of medical attention, they send
15 EMS. If it's a a crime or a -- a physical altercation, they
16 send law enforcement. If it's a fire, they send the fire
17 department. So depending, or if it's all of that combined,
18 they would send all of the -- those resources depending on
19 the nature of the call.

20 Q. Okay. Back correcting briefly, how long have you
21 been -- have you been with Richland 911?

22 A. It'll be 17 years this August, so 16 years plus.

23 Q. Okay. What kind of training goes into that
24 position?

25 A. What in my position it -- it -- it, we learn how

1 to pull the tapes, how to organize, file the information how
2 to look through the call and make sure that you're pulling
3 all the calls that are associated with the that particular
4 call. And it -- and it just goes back to some of my original
5 training from when I first started with 911. So, but
6 basically it's just learning how to organize, file and pull
7 the request that we receive.

8 Q. Have you always been custodian at 911?

9 A. I have not always been custodian at 911.

10 Q. What were you before you were custodian?

11 A. I was -- for 11 years I was the shift manager for
12 Columbia Richland 911. And previously that before that I was
13 a dispatcher and a call taker.

14 Q. Okay. Returning to 911 calls.

15 A. Uh-huh.

16 Q. Are the -- is the report generated of those calls?

17 A. When the citizen calls in we type in the
18 information and that is what we call a CAD incident report.
19 So it's a -- it's a report document of -- of what was said
20 and what was requested when the citizen calls it.

21 Q. How is this report generated? Is it -- is it real
22 life?

23 A. Oh, it's -- it's as the call, as the person that
24 is taking the call types and the information. So as they're
25 receiving it and hearing it they're -- they're typing in the

1 information that they're receiving.

2 Q. Okay. So it'd be true to say this is these
3 reports are generated contemporaneously with the phone call?

4 A. Yes, sir.

5 Q. 911.

6 A. It is.

7 Q. Okay. What kind of information is logged into
8 these CAD reports? Is this in your report?

9 A. Where the -- the nature of the, well, the location
10 of the emergency, where it's occurring we put in information
11 about what the caller is saying is going on, what's the
12 problem? We get suspect descriptions via descriptions if net
13 if -- if we can get that information we get the caller's name
14 and the contact number typically, and that's what the
15 information is entered into the call.

16 Q. Okay. Is the audio for the 911 call preserved?

17 A. It is -- it's, yes.

18 Q. Okay. Is all this information kept in the course
19 of a regularly conducted business activity?

20 A. Yes, it is.

21 Q. And the preservation of this information in the
22 CAD report and these calls that's regular practice by risk
23 anonymous one, right?

24 A. Yes, sir. It is.

25 Q. To make those records?

1 A. It is.

2 Q. And forgive me if I'm repeating myself this
3 information is logged as it's coming in from the call.

4 A. Exactly as it's coming in -- it -- there's --
5 there's no going back. It's -- it's happening. We're typing
6 it as the call is occurring.

7 Q. Is information from law enforcement logged, did
8 this?

9 A. Whatever the law enforcement tells us is why
10 they're arriving on scene or why they're enroute to seeing
11 we're -- we're notating that in the comments of the call.

12 Q. Okay -- okay. Would you say it's pretty detailed?

13 A. Very, yes.

14 Q. Okay. Turning to the -- the incident that we're
15 here for today are you familiar with two 911 call that came
16 in on December 19, 2020?

17 A. I am, yes.

18 Q. And you pulled the CAD report for those calls?

19 A. I do have them, yes.

20 Q. You did CA report?

21 A. Uh-huh.

22 Q. So what time did the first call come in?

23 A. The first call from a citizen, it appears that it
24 came in at 2:41 a.m.

25 Q. That's standard time?

1 A. Yes, sir.

2 Q. What time did the second call come in?

3 A. Excuse me, just a moment. Okay. I believe the
4 actual first call was at 2:39 and then there was an
5 additional caller that came in at 2:41, is what I'm seeing.

6 Q. Both of those are a.m.?

7 A. Yes, sir.

8 Q. Standard Time?

9 A. Yes.

10 Q. Does that call log, provide a description of any
11 suspects?

12 A. Just a moment. We have information in here in
13 reference to a possible suspect vehicle. And there's a
14 notation in here of a description that was notated in the
15 call.

16 Q. What does it say?

17 A. This says one black male black beanie with a
18 beard, gray hoodie, red shorts, white and black shoes. And
19 then there's a, says a second subject, black male, all black
20 shirt has a picture on it. Brown Timberland boots.

21 Q. Okay. What does the call log? Notate what Tom law
22 enforcement first arrived?

23 A. It -- it will, it does. This has first unit
24 arrived at 02:46 a.m.

25 Q. That's standard time?

1 A. Yes, sir.

2 Q. Does it have the address?

3 A. It does. Just a moment. The unit was dispatched
4 to [REDACTED] Road.

5 Q. What county were you call?

6 A. Richland County.

7 Q. The audio from these two calls are saved pursuant
8 to regularly conducted business activities, correct?

9 A. Yes, sir.

10 Q. Okay. I have it. What's been pre-marked as
11 State's Exhibit 2 and State's Exhibit 3? Do you know what
12 this is?

13 A. That is a 911 call form that was pulled from our
14 agency.

15 Q. How do you know that?

16 A. That's my initials and that's the -- the number of
17 the request out fell into place. So it was from my agency.

18 Q. Have you had an opportunity to listen to this?

19 A. I have.

20 Q. Was it a true and accurate version of the 911 --
21 911 call?

22 A. Yes, sir. It was a complete 911 call.

23 Q. Do you know what this is?

24 A. It's another call from our agency.

25 Q. From agency. How do you know that?

1 A. That -- that is my initials on there.

2 Q. Have you read this?

3 A. Yes, I have.

4 Q. Was it a true and accurate copy of the 911 -- 911
5 call?

6 A. It is, yes,

7 MR. TAYLOR: Your Honor, the State would move to get
8 your pre marked State's Exhibit 2, State's Exhibit 3 into
9 evidence.

10 THE COURT: Any objection?

11 MS. ZMROCZEK: No objection.

12 THE COURT: State's 2 and 3 are admitted without
13 objection.

14 (State's Exhibit 2 and 3 were admitted into evidence.)

15 MR. TAYLOR: Thank you, Your Honor. The State would
16 also publish both calls.

17 THE COURT: You may proceed

18 BY MR. TAYLOR:

19 Q. Okay. What was that we just heard?

20 A. That is an automatic time, date, and stamp that is
21 date stamp automatically on each 911 call.

22 Q. Every single 911 call?

23 A. Every single 911 call.

24 Q. I have the, except. You know what, you know what,
25 what's the -- you're -- you said no? For the record. That

1 was State's Exhibit 2, and we're going to play State's
2 Exhibit 3. Those are two Richland County 911 calls, correct?

3 A. They are, yes.

4 Q. Was that a dispatcher speaking on both those
5 calls?

6 A. It was.

7 Q. Was it the same one or different one?

8 A. Those were different ones.

9 Q. Is that common?

10 A. Yes.

11 MR. TAYLOR: No further questions at this time, Your
12 Honor.

13 MS. ZMROCZEK: I have no questions for this witness.

14 THE COURT: All right. Thank you, Ms. Frey you may
15 step down.

16 THE WITNESS: Thank you. Okay.

17 THE COURT: Call your next witness.

18 MS. ZMROCZEK: Thank you, Your Honor. The state's next
19 witness is Pope Hope and I believe we have some testimony to
20 proffer before he begins his testimony before the jury.

21 THE COURT: All right, ladies and gentlemen of the
22 jury, please return to your jury room for a brief break.
23 Don't step in case amongst yourselves. I'll bring you back
24 shortly.

25 THE BAILIFF: (inaudible).

1 THE CLERK: (inaudible).

2 DIRECT EXAMINATION

3 BY MS. DARKO:

4 Q. My first name is Pope Hope. Good afternoon, Pope.
5 Where are you from?

6 A. Columbus, South Carolina.

7 Q. Have you lived here your whole life?

8 A. Majority of.

9 Q. And how far did you go in school?

10 A. I graduated.

11 Q. And when did you meet Curtis Dickins?

12 A. Maybe like 9, 5, 9 to 6 or something like that.

13 Q. And take me back to the night of December 19,
14 2020. Were you with Curtis on that night?

15 A. Yes.

16 Q. And how did you come to be with Curtis on that
17 night?

18 A. He called me because he had broke down and asked
19 for a ride.

20 Q. And once you picked Curtis up, where did you go?

21 A. To the Mo -- Mo gas station or whatever it called,
22 Mo City Gas Station.

23 Q. Okay. And what was the name of that gas station?

24 A. Motor City.

25 Q. Okay. And do you remember where it's located at?

1 MS. DARKO: Thank Your Honor, the state calls Pope
2 Hope.

3 THE BAILIFF: (Inaudible).

4 THE CLERK: (inaudible).

5 THE WITNESS: Yes.

6 THE CLERK: Thank you. Please have a seat. And state
7 name for the record?

8 THE WITNESS: Pope Hope.

9 DIRECT EXAMINATION

10 BY MS. DARKO:

11 Q. Pope, where are you from?

12 A. Columbus, South Carolina.

13 Q. And how long have you lived in Columbia, Georgia?

14 A. My life.

15 Q. And how do -- how did you know Curtis? Steven?

16 A. We went to school together like in nine, six.

17 Q. And taking you back to the night of December 19,
18 2020. Were you with Curtis that night?

19 A. Yes.

20 Q. And how did you come to be with Curtis on that
21 night?

22 A. He called me because he needed a ride because he
23 broke down.

24 Q. And when you said that he needed a ride, who were
25 you with that night when Curtis called you?

- 1 A. Corey Smith.
- 2 Q. And did you all give him a ride?
- 3 A. Yes.
- 4 Q. And who drove to get Curtis?
- 5 A. Corey.
- 6 Q. And where did you meet him at?
- 7 A. On the side road, by the -- I think it's Flying
8 Hill Pilot. I ain't sure what it is.
- 9 Q. And is -- do you remember what road that was on?
- 10 A. I'm not sure the -- the road.
- 11 Q. And is it near the little Blue store?
- 12 A. Yeah, it's kind of right. It'd taken you to Fair
13 Road on the little side. It's like a little side street.
14 And it'd taken you to Fairfield Road.
- 15 Q. Okay. So how long would it have taken you to get
16 from the Blind Day to Blue store?
- 17 A. Like two minutes.
- 18 Q. And when you picked up Curtis was anybody with
19 him?
- 20 A. Yes.
- 21 Q. And who was with him?
- 22 A. Female.
- 23 Q. Okay. And did you know who she was at that time?
- 24 A. No, I didn't.
- 25 Q. And did you know that you were also picking her

1 up?

2 A. No.

3 Q. Okay. And after you, I'm sorry. And about what
4 time of the -- the day or night was this?

5 A. He had to call me like four. He had to call me
6 like, maybe like 1:30, maybe like 1:30, 1:40. Because I
7 stayed off Broadway Road, so it took me a little minute to
8 get to him.

9 Q. Okay. And by the time you got to him, could you
10 estimate about what time that was?

11 A. No, not really. It could have been like two
12 o'clock when I got to him. I ain't sure what time it was. I
13 just know it was like 2 -- 2:30 or something about by the
14 time I got over there.

15 Q. And once you -- once you got Curtis picked up,
16 where -- where did you go?

17 A. The Motor City. The Blue store.

18 Q. And what were the conditions that night? Was it
19 cold, was it clear?

20 A. Cold and clear. Cold.

21 Q. And when you pulled into the little blue store,
22 where did Corey Park?

23 A. Right in front of the store.

24 Q. Did anyone go into the store after you all parked?

25 A. Yes. Of course.

1 Q. Did anybody else go into the store after
2 Curtis went inside?

3 A. I did. Probably like a minute, two minutes later.
4

5 Q. Okay. And why did you go in a little after him?

6 A. To get a beer.

7 Q. When you exited the car to go in the store and get
8 a beer? Did you remember anybody following you into the
9 store?

10 A. Yeah, two guys getting out of a black car.

11 Q. Okay.

12 A. And on the side of the store.

13 Q. Do you -- at that time when you were walking into
14 the store, do you recall who got out of the driver's side or
15 who got out of the passenger side? Or could you say?

16 A. I just knew the guy out, dreads got out of the
17 driver's side and the guy with some, I think it was like red
18 and white shoes, got out the passenger side.

19 Q. And as you're walking into the store do you have
20 any interaction with them outside the store on the sidewalk
21 at all?

22 A. No, just me holding door, letting me and behind.

23 Q. And once you get into the store, what did you do?

24 A. Walk to the cash register where Curtis was
25 standing.

1 Q. And Curtis was standing at that cash register.

2 Was he checking out at that time?

3 A. Yes.

4 Q. And where were you standing?

5 A. Like right behind.

6 Q. And was anybody in line behind you?

7 A. Yes.

8 Q. Who was in line behind you?

9 A. The guy with the dreads and a black hoodie.

10 Q. And did he say anything to you while you all were
11 in line?

12 A. I didn't say one thing.

13 Q. And did you have any kind of interaction with them
14 in inside the store?

15 A. Like a slight, like a brush when I was walking,
16 turn around and walk out the store.

17 Q. And when -- when you say you brushed what part of
18 the ma with the dreads did you brush?

19 A. I'm about to my hand like this and probably like
20 slightly brushes hand or a bag of chips or whatever he had in
21 his hand. I really didn't even feel it to be honest with
22 you.

23 Q. And when you did that, did you, did you say
24 anything to him?

25 A. No. He said something else.

1 Q. What -- what did he say?

2 A. You bumped me.

3 Q. And did you apologize at that point?

4 A. No, because I realized I didn't even know nobody
5 bumped him.

6 Q. Did Curtis say anything?

7 A. He just turned around like, huh. And then he was
8 like bumped. He was like, oh, my bad.

9 Q. And when after you guys had this interaction, do
10 you immediately exit the store?

11 A. Yeah, we was our -- we had the door when it was
12 walking out as we were seeing it.

13 Q. And does the confrontation continue onto the
14 sidewalk outside the store?

15 A. Yes -- yes.

16 Q. And describe for me what happened at that point?

17 A. What happened was, I -- we both walked out. I
18 walked out first, Curtis walked out behind me the guy with
19 the dreads and the guy with the white shorts, red and white
20 shorts kind of like pushed him to the side, to the right
21 where the icebox machine was. So when they was talking, they
22 having a little confrontation. Curtis was like, man, I don't
23 even know, but if I did, man, my bad. I ain't even, know
24 what I'm saying? Ain't my bad. So he'd like, nah, ain't
25 your bad. Something, something something. And just kept

1 like agitated. Like he was agitated, just kept trying to
2 like get -- get something started. But cur was just calm.
3 He was like, man, my bad if I did my bad. So I was like,
4 man, look, we just trying to have a good night, man. The man
5 got a little female, he trying to go home, you know what I'm
6 saying?

7 We ain't out here for that tonight. So he told his
8 friend like, yo, watch him. I'm like, what? He was like
9 coming towards me, you know what I'm saying? He'd like, what
10 you saying? I like, man, we ain't staying there, bro. Threw
11 my hands up like, man, we just trying to go home, man. We
12 chilling. So I started walking towards the car. He walked
13 behind me with his hand in his hoodie, you know what I'm
14 saying? With -- I didn't see the gun at the time, but by the
15 time I got to the car when I turned around, it was like he
16 was trying to get it, but he was so drunk he couldn't even
17 get it right. So by the time I opened up the door and got
18 in, I closed the door, but he was like still trying to get me
19 to get out the car, you know what I'm saying?

20 But Curtis started walking towards the car with his -- with
21 the other guy behind him. He turned around and gave him a
22 pound. Like, man, all right, everything all right, dude
23 never gave him a pound. So Curtis ended up somehow getting
24 like sandwiched in between the two guys. Once he got
25 sandwiched in between the two, they kept going back and

1 forth, but I couldn't really hear it. Because this window
2 was up, the back window was up for a second. Then I think
3 when they was trying to tell me to come, I mean Curtis to
4 come on and let get in the car, I think the females, the back
5 rolled down like, man, you all just come on. Because They
6 was just talking too long, you know what I mean? So all of a
7 sudden he dapped the man hand, the man shook his hand. Soon
8 as he shook his hand, we thought everything was cool.
9 We was fix that ride off, I think, I don't know, which, I
10 don't know where the first shot or the second shot went. I
11 just know glass shot, boom. Then I -- and then it went
12 again. Boom. Next thing I know I duck. So after I duck, I
13 was like, what the hell going on? You know what I mean? So
14 I guess Curtis got shot. Then the female that was in the
15 back, she jumped out off behind the driver. She jumped out
16 and like ran behind her truck. She ran around the truck, but
17 when I turned, her door was still open. So I see the guy
18 with the dreads in the hood in the hoodie, or he ain't had a
19 hoodie on his head, but he had like a or something on his
20 head. He was walking up towards the car. So the back door
21 open, I looked at him and he just pointed the gun. So I
22 thought he was finna shoot, like shoot me in the face or
23 something. He just shot, boom. But he shot the driver, then
24 he shot again. Boom. So when he did that, you know what I'm
25 saying? I jumped out the car. Well, I tried to move the

1 car, put my hand on the gas pedal, but it just raised up, but
2 it wouldn't go nowhere, you know what I'm saying? So I
3 jumped out the car. When I jumped out the car, I just ran,
4 took off towards the Super eight motel.

5 Q. And I'm going to take you back through just a
6 couple of things. Now, when you talk about the man you saw
7 with this, his hand in the hoodie.

8 A. Uh-huh.

9 Q. The man with dread in black; is that right?

10 A. Uh-huh.

11 Q. You did eventually see, see him with the gun
12 before he started shooting, is that right?

13 A. Yeah, I seen him when I sat in the car to tip the
14 driver, I was like, cranked the car because he's going to get
15 ugly. You know what I mean?

16 Q. And with regard to the -- the other person that
17 was there with him, did, were you able to get a good look at
18 him?

19 A. No. Because he really ain't even, like, he ain't
20 say nothing. He ain't -- did he just stay with the guy. You
21 know what I mean?

22 Q. And when you said that at first you tried to get
23 the -- the car in gear.

24 A. Uh-huh.

25 Q. How did you -- how did you do that with your --

1 with your hand?

2 A. Corey was in the driver's seat. I was in the
3 passenger seat, but when he was shooting, I was leaning this
4 way. So the new car, like get shift ain't right here. It
5 was like a turn knob or something. So Corey had his hand on
6 it. He was turning it, he turned it in reverse. And I guess
7 when he got, I don't know if he got shot in stomach, I don't
8 know what happened where -- where he got shot at, but I just
9 know he got, when he got hit the first time, he went to go
10 put it in reverse. But the guy got around the car so fast,
11 his foot just got stuck on, on the brake. And I was trying
12 to hit the -- hit the gas and know what I mean? He was -- he
13 was no longer with us, but his foot was on the brake and I
14 was pressing it, but I couldn't get the car to door, nowhere
15 because it's on the brake. So we just reved up. So I just
16 turned, it just jerked when I put it in park so I could open
17 up the door. Because The door was automatically locked. So
18 when I put it to park, they unlocked and I jumped out and I
19 just ran.

20 Q. And when when Corey was -- was sitting there after
21 he got shot, do you remember whether or not he had his
22 seatbelt on? Or can you say?

23 A. I -- I ain't even think about no seatbelt.

24 Q. And when you finally were able to escape the car,
25 where did you go?

1 A. I ran down Fair -- Fairfield Road towards the
2 hotel.

3 Q. And were you able to get inside the hotel?

4 A. No, I was beating on the door and trying to get
5 in. Then I tried to keep the glass in because I thought they
6 was coming behind me. And then I was like, yo, call the
7 police. Call the police. I was shot. You know what I'm
8 saying? That's what it felt like. So he was like, I can't
9 let you in. So I think I made a nine one one call that was
10 on video. I -- I made a 911 call and then I think -- I think
11 the car came into the hotel and I just, I didn't even talk to
12 them no more. I just started running again.

13 Q. And when you -- when law enforcement finally
14 arrived did you tell them what happened while you were
15 waiting for EMS to get there?

16 A. Yeah, they -- they was -- they was headed to the
17 scene where it all happened at and I was just down the street
18 from where happened at. So I just ran in the middle, the
19 street. Because I seen blue lights coming. I just fell in,
20 passed out in the middle of the street so you could stop the
21 car.

22 Q. And were you treated out of the hospital that same
23 night?

24 A. Yes.

25 Q. And what were your injuries?

1 A. Scraping shot glass from the -- when the glass
2 burst in the went in the vehicle.

3 Q. And did you give a more formal statement to law
4 enforcement?

5 A. Yeah, the next day, next afternoon or something.

6 Q. And do you remember who you gave that statement
7 to?

8 A. I forgot the investigator name again, but he in
9 the courtroom though.

10 Q. Did you also complete a photo lineup?

11 A. Yes.

12 Q. Thank, I'm showing you what's been pre-marked as
13 state's 191 and also states 190. With regard to state's 191,
14 what is that?

15 A. The photo lineup.

16 Q. And how do you -- how do you recognize that? Is
17 that your photo lineup?

18 A. Yeah, the one that, yes.

19 Q. Okay. And when you completed that photo lineup,
20 was, did law enforcement do anything to suggest who you
21 should pick?

22 A. No.

23 Q. And you -- what day did you complete the photo
24 lineup? Do you recall?

25 A. I think it was the 20th.

1 Q. Okay. And were you able to easily make a
2 selection on the photo lineup?

3 A. Yes.

4 Q. And which number on the photo lineup did you pick?

5 A. Three.

6 Q. And do you see that person under seated in the
7 courtroom today?

8 A. Yes.

9 Q. And if you could just identify for the record,
10 where they're seat and what they're wearing?

11 A. In the gray shirt on my right.

12 Q. Let the record reflect that Mr. Hope has
13 identified the defendant when you met with law enforcement.
14 And actually just with regard to state's 190 and 191, Your
15 Honor, the states have moved to admit those items.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: No objection, Your Honor.

18 THE COURT: States 190 and 191 are admitted without
19 objection.

20 BY MS. DARKO:

21 Q. Did law enforcement ask you to review surveillance
22 video video on this case?

23 A. Yes.

24 Q. And was that before or after you completed the
25 lineup?

1 A. After the lineup.

2 Q. And I'm showing you what has been marked as states

3 187. Do you recognize this item?

4 A. Yes.

5 Q. And how do you recognize it?

6 A. With the date of my signature.

7 Q. And what is this item?

8 A. What do you mean?

9 Q. What's on the -- what is -- what is this item?

10 What's on the disc? What did -- what did you do? The

11 incident.

12 A. Oh, the incident.

13 Q. And is it a fair and accurate depiction of the

14 events that you described here in court today?

15 A. Yes.

16 Q. And has it been altered or changed in any way ---

17 A. No ma'am.

18 Q. --- since?

19 A. No.

20 MS. DARKO: And at this time, Your Honor, the state

21 would move to admit state's 187.

22 THE COURT: Any objection?

23 MS. ZMROCZEK: Without objection.

24 THE COURT: State's 187 is admitted without objection,

25 MS. ZMROCZEK: Your Honor, the state request to publish

1 this item.

2 THE COURT: You may.

3 MR WALTON: What number was it?

4 MS. DARKO: 187.

5 BY MS. DARKO:

6 Q. Pope, were you able to see what's playing?

7 A. Uh-huh.

8 Q. Okay. And if we could just pause right now pause
9 the footage and hope who is standing at the counter? Who is
10 that?

11 A. Curtis.

12 Q. Okay. And let the record reflect that Mr. Hope
13 has reference that Curtis Dinkins is standing at the, the
14 front of the cash app there, and who is immediately behind
15 him?

16 A. I am.

17 Q. And who is the -- with regard to who you've
18 identified as the shooter, which one of the two gentlemen
19 pictured in, in this footage is the shooter?

20 A. In all black.

21 Q. Okay. And is that the -- the person holding the
22 chip bag?

23 A. Correct.

24 Q. Okay. Go ahead and hit, pause. And that action
25 that we saw right there, is that what you were referencing

1 before as far as the, the brush that that happened?

2 A. Correct.

3 Q. Okay. All right. Pause. So that interaction
4 that we just watched at this point Curtis has apologizing.
5 You all are leaving.

6 A. Uh-huh.

7 Q. Okay. Hit play. And if you can just pause it.
8 Now this footage is actually before you went in the store
9 when you first pull up; is that right?

10 A. Correct.

11 Q. Okay. And so in the foreground is the gray
12 vehicle that you arrived in, right?

13 A. Correct.

14 Q. Okay. And then in the -- the background here with
15 lights on is that what you described as the -- the vehicle
16 the shooter got out of?

17 A. Correct.

18 Q. And did the shooter get out of the driver's side
19 or the passenger side?

20 A. Driver's side.

21 Q. Okay. Go ahead and hit play, or actually, let's
22 move. Okay. So right here, who is ---

23 A. Curtis.

24 Q. Okay. And this is when Curtis is going into the
25 store; is that right?

1 A. Correct.

2 Q. Okay. And go ahead. And at this point you're
3 still in the vehicle?

4 A. Correct. That was me getting out.

5 Q. And we see the two gentlemen coming in behind you
6 from the Black Crown Victoria, and again, they did not say
7 anything to you when you're out on the sidewalk. So Curtis
8 has kind of got his his fist up there. What is he trying to
9 do? Is that -- is he escalating it or is he deescalating the
10 situation?

11 A. De-escalating.

12 Q. Okay. And again, did -- did you know either of
13 these two men?

14 A. Ain't never seen them till this night?

15 Q. And just to be perfectly clear Curtis does not
16 have a weapon?

17 A. No.

18 Q. And then pause it. Is this the second time that
19 Curtis tried to dab the two men up and just settle, like,
20 just get away?

21 A. Correct.

22 Q. Okay. Play.

23 A. Other weak and I don't want a problem, bro. Love
24 the man. That's when the woman came down.

25 Q. Okay. Pause it. Was that the third time he tried

1 to dab him up and get away? Was that what we saw there?

2 A. Yeah, she shook his hand right then.

3 Q. Okay. Play, pause it. At this point, did you
4 think that everything had been settled and there was ---

5 A. Yeah.

6 Q. You were going on with duty?

7 A. Correct.

8 Q. Pause. So this, we see the this, I guess this
9 first shot and the breaking of -- of your window is it -- at
10 this point that you get down okay?

11 A. No, I don't think I see right there, but it's --
12 it's coming. Yeah. Okay. That was it right there.

13 Q. Okay. And that's when you were able to get away.
14 So I'm showing what's been pre-marked as dates 206 and 207.
15 First on 206, were you asked to listen to purported audio of
16 -- of this incident?

17 A. Correct.

18 Q. And with regard to state's 206, what is that?

19 A. The video of the shooting. The sounds of the
20 shooting.

21 Q. And just to clarify, you said the sound of the
22 shooting?

23 A. Uh-huh.

24 Q. That's the sound of the gunshots.

25 A. The gunshots, yes.

1 Q. And you recognized those of the gunshots that you
2 heard and perceived from that on that night?

3 A. Correct.

4 Q. And it has not been changed or altered in any way?

5 A. No, ma'am.

6 Q. And then with regard to 207, do you recognize this
7 item?

8 A. Yes.

9 Q. And what is that?

10 A. The -- the -- I think it like what it called white
11 shoe or something with the sign.

12 Q. So that's the -- the video of the incident coupled
13 with the gunshots?

14 A. Correct.

15 Q. And do you recognize that as a fair and accurate
16 depiction of what you experienced that night?

17 A. Correct.

18 Q. And it hasn't been changed or altered in any way?

19 A. Just the way it was.

20 MS. DARKO: And Your Honor, that's just for ID.

21 THE COURT: Yes, ma'am.

22 BY MS. DARKO:

23 Q. Stating the person diligence. So were you under
24 the influence that night in any way that would have prevented
25 you from knowing what happened that night?

1 A. No ma'am.

2 Q. Were you under the influence at all?

3 A. No ma'am.

4 MS. DARKO: Nothing further for this witness.

5 THE COURT: Ms. Zmroczek?

6 MS. ZMROCZEK: Thank you Your Honor.

7 CROSS-EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. Mr. Pope, I want to ask you a few questions about
10 that night. But the first thing I want to ask you, do you
11 remember what your phone call phone number was that on that
12 date?

13 A. (803) 800 8861 or something like that.

14 Q. (803) 800 8861. Is that ---

15 A. Correct.

16 Q. --- that -- that was your number?

17 A. Correct.

18 Q. Right. Okay. And so tell me a little bit about
19 what you did that evening.

20 A. I can't remember.

21 Q. Okay. When's the first time you you met up with
22 Curtis?

23 A. That night.

24 Q. Okay. Yeah. That night. What -- how long were
25 you all together before this happened?

1 A. We weren't together at all.

2 Q. You weren't together at all?

3 A. No.

4 Q. Okay. What about with Mr. Smith?

5 A. When we went to -- when we went and picked him up.

6 Q. Okay, so you were -- how long were you with Corey?

7 A. He had just dropped his cousin off and came
8 probably like the same time I got the call to come pick him
9 up.

10 Q. Okay. So he had -- he, Corey had dropped his
11 cousin off and he came by your house?

12 A. Right.

13 Q. And when he came by your house, what were you all
14 doing?

15 A. Standing in the parking lot.

16 Q. I'm sorry.

17 A. I was standing in the parking lot. He was sitting
18 in the car and then I got the car from new and then I was
19 like, yo, I ain't driving. He come pick you up.

20 Q. Okay. So you had been speaking to Corey through
21 text earlier that evening, right?

22 A. Probably so. I don't know.

23 Q. I'm sorry.

24 A. Maybe so, I don't know.

25 Q. Okay. And he was trying to get you all to come

1 out or trying to get you to come out to the vista?

2 A. Yeah.

3 Q. Okay. And -- and he indicated that he had
4 somebody off in text messages to you, right?

5 A. I don't recall.

6 Q. Okay.

7 MS. DARKO: Your Honor, I'm going to object if Ms.
8 Zmroczek wants to ask him about what appears to be a phone
9 exhibit, she can show him that so that he can actually
10 recognize that he's saying continuously that he doesn't
11 recall.

12 THE COURT: Overruled. Continue.

13 BY MS. ZMROCZEK:

14 Q. You so Corey calls you to, sorry, Curtis calls you
15 to come pick him up?

16 A. Correct.

17 Q. And did you know what vehicle he was in?

18 A. No.

19 Q. Did he have a vehicle?

20 A. He had different -- I -- I just -- he -- I had
21 seen him maybe like a couple times since he had just came
22 home, so I don't know what he would be driving.

23 Q. Okay. All right. And, and so I -- I do want to
24 talk about that as well. Just to get this out of the way,
25 you -- you had a little trouble that you went to prison for

1 as well, correct?

2 A. Correct.

3 Q. You went to prison for forgery, intimidation of a
4 witness, assault and battery with intent to kill, burglary,
5 second degree nonviolent and armed robbery with a deadly
6 weapon, right?

7 A. Correct.

8 Q. Okay. And but obviously you were out at this
9 point?

10 A. Correct?

11 Q. Right.

12 A. About 10 years, nine years after.

13 Q. Okay. And you had also had an addiction to
14 cocaine?

15 A. Yeah, the -- I wouldn't say addiction.

16 Q. Okay. When you went to the hospital, did you tell
17 them that -- that you used cocaine three to five times per
18 week?

19 A. I might have said the statement.

20 Q. Okay. And -- and -- and when was the last time
21 you had used cocaine?

22 A. Probably like the night before this incident.

23 Q. Okay. And you got cocaine from Curtis as well,
24 right?

25 A. I never seen him until that night.

1 Q. I'm sorry.

2 A. I never seen him until that night and no idea.

3 Q. Okay. You also told the hospital that you drank
4 one to two times per week?

5 A. Yeah.

6 Q. Okay. So when you went to the hospital, they were
7 asking you a bunch of questions, correct?

8 A. Uh-huh. Right.

9 Q. They treated you, you had just a shell casing that
10 was in your lip, right?

11 A. Correct.

12 Q. And I think you said there was glass, you had to
13 actually go back for that, right? Because they brought you
14 to the hospital around three o'clock, but you checked
15 yourself out just a few hours later, isn't that right?

16 A. Correct.

17 Q. You left against medical advice?

18 A. I left on my own will.

19 Q. On your own will, right?

20 A. Right.

21 Q. And you had no problems?

22 A. I mean, I had problems, but I wouldn't die, so.

23 Q. Right. In fact, you left the hospital just a few
24 hours later on your own will.

25 A. After I talked to the investigators, yeah.

1 Q. Okay. And then you went back, like you said, to
2 -- to get some glass cleaned off your face?

3 A. No, I went to the Richland County Sheriff
4 Department and made a statement, then I went.

5 Q. Okay. But then the next day you went back to the
6 hospital?

7 A. I don't remember the time, the day.

8 Q. Okay. And so you gave a statement that evening,
9 right? To Ms. Rains, I think you pointed out.

10 A. Right.

11 Q. And you said that you left to go pick up Manu or
12 Nunu. Who is that?

13 A. Curtis.

14 Q. Is that Curtis's nickname?

15 A. Yes.

16 Q. Okay. And so you went to go pick him up and his
17 girl, right? That's what you told her?

18 A. Right.

19 Q. And then tell me, so we saw the video why were you
20 going into the store?

21 A. To get a bill. I was out now, so I was getting a
22 bill.

23 Q. Okay, so you went in to get a bill?

24 A. I never even got it, but yeah.

25 Q. Okay. You have money with you or was Curtis going

1 to buy it?

2 A. I had my own money.

3 Q. I'm sorry.

4 A. I had my own money.

5 Q. Okay. And then that's when there started to be an
6 altercation between the two groups of people, you and the
7 other group, right?

8 A. Correct.

9 Q. The other two people that were involved?

10 A. Correct.

11 Q. Okay. And then that continued as we saw outside,
12 right?

13 A. Correct.

14 Q. Now, once you got in the car, were you turned
15 around to see what was happening behind at the -- at the
16 passenger side?

17 A. I didn't have to turn around. It was right at --
18 I was in the passenger side.

19 Q. Okay. So you had no, you had no problem ---

20 A. They was standing right by my window.

21 Q. Okay.

22 A. On the passenger side.

23 Q. And so it's your testimony that Curtis was dapping
24 him up, not pushing him. Right?

25 A. He never dapped him up. They shook hands at the

1 end.

2 Q. Okay.

3 A. But all before you was trying to give him a pound.

4 Q. All right. And -- and then you say that you ran
5 away right after that, right?

6 A. Seen on the video, yes.

7 Q. Okay. And you, when you were texting Curtis that
8 evening, um, do you remember how many times you talked to
9 him?

10 A. I can't recall.

11 Q. Okay. And how was -- but do you recall, just
12 without you looking at the text message, I'm just asking you,
13 are your phone records, how many times do you think you
14 talked to him that night?

15 A. I don't recall. I just remember that -- I
16 remember when he called me and say he was broke down.

17 Q. I'm sorry.

18 A. I just remember him calling me saying he was broke
19 down. I remember him trying to get me come out, but I didn't
20 go out.

21 Q. Okay.

22 A. So maybe twice.

23 Q. Okay. So you don't remember talking to him two
24 hours before that?

25 A. I -- I don't.

1 Q. Okay. Why would you be calling him that evening?

2 Like at 12?

3 A. I don't even remember calling.

4 Q. Okay. Did anybody else have your phone that
5 evening?

6 A. Not that I know. My knowledge, I don't know.
7 Ain't sure.

8 Q. Okay. Do you was he asking you to come out, did
9 you -- do you recall him asking you to come out to the club
10 on Fairfield Road?

11 A. Yeah, I remember that.

12 Q. Okay. So you do remember that?

13 A. I remember that.

14 Q. Okay. So you were talking with him before he
15 broke down?

16 A. I think that's how they ended up breaking down
17 coming from the club.

18 Q. Okay. And if you would've texted him that you
19 were with homie, who would you be -- be referring to?

20 A. Corey.

21 Q. Corey?

22 A. Correct.

23 Q. Okay. And Corey. And Curtis knew each other,
24 right?

25 A. Yes.

1 Q. You guess?

2 A. I say yes.

3 Q. Okay. They knew each other very well, right?

4 A. I can't say how well they knew each other.

5 Q. I'm sorry.

6 A. I can't say how well they knew each other.

7 Q. Okay. You didn't know that they were in an
8 intimate relationship?

9 A. I don't know how well they knew each other.

10 Q. Okay. You said that you that you knew that Curtis
11 didn't have a gun?

12 A. From my knowledge he didn't -- I ain't see one.

13 Q. Right. From your knowledge, he didn't. Right.

14 A. Right.

15 Q. But you didn't know whether he did or not. You
16 just saying you did, your testimony is you just didn't see
17 one?

18 A. I mean, I only seen one gun. That was the person
19 who did the shooting. I ain't seen nobody else with a gun.

20 Q. Okay. Did you know Curtis to have a gun?

21 A. No. I just seen him maybe a couple times he had
22 just came home.

23 Q. Okay. When you got out and ran you said that you
24 just ran down Fairfield Road?

25 A. No, I said I ran down Fairfield Road to the Super

1 eight Motel.

2 Q. Okay. Did you stop and assist or talk to or help
3 Curtis in any way?

4 A. I ran down. I -- I ran down Fairfield Road and
5 went to Super eight Motel.

6 Q. Okay. When you got to the hospital and they were
7 assessing your injuries, was there a reason that you refused
8 to take off your pants?

9 A. It was against my religion.

10 Q. I'm sorry.

11 A. It was against my religion.

12 Q. Okay. To -- to take off your pants in the
13 hospital

14 A. In front of another man.

15 Q. Okay. And then you checked yourself out just a
16 few hours later?

17 A. After I got assistance from the hospital, yes.

18 Q. Okay. Thank the court. I want to ask you if you
19 recall since you spoke with Curtis that evening, you recall
20 what his number was?

21 A. No.

22 Q. Okay. (803) 977-2 ---

23 MS. DARKO: Your Honor ---

24 THE WITNESS: I don't remember.

25 MS. DARKO: --- objection, asked and answered. He said

1 he doesn't help it.

2 BY MS. ZMROCZEK:

3 Q. Okay. So you don't remember, but you do remember
4 testing that?

5 A. I don't -- I -- it might have been in my contact,
6 but I don't remember his number now.

7 Q. Well, let me ask you this, in November, on
8 November 18th of that same year, do you recall purchasing a
9 gun for Curtis?

10 A. No.

11 Q. You don't recall sending him a picture of that
12 gun?

13 A. No.

14 MS. DARKO: Your Honor, again, we are getting way too
15 far outside the scope of what we're here for. I don't think
16 that this is relevant, and certainly he's already answered
17 the question.

18 THE COURT: Overruled. You do need to move on, Ms.
19 Zmroczek.

20 MS. ZMROCZEK: Thank you. I think that's all the
21 questions.

22 THE COURT: You have any redirect Ms. Darko.

23 REDIRECT EXAMINATION

24 BY MS. DARKO:

25 Q. Pope, did you have a gun that night?

1 A. No, ma'am.

2 Q. Is that why you were refusing to take your pants
3 off ---

4 A. No.

5 Q. --- at the hospital?

6 A. No, because they put me in a, some kind of x-ray
7 machine or something to check, see if I ---

8 Q. So you eventually did comply with the hospital?

9 A. Yeah. I just didn't do it in front of the man.
10 They gave me a gown and all it.

11 Q. And to the best of your knowledge, Curtis did not
12 have a gun?

13 A. Yeah, from my knowledge he did.

14 MS. DARKO: No further questions, Your Honor.

15 THE COURT: Anything further from this witness?

16 MS. ZMROCZEK: Nothing further, Your Honor.

17 THE COURT: All right, thank you. You may step down.

18 All right, ladies and gentlemen, we're going to take another
19 short break. Please return to your jury room. Don't discuss
20 the case. Bring you back short? All right, let's take a 10
21 minute break. (Off the record.)

22 THE BAILIFF: All cell phones are turned off, the one
23 that's authorized to have the phones on. Thank you.

24 THE COURT: All right. Before we bring the jury back
25 out I just want to remind everyone in the courtroom that you

1 that I am fully invested in this case by my thorough
2 cross-examination. And while we'll continue to do so. Thank
3 you.

4 THE COURT: Who is the state's next witness and will it
5 be a wrong witness?

6 MR. TAYLOR: (inaudible) Matthews, Your Honor, it
7 should not be wrong.

8 THE COURT: Okay. Bring the jury please.
9 Folks, this is going to be the last witness of the day.
10 We'll start fresh tomorrow after this witness.

11 THE BAILIFF: (inaudible).

12 THE COURT: Yes, sir.

13 THE COURT: Thank you. State calls next witness.

14 MR. TAYLOR: State calls Officer Justin Matthews.

15 THE BAILIFF: Go forward. Be sworn.

16 THE CLERK: (inaudible).

17 THE WITNESS: I do.

18 THE CLERK: State full name for the record.

19 THE WITNESS: My name is Justin Matthews.

20 THE COURT: (inaudible).

21 MR. TAYLOR: Yes. Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MR. TAYLOR:

24 Q. Officer Matthews, what's your correct title?

25 A. I'm a patrolman.

1 Q. Patrolman?

2 A. Yes.

3 Q. Can I call Officer Matthews?

4 A. Yes. That works. Perfect.

5 Q. Where do you work now, officer Matthew?

6 A. I work for the town of Lexington Police
7 Department.

8 Q. How long have you been there?

9 A. Right at two years. A little over two years.

10 Q. So what year do you join Lexington?

11 A. In 2021, March of I believe 2021.

12 Q. Okay. what is your duties, (inaudible)?

13 A. I'm a basic patrolman. We handle calls for
14 service people call 911 or they need assistance for law
15 enforcement. We respond, we take reports. Basically any
16 type of call for service, crime in progress, things like
17 that.

18 Q. Before you went to Lexington, where did you work?

19 A. I worked for the City of Columbia Police
20 Department.

21 Q. How long did you work there?

22 A. Five years.

23 Q. So that's from what year to what year?

24 A. This is the week of the flood in 2015. So from
25 2015 to around February of 2021. February or March of 2021,

1 when I started at town Lexington, I would move straight over
2 Lexington.

3 Q. Okay. What were your duties with Columbia Police
4 Department?

5 A. Very similar. I was a patrolman in North region
6 north Region District of Columbia. I handled a lot of calls
7 for service responded to active scenes in progress crimes.
8 It could range from multitude of anything. Pretty much any,
9 if you called the police, we showed up. I was the one that
10 showed up.

11 Q. What area is North region?

12 A. North region's a pretty large area. It's in
13 everything north of Elmwood. Parts of Broad River Road, Bush
14 River Road, all the way up North Maine. Monticello Road,
15 Fairfield Road, Ferrell Road all the way basically to I 20.
16 We didn't go north of I 20.

17 Q. All this is in Richland County, right?

18 A. Yes.

19 Q. Where did you work before you joined CPD?

20 A. I was working for my father-in-law doing some
21 cabinetry work, kind of, you know, just doing odd and end
22 jobs till I got out of college and then finally started
23 working for Columbia.

24 Q. Could you tell us about your law enforcement
25 training, please?

1 A. Yeah, it's a very strenuous training. We go
2 through 12 weeks at the Criminal Justice Academy. Every
3 eight officer in this -- in the state has to do that. And
4 once we get out of 12 weeks of the academy, we go to like a
5 basic academy with the City of Columbia, learn the way the
6 City of Columbia kind of wants us to do things. And then we
7 do our field training as well. Field training consists of
8 riding with somebody in a patrol car. You have a training
9 officer who teaches you the ways of like typing reports
10 handling calls for service, how to get the places faster just
11 kind of odd in things. They would show you how to, you know,
12 do security for a crime scene. Ba basically we learn
13 everything on the road during that FTO process. And then
14 after you get out FTO, it's time to hit the real or hit the
15 streets as a real police officer.

16 Q. What kind of training do you get to respond to
17 homicides?

18 A. Not any specific training really. We just kind of
19 get training on like responding to the first one and you kind
20 of just get used to responding over time. And unfortunately
21 here at the City of Columbia, we had quite a few that we
22 worked. So I kind of got, you know, some experience doing
23 those. But we, it's no like specific training we get. I
24 mean, they, they teach us a little bit of stuff at the
25 academy, but not a lot about crime scene and stuff like that.

1 We kind of learned that on the job as we go. Kinda like and
2 FTO process.

3 Q. What's the normal crime scene process if your
4 first, your first one there?

5 A. Your -- your first thing you're doing is you're
6 -- you're checking for making sure that the -- there's no
7 more threats going on. There's nobody else with a, with a
8 gun. There's no more shooting or anymore -- anymore active
9 fighting or anything going on. And then at that point in
10 time, you're going to start assessing needs for victims,
11 trying to medical aid or some sort at that point in time and
12 see if there's any victims that may still need help or
13 whatever we need at that point in time. And then trying to
14 collect evidence as best we can, getting descriptions from
15 witnesses or trying to collect video footage if it's in front
16 of a store or public area. That -- that's really big
17 nowadays with cell phones and technology and stuff. We can
18 get a lot of evidence and stuff from people on the road and,
19 and witnesses and stuff.

20 Q. When you were with City of Columbia, how many
21 homicides do you think you responded to?

22 A. In five years probably anywhere between 30 or 40,
23 maybe even 50. I mean, we -- we had quite a few at City of
24 Columbia

25 Q. Turning to the -- the early morning of December 19

1 2020. How'd you become involved in -- in this matter?

2 A. So this matter was I was patrolling the North
3 Region District. I can kind of remember it visibly. I was
4 in the area of Monticello Road in Duke Avenue, which is near
5 our Iner Avenue headquarters. I believe I was possibly
6 heading back to the -- to the headquarters to work on
7 paperwork or whatever. I was the guy who patrolled, I was
8 taught at a young young career to ride around with your
9 windows down because you can hear crimes in progress. You
10 might hear people screaming or hollering and actually heard
11 the gunshots. I heard some gunshots ring off in the
12 distance. At that point in time I started kind of heading to
13 that direction. It sounded like it was coming in that area
14 of Fairfield Road or North Main Street, which was a very high
15 crime area, which we had a lot of shootings happen. So
16 started going that way and that's when we ended up getting
17 alerts and notifications on our phone.

18 Q. Okay.

19 A. Yeah.

20 Q. Sorry to stop you there. We'll get back to that.

21 A. Uh-huh.

22 Q. Do you -- do you remember how many shots you
23 heard?

24 A. It was around six or seven initially. That's what
25 I -- that's just what I heard from, from me hearing in the --

1 it was -- it was so around six, six to seven is what it sound
2 like.

3 Q. Do you normally ride around with your -- your
4 windows down?

5 A. Yeah, it's still a habit to this day. Still do it
6 in -- in Lexington, even when it's kind of chilly outside, I
7 still at least have them cracked a little bit. Because it
8 truly can, you can hear, you know, hear people screaming or
9 hollering. Some people just try to flag you down. And when
10 there's windows up and there's patrol cars and the radio's
11 on, you can't hear much anything except what's going inside
12 the car. So it's always been a habit of mind to roll ride
13 with the wind is rolled down.

14 Q. Okay. So on the night, on the early morning of
15 December 19, 2020, was it hot or was it cold?

16 A. I couldn't -- I couldn't -- I -- I couldn't tell
17 you too much. I can't remember exactly, but I would say
18 being December this time of the year, it was probably fairly
19 cold. I mean, it wasn't, you know, like 20 or 10, 10 or 20
20 degrees. It wasn't that cold, but it was probably still a
21 pretty chilly night.

22 Q. And how many gunshots (inaudible)?

23 A. Around six to seven.

24 Q. I have what's been pre-marked states 206 for
25 identification purposes, Your Honor. Do you know this is?

1 A. Yes, that is the shot spotter audio, video disc.

2 Q. Have you had occasion to listen to that?

3 A. I have.

4 Q. Is -- are those the gunshots you heard?

5 A. Yes.

6 MR. TAYLOR: Once again, this is just for ID Your
7 Honor. 206.

8 THE COURT: Yes sir.

9 BY MR. TAYLOR:

10 Q. Okay. Moving forward a little in your story, you
11 mentioned you got alerts. What -- what is that?

12 A. It was a shot spot or alert. We would get them,
13 it was a -- it was a new program we had started, probably not
14 far bef -- not very far before this it was an alert on our
15 phone. We had an app on our phone called Shot Spotter. And
16 anytime there were shots that rang out in a certain part of
17 Columbia, we would actually get alerts to our phone, which in
18 this case I heard the shots before I got the alert. It just
19 happened to have, sometimes it would be like a 30 second
20 delay or something, and then we would get the alert on our
21 phone and it would tell us where to respond. And you know,
22 what area, Hey there's, there could be a shooting over here
23 or possible gunshots over here. We would respond and, you
24 know, try to find them, try to locate.

25 Q. I have in my hand what's been pre-marked as

1 state's 208, 209. For identity purposes at this time only,
2 Your Honor, do you know what these are?

3 A. Yes, those are the shot spotter reports that we
4 could see on our phone. We could actually pull those up and
5 see them on our phone. But that's just the printed off
6 version.

7 Q. Is that a true and accurate display of what you
8 saw that night?

9 A. Yep, yep. They would actually yep, that -- that's
10 exactly what we would pull up. Because we could just click
11 on the alert and it would pop up with a map and everything
12 just like that.

13 Q. Okay.

14 A. Uh-huh.

15 Q. When you heard these gunshots, could you tell what
16 direction they were they were kind of coming from?

17 A. And having -- having my experience in -- in -- in
18 being around and hearing gunshots, I could kind of, I
19 couldn't pinpoint exactly, but I would get a general
20 direction of where they were coming from. Yes.

21 Q. How long after you heard the gunshot did you get
22 this alert?

23 A. 30 seconds. Maybe a minute max at the most. I
24 mean, couldn't -- couldn't have been too long.

25 Q. So you get this alert then what do you do?

1 A. Well, I was already in -- once I'd heard the
2 shots, I began to start heading toward the area where I
3 believe they were coming from, which was the north main
4 possibly Fairfield Road area. And once I got that alert, I
5 immediately started. You know, we get -- we start running,
6 start going running code, which is lights and sirens. We
7 call it code code three lights and sirens, that area. And
8 then at that point in time we get also would get an alert
9 from dispatch who would also get those same exact alerts like
10 we got.

11 Q. So where did you respond to?

12 A. It was the -- there was a blue gas station at the
13 corner of, I can't think of the actual numerics, but it's
14 corner of Fairfield Road and Alcott Drive. It's a blue
15 corner store right there. We actually had the neighborhood
16 next to it, which was 511 Alcott, which was the neighborhood
17 we used to patrol a lot. But we were just, we responded to
18 that gas station at convenience store.

19 Q. How long, between hearing the gunshots, how much
20 -- how transpired between hearing the gunshots and getting to
21 that address?

22 A. Maybe two to three minutes. Not -- not -- not
23 very long. I mean, it was -- it was pretty short. I was --
24 I'm running blue lights and sirens, so it's, you know, we're
25 getting there pretty quickly.

1 Q. How much time from getting these alerts and you
2 arriving to that incident location transpire?

3 A. Probably two minutes, minute and a half, two
4 minutes. Some, like, a little bit shorter than that.
5 Because I was already on in route once I got the alert.

6 Q. But you said you lights, siren on.

7 A. Yeah.

8 Q. So you arrive at the scene, what do you see?

9 A. So I arrive at scene and I see a vehicle facing,
10 it's the front of the vehicle's facing the front of the gas
11 station right at -- almost right at the front door, if I'm
12 not mistaken.

13 Q. If -- and then can you describe that vehicle?

14 A. I don't want to mistaken, but it was a -- it was a
15 small four-door, like a sedan, like a small four-door
16 car, maybe dark gray or black in color. When I responded, I
17 saw the passenger door, I think, I believe the passenger door
18 appeared to be up and maybe it was the back door. Saw one
19 gentleman laying on the ground outside the car on the
20 passenger side of the car. And then also the went up and saw
21 the window was down on the driver's side. So I went up and
22 began, I had another officer showed up. They began trying to
23 help the gentleman who was laying on the ground spoke to him.
24 And then I was going up to try to make contact with the
25 driver. I actually spoke words to him, but obviously he was

1 deceased. I could tell he had no signs of life. So I ended
2 up just kind of holding there until we got somebody inside
3 and went inside, started asking anybody see anybody shooting.
4 At that point in time, the, I believe the clerk was already
5 looking at video trying to pull it up and show it to us.

6 Q. Was there anybody else in the store?

7 A. Maybe a couple customers, like it was just a
8 couple people and we had said, Hey, did you hear gunshots?
9 They said, yeah, we heard them, there was some guys out there
10 arguing and I -- I don't remember if we gathered their
11 information or, or not. We just started looking for the
12 video footage.

13 Q. Were there any women at the store?

14 A. I think there was one woman who was very frantic,
15 very she was -- she was pretty loud and, you know, screaming
16 and hollering, kind of upset, visibly upset. And we -- we
17 spoke to her. I -- I can't remember what exactly she said,
18 but I -- I do remember, I think one of our officers spoke to
19 her at some point in time.

20 Q. What was your understanding of that frantic
21 woman's presence there?

22 I'm -- I'm trying -- I'm trying to remember back. I know
23 that she was, she was just upset because she, I don't know if
24 she knew one of them, knew one of the parties involved or
25 what, but she was very upset, very, you know, just screaming

1 and hollering. And I think at one point in time she wanted
2 to remove one of another vehicle that was on the side of the
3 building and we were like, no, you can't move the vehicle.
4 It's inside of a crime scene. We can't have you moving it
5 right this minute.

6 Q. And in your examination of your response to the
7 crime scene, did you see any guns?

8 A. I did not see any guns visibly. From what we are
9 seeing normally they would stick out. It might have, if
10 there was one in the car, we'd just get right past it.
11 Because there was nobody else in the vehicle except the
12 deceased victim in the front seat. But we didn't see any
13 guns laying out that I remember .

14 Q. Any gun paraphernalia.

15 A. If you mean by paraphernalia, like shell casings
16 or spent casings. Yeah, we found, I think we located a
17 couple spent shell casings or quite a few, about six or
18 seven.

19 Q. Okay. after your initial response then, what
20 happened?

21 A. After the initial response, we began I went inside
22 and continued to locate the video footage of -- from the
23 outside of the store, from the front of the store. We were
24 able to actually see the incident on -- on video footage as
25 well. And some of the lec -- some at that point in time,

1 some of the Richland County deputies started showing up
2 started gathering evidence. Because it was their scene that
3 -- that -- that guy -- that convenience store was in Richland
4 County. Even though we were the city, we still have a mutual
5 aid that we can help out and get evidence and help them
6 locate evidence and people if we need to. And then at that
7 point in time, we -- we kind of passed the case over to
8 Richland County and their investigators showed up.

9 Q. Okay. Did you have any further involvement in --
10 in this matter?

11 A. Not that I can remember. I know they said one of
12 the, we -- we then got word that one of the victims possibly
13 ran off. So I think a couple of us started patrolling, but I
14 think he, he was found not far up the road at the Flying Jay
15 on Fairfield Road. But I think at that point in time, once
16 we passed it over to the -- to the investigators, we just, we
17 cleared the scene, maybe hung out for a little bit just for
18 security, but we we cleared not long after that.

19 MR. TAYLOR: Okay. Thank the court's indulgence.

20 THE COURT: Yes, sir.

21 MR. TAYLOR: Nothing further at this time, Your Honor.

22 THE COURT: Cross-examination.

23 MS. ZMROCZEK: Thank you.

24 CROSS-EXAMINATION

25 BY MS. ZMROCZEK:

1 Q. Afternoon, officer Matthew, look, so you work for
2 Columbia Police Department?

3 A. Yes, ma'am. The city of Columbia. Yes ma'am.

4 Q. Sorry, city of Columbia.

5 A. Yeah, that's fine.

6 Q. What was part of your uniform and as a patrol,
7 this is a multiple questions, but I figured it's easier to
8 ask it.

9 A. Uh-huh.

10 Q. And then if you're confused, we can go back.

11 A. Uh-huh.

12 Q. But I'll just ask you this. So you wore body cams
13 as part of your uniform?

14 A. Yes, ma'am.

15 Q. Okay. Did you have yours turned on?

16 A. I believe so, yes ma'am. It was -- it was common
17 practice to turn them on. Yes Ma'am.

18 Q. And did you also have a dash cam?

19 A. Yeah, our dash cams were operationally in our
20 vehicles, so anytime we turned on the blue lights, they would
21 automatically cut on.

22 Q. Okay. So anytime you turn on the blue lights, the
23 dash cam automatically starts recording, right?

24 A. Yes ma'am.

25 Q. And so it picks up it picks up whatever is in that

1 view of the camera, right?

2 A. Correct. Yes Ma'am.

3 Q. As well as the body cam, as soon as you engage in
4 a scene, you -- you automatically hit the button and turn it
5 on, right?

6 A. Yes ma'am.

7 Q. And what do you do after -- after you return from
8 a call?

9 A. So we would normally just cut our body cameras
10 off. If it was something where we made an arrest or we
11 needed it for evidentiary value, we would end up sending the
12 video or sending a request off to have the video burned and
13 basically kept as evidence tagged as evidence.

14 Q. But when you come back, it automatically
15 downloads?

16 A. No, we -- we -- we would have to dock it onto a
17 docking camera station had docking station, we would've to
18 put the camera on there to let it dock onto the, and download
19 onto the server and stuff like that.

20 Q. Okay. And you -- you said that you were able to,
21 or you didn't see any weapons when you got there, right?

22 A. Not that I can remember, no ma'am. Not -- not in
23 plain view, not just laying out anywhere.

24 Q. Okay. And that could indicate that either there
25 were no weapons there, right?

1 A. Possibly.

2 Q. Or that someone had taken a weapon, correct?

3 A. Uh-huh.

4 Q. Okay. So there -- there are -- there are multiple
5 reasonable possibilities as to why you didn't see one?

6 A. Correct.

7 MS. ZMROCZEK: I believe those all questions I have.

8 THE COURT: Any redirect?

9 MR. TAYLOR: No, Your Honor.

10 THE COURT: Okay, thank you. You may step down. We're
11 going to call it a day. I'm going to ask you ladies and
12 gentlemen to return to your jury room at 9:30 tomorrow
13 morning. Don't discuss the case amongst yourselves or with
14 anyone else. Have a good night. We'll see you tomorrow
15 at 9:30.

16 Is there anything we need to address before we break for the
17 day from the state?

18 MS. DARKO: Nothing, Your Honor.

19 THE COURT: From the defense?

20 MS. ZMROCZEK: Nothing, Your Honor.

21 THE COURT: See you all at 9:30 tomorrow morning. Have
22 a good night.

23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
24 4:45 P.M.)

25

1 to anything else regarding Ms. Ruffin, but with that, that's
2 fine. And I will be having things propped up, so if anybody
3 wants to take pictures today, Your Honor they --- they certainly
4 can, but it's just simply how I organize.

5 THE COURT: I'm sure that was an attempt to make light of
6 ---

7 MS. ZMROCZEK: Oh, not making light at all.

8 THE COURT: --- of the situation.

9 MS. ZMROCZEK: Not making light at all.

10 THE COURT: But as I indicated yesterday, as everyone in
11 this room knows, Mr. Toatley is charged with two counts of
12 murder, carrying a potential life sentence. I'm sure for Mr.
13 Toatley, for the victim's families, for everyone in this
14 courtroom, there is no lightness to that situation.

15 MS. ZMROCZEK: Certainly.

16 THE COURT: And yeah, so you can prop up whatever you'd
17 like as long as it is ethical, appropriate, and within the scope
18 of your representation of your client, whether people photograph
19 it or eye witness it, or --- or act as --- serve as eye
20 witnesses to report it to the court. And frankly, I'm --- I'm
21 glad I am much appreciative that a photograph was taken because
22 otherwise the court would not necessarily have had the
23 opportunity to know about it, address it, and protect Mr.
24 Toatley's rights, and monitor the behavior of counsel and ensure
25 that professional responsibilities are being complied with

1 within this courtroom.

2 MS. ZMROCZEK: Thank you, Your Honor. And I assure you
3 that they are.

4 THE COURT: Bring the jury, please.

5 MS. DARKO: Your Honor.

6 THE COURT: Oh, I'm sorry. Wait.

7 MS. DARKO: I apologize. Our next witness is Ms. Jamica
8 Bethel, who does have a criminal history. I just want to put
9 on the record. I don't believe she does have a pending A&B
10 third that's not pending with our office that's pending in the
11 lower court. If Ms. Zmroczek wants to state her position on the
12 balance of any convictions that she has.

13 MS. ZMROCZEK: Your Honor, I went through the convictions.
14 I don't believe that any qualify under the rules under 608.

15 THE COURT: Okay. Now you can bring the jury, Mr. Bowen.

16 THE BAILIFF: Jury seated, Your Honor.

17 THE COURT: Thank you. Good morning, ladies and
18 gentlemen. Hope you had a good night. Hope nobody discussed
19 the case with anybody. Did any research about the case? Point
20 the finger at --- at your neighbor if you believe that happened?
21 No. Okay. Good --- good enough. We're going to resume the
22 trial of the case. We're still the State's case. Ms. Darko,
23 you can call your next witness.

24 MS. DARKO: Thank you, Your Honor. The State calls Ms.
25 Jamica Bethel.

1 THE BAILIFF: Come forward. Put your left hand on the
2 Bible. Raise your right. Please, the clerk.

3 THE CLERK: State your full name, please.

4 MR. BETHEL: Jamica Bethel.

5 THE CLERK: Spell your first name, please.

6 MR. BETHEL: J-A-M-I-C-A.

7 THE CLERK: Thank you. Please have a seat.

8 JAMICA BETHEL,

9 being first duly sworn, testifies as follows:

10 DIRECT EXAMINATION

11 BY MS. DARKO:

12 Q. Good morning, Ms. Bethel, where are you from?

13 A. Columbia, South Carolina.

14 Q. And how long have you lived here in Columbia?

15 A. All my life.

16 Q. And how long have you known Curtis Dinkins?

17 A. Since I was 16.

18 Q. And taking me back to the night of December 19, 2020,
19 were you with Curtis that night?

20 A. Yes, I was.

21 Q. And what were you all doing that night?

22 A. That night we went to a couple bars, couple clubs.
23 We had a good night.

24 Q. And just to be clear, do you know whether or not Mr.
25 Dinkins had a gun with him that night?

1 A. Curtis didn't have a gun. Curtis stayed with me all
2 week, so I know he didn't have a gun at all.

3 Q. And at some point in the evening, did you guys leave
4 the club?

5 A. We did.

6 Q. And what happened at that point?

7 A. Once we left the club, the car broke down. I think
8 it basically ran out of gas and we was going to go to the store,
9 but instead the car broke down. So he ended up calling two of
10 his friends to come pick us up.

11 Q. Okay. And the two friends that he came to pick you
12 all up did you know them before this night?

13 A. No, I knew of them. I never like knew them.

14 Q. And who were they?

15 A. Corey and Pope.

16 Q. Okay. And with regard to Corey was he --- was he the
17 driver of the vehicle that came to pick you up?

18 A. Yes, he was.

19 Q. And where was Mr. Pope's seated in the vehicle?

20 A. On the passenger side.

21 Q. And that --- the front passenger side?

22 A. That's correct.

23 Q. And did Corey and Pope know that they were picking
24 you up as well, or did they understand that they --- they were
25 just picking Curtis up?

1 A. Well, he the one called him, so they probably
2 understood that they was just picking him up.

3 Q. Okay. And you all got in the backseat then?

4 A. That's correct.

5 Q. And what side were you sitting on?

6 A. I was sitting behind Pope, no, I was sitting behind
7 Corey.

8 Q. And where was Curtis sitting?

9 A. Behind Pope.

10 THE COURT: Okay. Let interrupt. Ms. Bethel, if you
11 could push back just a little bit from the microphone.

12 THE WITNESS: Okay. Like this?

13 THE COURT: No, probably where you are, you speak pretty
14 loudly. Okay. So I think you're --- you don't have to be right
15 up front. I think right there is probably good.

16 THE WITNESS: Okay.

17 BY MS. DARKO:

18 Q. Okay. And after you all got picked up, where did you
19 all go?

20 A. To The Little Blue Store.

21 MS. DARKO: And I'm showing you what's already in evidence
22 as State's 7. Your Honor, permission to have the witness step
23 down and just delineate some things on this photo.

24 THE COURT: You want her to point there? Okay. Yeah, you
25 can step down. I want her, Ms. Darco standing in front of that

1 microphone that's facing back towards the jury, sort of. So
2 she'll have her back to the gallery. So to the left side of
3 that projector or stand about where that microphone is?

4 THE WITNESS: Like this?

5 THE COURT: Yes.

6 BY MS. DARKO:

7 Q. Okay. Ms. Bethel, is this a photograph of an aerial
8 photograph of the Little Blue Store?

9 A. It is.

10 Q. Okay. And which roadway did you guys come off when
11 you went to park at the Little Blue Store?

12 A. We came off I think it's, I can't, I think it's this
13 way --- this way.

14 Q. Okay.

15 A. Because this is the --- is this the front of the
16 store? But we came off Fairfield Road.

17 Q. So the orientation is towards Fairfield Road?

18 A. Uh-huh.

19 Q. Is that correct?

20 A. That's correct.

21 Q. And this is the --- the front of the store here? A
22 That's correct.

23 Q. And approximately where did you all park?

24 A. In front of the store.

25 Q. Okay. And can you, like ---

1 A. Right here.

2 Q. Right there?

3 A. Uh-huh.

4 MS. DARKO: And you can go ahead and have a seat on the
5 witness stand.

6 THE WITNESS: Okay.

7 BY MS. DARKO:

8 Q. Now did you go inside the store once you all parked?

9 A. I did not.

10 Q. And who went inside?

11 A. Curtis and then Pope.

12 Q. About how long after Curtis was inside, did Pope go
13 in?

14 A. Probably like a minute or two later.

15 Q. During the time that you were with Pope did you get
16 the impression that he was under the influence?

17 A. He was not under the influence.

18 Q. Okay. And you'd have an opportunity to speak with
19 him and --- and Corey while you were inside the --- the vehicle?

20 A. Well, mainly with Corey, but when he got back in, we
21 was --- me and him, we spoke briefly, but we was basically
22 trying to get Curtis to get in the car.

23 Q. Okay. And when -- about how long were Curtis and
24 Hope inside the store?

25 A. Not long. Because Curtis had went in the store to

1 get cigarettes and stuff and they wasn't in there that long?.

2 No --- I'm going to say no more than like five minutes.

3 Q. And do you remember when they came out of the store?

4 A. I do.

5 Q. Why do you remember when they came out of the store?

6 A. Well, they came out of the store and I just saw two
7 guys following them outside the store.

8 Q. Did you know those two men?

9 A. Never seen them a day in my life.

10 Q. How -- what happened at this point?

11 A. I guess they had like altercation at the front of the
12 car and it lasted for a good little minute. And then Pope ended
13 up getting in the passenger side of the car.

14 Q. And I'm going to stop you right there, Ms. Bethel,
15 because I just have one question. As they're in the --- in the
16 front of the store, are you able to actually hear what they're
17 saying at that point?

18 A. No.

19 Q. Okay. And once Mr. Hope or Pope gets into the
20 vehicle what was his demeanor like?

21 A. He was just a --- he looked aggravated, agitated, and
22 just ready to go.

23 Q. Did he say anything to you at that point?

24 A. He did not.

25 Q. And what is the next thing that you remember?

1 A. I know they were, I could hear like a little bit of
2 what was going on because Curtis' window was cracked just a
3 little.

4 Q. Okay. And when you say just a little, what was the
5 weather like that night?

6 A. Clear and very cold.

7 Q. And what was the window cracked for?

8 A. Because we were smoking cigarettes.

9 Q. Okay. And about how much was the window crack? Are
10 we talking like this?

11 A. Not all the way down, probably like, just a little.
12 It was cracked enough. I could hear what was going on.

13 Q. Okay. And I believe you left off --- after Pope gets
14 into the vehicle, does Curtis get off the sidewalk with the two
15 men?

16 A. Yes. They walk towards like the back the --- like
17 the side that Curtis was sitting on. They walked like towards
18 the back, the end of the car.

19 Q. And when Curtis was walking back towards the end of
20 the car did you get a good look at the --- the two men that were
21 with him?

22 A. I couldn't really see the other guy because he had
23 a, like a hoodie on, but I could see I got a good look. Yeah.
24 At one of the guys.

25 Q. Okay. And I'm just, when you referred to the other

1 guy, the guy with the hoodie on, did he have any --- any other
2 distinctive clothing that stood out to you?

3 A. No, I just saw really like a hoodie. That's really
4 all I remember.

5 Q. And when Curtis was on the side of the car, where is
6 the man in the hoodie position? As more as the front or the
7 back of the car?

8 A. Like behind Curtis. Like --- like this way, like
9 Curtis, like right here in the middle. He's like right here.

10 Q. Okay. And when you say right here, are you saying
11 like closer to the sidewalk portion?

12 A. Yeah. Like closer to the sidewalk. Yeah. Because
13 that's where his back was turned. That's correct.

14 Q. And with regard to the other man, do you remember
15 anything about him?

16 A. I know he had on --- I know I remember a male and you
17 could see, because I was trying to tell Curtis to come on and
18 me and Pope, all us was basically trying to tell him to come on.
19 And I really got a good look at the guy. Really when he ---
20 they --- they both looked down.

21 Q. I'm going to stop you just for one second. Why were
22 you telling him to come on?

23 A. Because it was, I mean, things was just escalating.
24 I --- and they was just --- it wasn't going nowhere and I just
25 knew things was getting a little heated and I was just trying

1 to get me and my friend out of there.

2 Q. So you knew that they were --- that they were upset
3 with Curtis?

4 A. I knew one of --- one of the guys was very upset.

5 Q. Okay. And just go on with your description of ---
6 of that guy.

7 A. Yeah, so like I said, I was telling, we was telling
8 Curtis to come on. So once he, him and Curtis both leaned down
9 and Curtis was like, okay, boo, I'm coming. And that's when he
10 leaned down and he looked in the car and I got a glimpse.

11 Q. So he --- he looked in the car. And you're talking
12 about?

13 A. The --- the aggressor.

14 Q. Okay. And did he say anything to you when he looked
15 down?

16 A. He did not.

17 Q. And then what happened?

18 A. And then we thought everything was over with. And
19 then Curtis basically was like, we good bruh. And he lifted up
20 his hand. I --- I don't know, I can't remember if they dap or
21 he tried to dap him up. And then Curtis was trying to get in
22 the car and that's when all I remember is shots was fired.

23 Q. And when the shots started being fired, who was
24 shooting?

25 A. The guy with the dreads.

1 Q. Okay. And was he wearing the hoodie or was he ---
2 he wasn't the wearing the hoodie, is that right?

3 A. No.

4 Q. Okay. And do you remember what clothing he was
5 wearing? Dark light?

6 A. I know it was dark clothing.

7 Q. And after the shooting started, you go on with your
8 description of what you did when you heard the shots?

9 A. Well, yeah, I got out and I tried to run for my life
10 as well.

11 Q. And where did you run to?

12 A. I --- I, all I remember is running by like, I think
13 it was like an ice machine. I'm not really a hundred percent
14 sure, but I --- I ran towards, I think like the ice machine or
15 something like that.

16 Q. Why did you run?

17 A. Because I was running for my life.

18 Q. And did you see where the --- the shooter went?

19 A. I did not. You talk --- oh yeah. Like as far as
20 like you talking about like coming around?

21 Q. When he --- so when you got out of the car, he does
22 come around the vehicle.

23 A. I did see that because I was running and ducking and
24 trying to hide myself. Yes, I did.

25 Q. So he's --- he's your primary focus because you're

1 trying to get away.

2 A. That's correct.

3 Q. And what did he do when he got on the other side of
4 the vehicle?

5 A. At that time I got ready, I think, if I'm not
6 mistaken, all I saw him was he was basically coming around the
7 car.

8 Q. Okay.

9 A. And so I was running and I looked back and then I got
10 --- I got inside the store. So I don't know really what
11 happened. I just know I heard more shots. I can't really tell
12 you what he did after that.

13 Q. Okay. So you heard more shots?

14 A. I --- I did.

15 Q. And after you heard those shots, were you able to get
16 into the store?

17 A. Yes, I was.

18 Q. And when you got into the store, what did you do
19 then?

20 A. I asked the --- I was real upset, just scared. And
21 I asked the clerk to call 911.

22 Q. And did he call 911?

23 A. He did.

24 Q. Do you recall whether after you got in the store that
25 clerk was able to lock the door?

1 A. He was --- because I was trying to get outside
2 because I saw Curtis laying on the ground and he --- he did lock
3 the door because he wouldn't let me out.

4 Q. Ms. Bethel, did you stay on scene after law
5 enforcement arrived?

6 A. I did.

7 Q. And did you speak to anybody of the law enforcement
8 officers that are --- that came that night?

9 A. I spoke with several people, yes, but I spoke with,
10 yes, I did.

11 Q. And how long do you think that you stayed on scene
12 that night?

13 A. Well, they had me there for a while. I can't really
14 remember exactly how long because I was going through it, but
15 they had me there for a while before they finally took me down
16 to Richland County Sheriff's Department.

17 Q. So they gave you a ride to the sheriff's office?

18 A. They did.

19 Q. And what did you do there?

20 A. I had to give my statement.

21 Q. And did you write the statement or did they write it?

22 A. They wrote it.

23 Q. And did you have an opportunity to review it?

24 A. Yes, I did. In time.

25 Q. Do you remember saying that you didn't get a good

1 look because you were looking at Facebook on --- on your phone
2 or looking at your phone?

3 A. I did say that.

4 Q. And with regard to that statement did you mean when
5 they came out of the store?

6 MS. ZMROCZEK: Your Honor, I object to leading.

7 THE WITNESS: That's exactly what I mean.

8 THE COURT: Yes. Sustained.

9 THE WITNESS: That's what I meant.

10 BY MS. DARKO:

11 Q. Okay. And Ms. Bethel, to be clear, you have in your
12 prior testimony you've described all of these events that you
13 saw and you gave that information to law enforcement. So all
14 of this action that --- that you saw, you communicated to law
15 enforcement?

16 A. I did.

17 Q. And you also communicated to them that you had been
18 on your phone at least initially when you guys parked at the
19 Little Blue Store?

20 A. That's correct.

21 Q. Did have your cell phone with you when you finally
22 escaped?

23 A. I did not.

24 Q. Do you know where it went?

25 A. I --- I think it dropped. I --- I don't know where

1 it went.

2 Q. Okay. When you gave --- when they gave you a ride
3 to headquarters, was this in still in the early morning hours?

4 A. It was.

5 Q. And at some point, did law enforcement call you to
6 complete a photo lineup?

7 A. Yeah, once they finally got in contact with me. Q

8 Okay. And that's because you didn't have your
9 phone?

10 A. I didn't have a phone.

11 Q. Where did you complete the photo lineup?

12 A. Richland County Sheriff Department.

13 Q. And do you remember who showed you the lineup?

14 A. Investigator Isaac Howard.

15 Q. Was anybody else with you when you looked at the
16 lineup?

17 A. Just me and him.

18 Q. Were you able to select somebody in that lineup?

19 A. Of course. That's the face I'll never forget.

20 Q. And did law enforcement do or say anything to suggest
21 to you who to pick in that lineup?

22 A. No, ma'am.

23 MS. DARKO: And making (inaudible)?

24 THE COURT: Yes, ma'am.

25 BY MS. DARKO:

1 Q. I am showing you what's been pre-marked as State's
2 189. Ms. Bethel, do you recognize that item?

3 A. I do.

4 Q. And what is it?

5 A. It's the paperwork when I did the photo lineup with
6 my signature on it.

7 Q. Okay. And that's how you recognize it? Because it
8 has your signature?

9 A. That's correct. And I recognize the person also.

10 Q. Okay. And what number did you select on there?

11 A. Three.

12 Q. And is three the person who shot you and your
13 friends?

14 A. Yes.

15 Q. And are they seated in the courtroom today?

16 A. Yes, on the right of me. Right here.

17 Q. And if you could just describe what they're wearing.

18 A. Like a gray shirt.

19 MS. DARKO: Let the record reflect that Ms. Bethel has
20 identified the defendant as the shooter that night. Your Honor,
21 at this time I would admit Ms. Bethel's photo lineup.

22 THE COURT: What's the number? The exhibit number?

23 MS. DARKO: It was 189.

24 THE COURT: Any objection

25 MS. ZMROCZEK: Without objection?

1 THE COURT: State's 189 is admitted without objection.

2 (State's Exhibit 189 was admitted into evidence)

3 MS. DARKO: Permission to publish, Your Honor?

4 THE COURT: Yes, ma'am.

5 BY MS. DARKO:

6 Q. And Ms. Bethel, that's your initials right next to
7 selecting photo three?

8 A. Yes, ma'am.

9 Q. And it looks like that also has a date affixed. And
10 that is December 31st. Is that fair?

11 A. That's correct.

12 Q. Ms. Bethel, you said earlier that you heard all of
13 the shots and then you went into the store. I'm showing you
14 what has been --- what has been pre-marked as State's 206. Do
15 you recognize the sign?

16 A. I do.

17 Q. And how do you recognize it?

18 A. Because that's the video I watch and I --- my
19 signature's on it and I dated it.

20 Q. Okay. And what --- what was on the --- the video in
21 terms of the --- the content with regard to the shots as was
22 testified?

23 A. It was all the shots that I heard.

24 Q. And this is just for (inaudible) only, Your Honor.

25 Ms. Bethel, when did law enforcement ask you to view video

1 surveillance in connection with this incident?

2 A. No, not with the photo lineup, no, ma'am.

3 Q. Okay. So not before you looked at the photo lineup.

4

5 A. Correct.

6 Q. But sometime after that, did you view the
7 surveillance video associated with the incident?

8 A. I did.

9 Q. And was that video a fair and accurate representation
10 of what happened to you that night?

11 A. It was.

12 Q. And I'm showing you what's been marked --- pre-marked
13 as Exhibit 9.

14 A. Uh-huh.

15 Q. Do you recognize this item?

16 A. I do.

17 Q. And how do you recognize it?

18 A. This is the video clip that I watched, what happened
19 to us that night, plus my name and my signatures on it.

20 MS. DARKO: Your Honor, at this time, the State would
21 admit Exhibit 9, which is the surveillance footage from the
22 viewpoints that Ms. Bethel was in.

23 THE COURT: Any objection?

24 MS. ZMROCZEK: Subject to my previous objections, but no.

25 THE COURT: State 9 is admitted over the defense

1 objection.

2 (State's Exhibit 9 was admitted into evidence.)

3 MS. DARKO: Permission to publish, Your Honor.

4 THE COURT: Yes, ma'am.

5 BY MS. DARKO:

6 Q. You can't see it. And Ms. Bethel, this is just that
7 -- that period of time where you've initially pulled up to the
8 store?

9 A. That's correct.

10 Q. And who's getting out of the vehicle, Ms. Bethel.

11 A. That's Curtis.

12 Q. And who's sitting on the vehicle now?

13 A. That's Pope.

14 Q. Let the record reflect that Ms. Bethel has identified
15 as the man who exited outside the rear passenger door and Hope
16 Pope as the man who exited the victim's vehicle out of the front
17 passenger seat. And at this point, Ms. Bethel, what are ---
18 what are you doing?

19 A. Talking to Corey and I guess so on my phone.

20 Q. But you were aware that they had come out?

21 A. Yeah, we both were aware.

22 Q. Ms. Bethel, when you said that you both were aware,
23 why do you say that?

24 A. Because we both --- me and Corey was having a
25 conversation and we looked and we noticed that they was come ---

1 we noticed that they was coming out the store. We didn't know,
2 we couldn't hear what they was talking about, but we were very
3 aware of our surroundings.

4 Q. And who's getting into the vehicle now?

5 A. That's Pope.

6 Q. And what's happening right here?

7 A. Curtis was trying to give like (crosstalk).

8 MS. ZMROCZEK: I would object ---

9 THE WITNESS: --- give a pound.

10 THE COURT: Hold on --- hold on. When you hear it.
11 When she starts talking again.

12 THE WITNESS: Oh, okay --- okay.

13 THE COURT: Yes, ma'am.

14 MS. ZMROCZEK: Thank you. Your Honor, I would object to
15 her perception of what's happening. This, the narration. I
16 think the video speaks for itself, for her to narrate what she
17 thinks is going on from inside the car with all the windows
18 rolled up, I think is inappropriate. I think the video speaks
19 for itself. They can certainly watch the video and take their
20 own as they should take their own interpretation of it.

21 MS. DARKO: I'll rephrase, Your Honor.

22 THE COURT: Yeah. That --- that objection is sustained.
23 But yeah, rephrase, Ms. Darko.

24 BY MS. DARKO:

25 Q. Were you able to hear anything from the cracked

1 window that you previously testified to?

2 A. I wasn't able to hear anything, but we saw.

3 Q. Okay. And I am going to pause it. Just quick,
4 briefly. Ms. Bethel, at up until this point, or perhaps even
5 until the shooting started, were you aware that the man
6 positioned between the man in red shorts and Curtis Dinkins had
7 a gun? Did you see a gun prior to the --- the shooting?

8 A. Did I see a gun on who again? Repeat that.

9 Q. On the man leading down looking in the window, who
10 you --- who you later identified as the defendant.

11 A. I know he kept his hand in his side the whole time.

12

13 Q. Okay.

14 A. Yeah.

15 Q. But you can't remember who saw it?

16 A. I can't remember. Yeah, that was a couple. I can't
17 remember.

18 Q. We could just pause. At this point, Ms. Bethel, were
19 you able to get a good view of the shooter?

20 A. Yes, I was. I was running for my life as well.
21 That's the face I'll never forget.

22 Q. Pause it. And when you testified earlier about sort
23 of retreating behind the ice machine, is that what you were
24 referring to?

25 A. That's correct.

1 Q. At that moment?

2 A. That's correct.

3 Q. Go ahead and pass. Ms. Bethel, from this camera
4 angle, you mentioned before that you were seated behind Corey.

5 A. That's correct.

6 Q. And at --- at this point in time did you have your
7 cell phone on? Is that what that what we're seeing that kind
8 of pink look?

9 A. Uh-huh.

10 Q. Okay.

11 A. Yeah, correct.

12 Q. Play. Pause it. When you're referring to the ---
13 the man with the hoodie on is this who you were referring to?

14 A. That's correct.

15 Q. Let the record reflect that the man previously
16 described by Ms. Bethel as the man with the hoodie is also the
17 man wearing the register and the video. Go ahead. Pause. So
18 from this cam at this moment, it's sort of like we're seeing
19 that glow and then not seeing it. Did you still have your cell
20 phone out?

21 A. By that time, I put my phone down. I think me and
22 Cora was talking.

23 Q. So --- So you have it out, but (crosstalk) ---

24 A. I have it out. That's correct.

25 Q. You've already explained that you said that you were

1 running for your life.

2 A. Correct.

3 Q. Did you believe that the defendant wanted to kill
4 you?

5 MS. ZMROCZEK: Objection, Your Honor.

6 THE WITNESS: I do.

7 MS. ZMROCZEK: Your Honor. She -- do you believe that the
8 defendant thought, I mean she can't speak ---

9 THE COURT: Overruled.

10 MS. ZMROCZEK: --- related to what the defendant thought?

11 THE COURT: Overruled. She's talking about her belief.
12 What was your answer to that?

13 THE WITNESS: I do.

14 BY MS. DARKO:

15 Q. And what are we looking at here?

16 MS. ZMROCZEK: Objection, Your Honor.

17 BY MS. DARKO:

18 Q. Ms. Bethel after you called 911, were you eventually
19 able to get outside the store?

20 A. Yes, I was. When law enforcement arrived, the store
21 clerk unlocked the door. I was able to get out.

22 Q. And --- and you stayed on scene?

23 A. Yes, I did.

24 Q. And you're explaining what happened to law officers?

25 A. Correct.

1 Q. And the man with you pictured there, the bald man,
2 the taller man. Was that the store clerk?

3 A. Yes, ma'am.

4 Q. And was that who called 911?

5 A. That's correct.

6 MS. DARKO: No further questions Ms. Bethel. Please
7 answer any questions for Ms. Zmroczek.

8 CROSS-EXAMINATION

9 BY MS. ZMROCZEK:

10 Q. Ms. Bethel, you testified yesterday under oath as
11 well, right?

12 A. I did.

13 Q. Okay. So I want to clear up a little bit of that
14 testimony versus today's testimony. Today your testimony is
15 that a window was cracked just a little bit.

16 A. I said yes, that's correct.

17 Q. Okay. And which window was that that was cracked
18 just a little bit today?

19 A. The same window, Curtis window.

20 Q. Okay. So the back passenger's side window?

21 A. Correct.

22 Q. Okay. Do you recall testifying yesterday under o's
23 that it was at least halfway down?

24 A. I mean, it was crack.

25 Q. Okay. And maybe I didn't ask the question correctly.

1 So let me restate. Do you recall what your testimony was
2 yesterday?

3 A. I recall everything I said.

4 Q. Okay. So what you recall about the test --- about
5 the window being down yesterday?

6 A. Yes. I said the window was halfway crack and that's
7 my story and I'm sticking to it.

8 Q. So you don't recall yesterday saying the window was
9 at least halfway down and I could hear everything that was said.

10

11 THE COURT: Let's --- let's pause here. You all approach.

12

13 (Bench conference off record)

14 THE COURT: Ms. Darko.

15 MS. DARKO: Your Honor, with regard to some of this
16 testimony that's being elicited with regard to prior testimony
17 the State would object because it's improper under 104. And
18 would just ask to --- to have the jury not consider any of that
19 portion of the testimony that's been elicited thus far.

20 THE COURT: The objection is sustained. And I'll --- I'll
21 leave it there. Proceed Ms. Zmroczek?

22 BY MS. ZMROCZEK:

23 Q. Thank you, Your Honor. Okay. So I want to talk
24 about how you know Curtis Dinkins. How is it that you know him?

25 A. I met Curtis when I was 16 years old.

1 Q. Okay. You said, and --- and correct me if I'm wrong
2 today, you said that he had been staying with you for a week?

3 A. Yes, he stayed with me. He slept with me every
4 night. That a week for a week. That was my best friend.
5 Correct.

6 Q. Okay. Sorry, did you say he slept with me every
7 night?

8 A. Me and slept beside me every night. Yes.

9 Q. Okay. But you weren't his wife?

10 A. Was not me and --- and me and Curtis, no, I was not
11 his wife.

12 Q. Okay. And he was married?

13 A. Correct.

14 Q. Okay. And you know, the relationship between he and
15 --- and Mr. Smith?

16 MS. DARKO: Objection, Your Honor. This is so far
17 outside. Again, the -- what is really relevant to the
18 proceedings here today?

19 THE COURT: Overruled. Continue Ms. Zmroczek.

20 MS. ZMROCZEK: Thank you.

21 THE WITNESS: Could you repeat that?

22 BY MS. ZMROCZEK:

23 Q. Certainly. You were aware of the relationship
24 between Mr. Curtis and Mr. Smith?

25 A. Very aware.

1 Q. Okay. In fact, you knew Mr. Dinkins better than just
2 knowing who he is? Correct?

3 A. I knew him through cousins. I never met him day
4 until that night.

5 Q. Okay. You had spoken to him via text message.

6 A. Spoken to who?

7 Q. Corey?

8 A. No.

9 Q. Okay. What is Mr. Dinkin's Facebook name?

10 A. I can't remember what his Facebook name was. Okay.
11 It was so many fake pages, so I don't remember.

12 Q. Okay. Would the name Nano, Facebook name just in
13 case ring a bell?

14 A. That's correct.

15 Q. And who is that?

16 A. Curtis.

17 Q. That's Curtis?

18 A. That's correct.

19 Q. Okay. And you and Curtis spoke often on Facebook
20 Messenger, correct?

21 A. Correct.

22 Q. And oftentimes, or at least, excuse me, not
23 oftentimes, at least one time, you told him that, that you knew
24 that this was Corey because Curtis didn't use punctuation.

25 A. Repeat that?

1 Q. Sure. You said using sentences with commas. Nano
2 don't know how to do that. You said that in a message to just
3 in case, but that's how you knew you were talking to someone
4 else, correct?

5 A. Of course Curtis is with me, he told me.

6 Q. So Curtis was with you while you were talking on
7 Facebook messenger with Corey?

8 A. That's correct. He had access to his Facebook and
9 then it was with me, and he told me that was Corey. Yes.

10 Q. Okay. So you did have the conversations with Corey?

11 A. I mean, yes.

12 Q. Okay. You were you --- let's get back to that
13 evening. You said that you went out to a couple clubs?

14 A. We did.

15 Q. Okay. What were you with Mr. Dinkins when he was
16 doing cocaine that evening?

17 A. No, I was not, actually, Mr. Dinkins dropped me off
18 at my hair salon and he came back and picked me up around maybe
19 eight, maybe eight o'clock.

20 Q. Okay.

21 A. He dropped me off at maybe like 4:35. I might be
22 wrong, but he picked me up later that evening at like, maybe
23 like 8:00.

24 Q. Okay. And then you all went to some clubs after
25 that?

1 A. A little bit after that, yeah.

2 Q. Okay. So he --- you're saying that he must have done
3 cocaine before he picked you?

4 MS. DARKO: Objection, Your Honor. I don't understand how
5 this is the victim's use of drugs or not is relevant. I ---
6 it's ---

7 THE COURT: Overruled --- overruled.

8 THE WITNESS: Repeat that.

9 BY MS. ZMROCZEK:

10 Q. So is your testimony that you saw everything he did
11 after 8:00 p.m. So he must have done cocaine before 8:00 PM

12 A. He must have had, I don't know what he did. I don't
13 do cocaine.

14 Q. Okay. So he was drinking?

15 A. Correct.

16 Q. Okay. I want to go back to the statement that ---
17 that you gave, but before we get there, so you go to a -- where
18 was the second club you went to?

19 A. (Inaudible) on Fairfield Road.

20 Q. On Fairfield Road. And you left that club why?

21 A. Because we was ready to go. I mean, he couldn't, he
22 was intoxicated. He was ready to go.

23 Q. Okay. And you left in the club in what vehicle?

24 A. His vehicle.

25 Q. Okay. Did you know that --- that vehicle was a

1 stolen vehicle?

2 A. I did not.

3 Q. Okay. But he had been with you the whole week and
4 had that vehicle?

5 A. Of course, knowing everybody know Curtis's nose, he
6 used to always have several cars. That's --- that was his
7 thing. That's what he did.

8 Q. Okay. Do you recall she asked you about your
9 statement that you gave on December 19th at 4:45 a.m., to the
10 police, right?

11 A. I did give a statement.

12 Q. Okay. And you recall telling --- telling the police
13 officers why you left the club with, and what did you call
14 Curtis? What was his nickname?

15 A. Nano.

16 Q. Okay. Do you recall telling the officers why you
17 left the club that evening?

18 A. That was over. I mean, I, what did I say? I don't
19 recall.

20 Q. Okay. You recall saying he, "I was at the club with
21 Nano and he didn't have a good feeling, so he wanted to leave."

22 A. Yeah. Meaning he was too --- he was intoxicated.
23 He was ready to go.

24 Q. Okay. So that's what you meant by saying he didn't
25 have a good feeling.

1 A. That's correct. He was not, he was --- he was done
2 drinking. He just didn't have a good feeling. Then we left.
3 Yeah. Correct.

4 Q. And then you said you told them that ---

5 MS. DARKO: Objection, Your Honor. She said that she
6 doesn't remember the proper way to refresh her memories to allow
7 her to look at the statement.

8 THE COURT: Sustained.

9 MS. ZMROCZEK: Okay. I'll hand a copy of your Statement
10 to you so that it can refresh your recollection. I'll let you
11 read it all the way through and then ask you some questions
12 about it. Okay?

13 THE WITNESS: Okay.

14 MS. ZMROCZEK: And I'm handing you for the record what's
15 been marked for ID purposes only States 180.

16 THE WITNESS: Okay. All right.

17 MS. ZMROCZEK: I'll take it back from you.

18 THE WITNESS: Uh-huh.

19 MR. WALTON: You said that's 18?

20 MS. ZMROCZEK: 188.

21 MR. WALTON: Oh, okay.

22 BY MS. ZMROCZEK:

23 Q. Does that refresh your recollection as to what you
24 said to the police?

25 A. It does.

1 Q. At 4:45 on December 19th.

2 A. Uh-huh.

3 Q. Okay. And so you told them that night right after
4 it happened about the passenger come and got into the car and
5 said something about their drunk. They were having words.

6 A. Yes. He was talking about the two guys that was
7 harassing --- and harassing him. He was basically saying that
8 they must be drunk and he not with it. Yes, I did. I --- I
9 remember --- I remember saying that.

10 Q. Okay. And then do you recall telling the police that
11 you didn't know the passenger?

12 A. Didn't know the --- yeah, I --- I didn't, I never met
13 him. I just knew of him. From what Curtis used to say about
14 him, I never, I didn't know the passenger. That's correct.

15 Q. Okay. And then they asked you if you knew the driver
16 or you also said, no?

17 A. No, I knew the things that they knew you to tell me
18 about these guys. I never met those guys in person, so of
19 course, no, I did not know them.

20 Q. Okay. But --- but you have had conversations with
21 him on Facebook.

22 A. I mean, you using that one time then? Yeah, that's
23 it.

24 Q. Okay. You remember being asked if Curtis had any
25 beef with anyone?

1 A. Yeah, and I said I didn't think so and I didn't
2 really know because he didn't have no beef with no one.

3 Q. Okay. You knew he had a lot of money on him that
4 night, correct?

5 A. Yeah, he was with me all week. I know everything he
6 had on him.

7 Q. Okay. You knew that he was engaged in the business
8 of dealing drugs?

9 A. I don't know what he did outside of that. Now I
10 can't speak on that. I don't know what Curtis did.

11 Q. Okay. you knew that there were several people that
12 had issues with --- with Curtis, correct?

13 A. Who had issues with Curtis?

14 Q. Let me re-ask, let me rephrase.

15 A. Yeah, please do.

16 Q. You were asked, I'm sorry, the names. You were asked
17 if you knew someone named Corey?

18 A. That's correct.

19 Q. Okay. And you said you didn't know Corey?

20 A. I mean yeah, the person that picked us up. His
21 person that he was with, yeah.

22 Q. Okay.

23 A. You asking me questions about something that happened
24 I, three years ago.

25 Q. Right.

1 A. About three years ago.

2 Q. Well, I handed you your --- your, I can hand you your
3 statement again.

4 A. I don't need it. I remember.

5 Q. Okay. And said you told them. What did you tell
6 them about what you knew about Corey then?

7 A. I told them that I knew that that was Curtis lover.

8

9 Q. Okay.

10 A. Yeah. Correct.

11 Q. And that his wife, Curtis's wife was angry?

12 A. Yeah, she was.

13 Q. Okay. And you then met with the solicitor's office
14 recently, is that correct? Oh, I'm sorry, you also ---

15 THE COURT: Can we pause there?

16 MS. ZMROCZEK: Yes.

17 THE COURT: I'm sorry. It's time to take a break

18 And you seem to be sort of switching subjects. I'm sorry to
19 interrupt.

20 MS. ZMROCZEK: Yes.

21 THE WITNESS: Thank you.

22 THE COURT: Ladies and gentlemen, please return to your
23 jury room and do not discuss the case. We'll bring you back to
24 you. I'm sorry, Ms. Zmroczek. I was waiting for a moment to
25 interrupt and you seem to be ---

1 (Jury exiting the courtroom)

2 THE WITNESS: No, she was all over the place. Do I
3 (inaudible)? Okay.

4 THE COURT: Ms. Bethel. Okay. Bethel. Okay.

5 THE WITNESS: Bethel, yes. You got it right in the first
6 time.

7 THE COURT: Okay. You can step down from the witness
8 stand during your break. Do not discuss your testimony with
9 anyone. Understood?

10 THE WITNESS: Yes, ma'am. Understood.

11 THE COURT: Okay. Let's take a 15 minute break.

12 THE WITNESS: Okay.

13 THE COURT: You're fine. Yes, ma'am. Ms. Darko?

14 MS. DARKO: Your Honor, I do have a --- a matter that I
15 need to address with the court. One of our victims decedent,
16 Curtis Dinkin's wife, Pam Dinkins who was seated in the
17 courtroom earlier, you'll remember she picked out a drawer and
18 saying that perhaps he had been seated on their --- a case where
19 their --- their child was killed. Has said to one of our victim
20 advocates in the office that she is actively trying to cause a
21 mistrial. Certainly we've had some difficulty not with regard
22 to the juror. I believe it's because of the testimony that was
23 elicited by Ms. Bethel. She became very angry. She's been a
24 bit agitated in the courtroom during the proceeding. But I ---
25 I do need to put that on the record since she stated it to our

1 victim advocate. I do not think that her being potentially
2 identified as a victim under the victim bill of rights would
3 permit her to disrupt the order in Your Honor's courtroom. And
4 for that reason, I would ask that she also be subject to being
5 sequestered just based on her statement, that this is something
6 that she is actively intends to do likely in light of Ms.
7 Bethel's testimony.

8 THE COURT: Where is she right now?

9 MS. DARKO: She is not in the courtroom right now.

10 THE COURT: Do we know ---

11 MS. DARKO: She's in the, oh, well she's in the hallway.

12 Excuse me. Ms. --- Investigator Eisenhower informed me that she
13 is back in the building and she's in the hallway.

14 THE COURT: Is that by design? She --- has she just not
15 come in yet or someone asked her?

16 MS. DARKO: I did --- I did ask her to leave the
17 courtroom. Yes, I did.

18 THE COURT: Okay -- okay. What says the defense?

19 MS. ZMROCZEK: Your Honor, I --- they --- Ms. Darko told
20 me that she was going to bring this up. Obviously I have
21 nothing to do with this. I have no part, so I --- I don't want
22 a mistrial. You know, my concern the only concern I have was
23 the victim's Bill of Rights. I do agree that doesn't give
24 anybody carte blanc to be able to destroy a trial or a
25 courtroom, as you've Stated numerous times. This is very

1 serious. But I do think that maybe if you --- we probably need
2 to address it so that, because one, I'm sure the court can tell
3 that like, once I'm up here or once I'm up here, I don't know
4 what's going on behind me. And so --- and apparently yesterday
5 when I asked a question, there was some rumbling from, but I
6 didn't hear it or see it. And I think it's because in other
7 courtrooms they have the --- the victim's area, like by the jury
8 box sometimes. So I can see what's going on. But because of
9 the blocking, so, Your Honor, our position is obviously we don't
10 have a position we don't want to mistrial. I do think though,
11 that we --- it needs to be addressed. I mean, I understand
12 she's out now, but if she comes in, then we're going to have to
13 stop again. And so if the court could maybe address it with
14 her, I think that would probably be the safest bet.

15 THE COURT: Sure. My preference would be to bring her in
16 and to address the issue. Give her the opportunity to conform
17 her behavior to proper courtroom decorum. And should she air
18 again?

19 MS. DARKO: And Your Honor, this is Ms. Pam Dinkins
20 entering the courtroom now.

21 THE COURT: Ms. Dinkins.

22 MS. DINKINS: Yes, ma'am.

23 THE COURT: All right. Well, and I want to address not
24 only you, Ms. Dinkins, but really everyone sitting in the
25 gallery watching the trial. Of course most people haven't been

1 in a courtroom setting before. And certainly even if you have,
2 certainly not a jury trial but it is of the utmost importance
3 for the orderly proceedings to happen. And for justice to occur
4 that everyone be calm, cool, collected, and not have any
5 outbursts, not speak loudly, not react violently to anything
6 that is said or heard. And sometimes there are things that are
7 difficult to hear that come up in court. There may even be
8 things that you believe not to be true or that may, you know,
9 as far as you're concerned, be an outright lie. That happens
10 sometimes. In fact, that happens fairly often in court. And
11 I know that I'm accustomed to it because I sit here every day.

12 But as a private citizen, someone not involved in the, the
13 judicial system, I understand how hearing some of those things
14 can be very upsetting. And, you know, certain people are ---
15 are more outwardly emotional than others. Right? However, when
16 you're sitting in the courtroom, you have to do your level best
17 to contain your emotions. You can think it all you want but you
18 can't react visibly or even audibly.

19 No one should be able to know what you're thinking and
20 feeling based on the expression of, on your face, based on
21 anything that you say. Based on any movement that you make.
22 You just have to sit and endure it. And you know yourself
23 better than anyone else, you know, or should know that if you
24 cannot sit quietly without outward expression, that you need to
25 step out of the courtroom. Because if you don't, then I have

1 to put you out of the courtroom.

2 And nobody wants that to happen. And, you know, depending
3 on the level of emotion that you show, you may even be subject
4 to contempt proceedings. And nobody wants to hold you in
5 contempt of court. You don't want to be held in contempt. I
6 don't want to go through that. Nobody wants that. Right? And
7 we don't want to have to stop this trial and do it all over
8 again. So, and I say that not just to Ms. Dickens, but to
9 everyone sitting back there watching the trial, and that applies
10 to attorneys too. That's everyone in the room.

11 The difference is the rest of us deputies, bailiffs court
12 staff, even the attorneys are more accustomed to sitting and
13 enduring it. Even when we hear lies, even when we hear
14 character assassinations or whatever you perceive it to be we
15 tend to have a little thicker skin and --- and are better able
16 to cope.

17 So I understand that. Some of it may be difficult to hear
18 and your behavior may be difficult to control, but like I said,
19 you know yourself and you know that if you can't handle it, I'm
20 telling you now, you need to just step out and do so quietly
21 when I say, because I --- I say that because you don't know what
22 the next thing is going to be. So I don't want you to, as soon
23 as you hear something that you don't like to slam things down
24 and storm out, you know, or anything like that, you just need
25 to very calmly, quietly get up and walk out if that's what's

1 necessary. Otherwise I'll have to have you removed from the
2 courtroom. And --- and I know I keep saying, I know I keep and
3 singling you out, Ms. Dinkins, but I really --- I really say
4 that to everybody. I mean, that's true for everyone in the
5 room.

6 MS. DINKINS: I know may be relevant and not relevant.

7 THE COURT: Okay.

8 MS. DINKINS: We good.

9 THE COURT: Okay. Good enough. All right, anything else
10 before we bring the jury in from the State?

11 MS. DARKO: Nothing from the State.

12 THE COURT: From the defense?

13 MS. ZMROCZEK: Nothing ma'am.

14 THE COURT: All right. Let's bring Ms. Bethel back to the
15 witness stand. You are still under oath, Ms. Bethel?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: And Mr. Bowen, once you have her situated up
18 there, you can go ahead and bring the jury.

19 Oh, actually, let's pause before we bring the jury. Mr.
20 Walton, you sent an email last night about one of your
21 witnesses. Tell me what timeframe we're dealing with. Do we
22 need to take a lunch break after this witness? Or tell me what
23 I'm working with? Because I --- I also have some other things
24 scheduled at two o'clock that I need to deal with. Let's figure
25 out scheduling, I believe a State grand jury bond hearing.

1 MR. WALTON: Yes, Your Honor. So he just indicated that
2 he's picked up additional shifts and he said he's been here
3 every day this week and he said he needs time to go back to
4 sleep. I understand. Maybe after his next visit, who --- who
5 would be next if we ---

6 THE COURT: How long do you think his testimony will last?

7 MR. WALTON: It might be long. He's wanting to have to
8 do proffer on and he does an ID, so a proffer and then an actual
9 direct examination.

10 THE COURT: Who is he?

11 MR. WALTON: Hesham?

12 THE COURT: Okay.

13 MR. WALTON: I'm not sure how long the cross-examination
14 would be, but ---

15 THE COURT: What time does he get off work?

16 MR. WALTON: So he gets off at 12:00 and he's coming right
17 over here after that.

18 THE COURT: And then what time does he go back to work?

19 MR. WALTON: He goes back at 7:00. So I explained to him
20 that, I'm not sure when you were going to take a lunch break for
21 the jury. And so if he comes at 12:00 or 12:15 and sits for two
22 hours, three hours, and then we do his testimony. Because
23 that's kind of what we ran into yesterday. He ended up leaving.

24 THE COURT: Can he, instead of coming to the courthouse,
25 go home and take a nap and then come this afternoon, like

1 immediately before going to the next shift? Is that an option?

2 MR. WALTON: I certain --- I certainly can ask him.

3 THE COURT: Yeah, if you will find out. I mean, I --- I
4 want to accommodate him, but I would like to know if that's a
5 reasonable option. Yeah, if you'll step out and make that
6 contact during Ms. Bethel's ---

7 MR. WALTON: Absolutely.

8 THE COURT: --- testimony and we can figure out where to
9 go from there.

10 MR. WALTON: What time would you think, Your Honor?

11 THE COURT: 4:00 --- 4:30.

12 MR. WALTON: 4:00 --- 4:30. Okay. Yeah, I'll ask.

13 THE COURT: Okay.

14 MR. WALTON: Thank you.

15 THE COURT: Thank you. All right, now Mr. Bowen, bring
16 the jury.

17 THE BAILIFF: The jury's seated, Your Honor?

18 THE COURT: All right. Welcome back folks. Sorry, I'm
19 trying to multitask. We were on the cross-examination of Ms.
20 Bethel. Ms. Zmroczek, Ms. Bethel is still under oath. Ms.
21 Zmroczek, you may proceed.

22 BY MS. ZMROCZEK:

23 Q. Thank you. May I please the court. Ms. Bethel,
24 before we move on, I just wanted to ask you one more question
25 about the statement that you gave that evening. That, excuse

1 me, I guess early that morning at 4:45. Why did you tell the
2 police that you felt like it was a set up?

3 A. Because initially Curtis and I wanted to go to the
4 Flying J and I didn't know Poker at the time and he --- the one
5 suggested let's go to the Blue Store. So that's why I said
6 that.

7 Q. And not only that you passed the Flying JACKSON:
8 twice that evening. You had to pass it to get where the car
9 broke down. Right?

10 A. We passed --- we passed the Flying J once that
11 evening.

12 Q. Okay. And so, and when you got into the car, did you
13 pass it again or when --- when is it that you passed it?

14 A. When they picked us up, Curtis suggested let's go to
15 the Flying J but instead we didn't go to the Flying J we made
16 the right to go to the Blue Store. So we only passed the Flying
17 J once.

18 Q. Okay. And so you got off. So how did you leave the
19 club from the --- what was it called again?

20 A. Felicity's Warren Green?

21 Q. Felicity.

22 A. Oh. We took the we didn't go down Fairfield roadway.
23 We took another way and we ended up going like a back way. So
24 we never got to go past the Flying J because the car broke down.

25 Q. Okay. and so you didn't take the interstate either?

1 A. No, we didn't. We took some --- I can't remember
2 what we --- what we did --- but we took some kind of way that
3 led us to that back road. And our intentions were to go to the
4 Flying J but we never got to make it because the car broke down.

5

6 Q. Okay. And --- and so that's part of what made you
7 feel like it was set up?

8 A. Yeah. Because when he picked us up, Curtis was
9 ---study telling him, let's go to Flying J. He was over-talking
10 him saying, let's go to the Blue Store. So yeah, of course I
11 --- I mean those were his friends. I didn't know those people.

12

13 Q. Okay. Let me ask you this. Do you know who Chanel
14 Burgess (phonetic) is?

15 A. I do not.

16 Q. Okay. So you didn't recognize the person in the red
17 shorts?

18 A. I knew he had on a hoodie, but when I was asked to
19 identify him, I could because I didn't know who he was.

20 Q. Okay. If --- if you knew that to be his name now,
21 would you be able to identify him?

22 A. I mean, from the video, from, yeah, but like
23 personally when they asked, I couldn't, because I --- I never
24 saw his face that clear.

25 Q. Okay. So, and you met with the solicitor's office

1 just recently in preparation for this trial, right?

2 A. That's correct.

3 Q. And you told him some more things at that time,
4 right?

5 A. Yeah.

6 Q. Okay. You told them that you believed that Pope
7 contacted Curtis earlier in the evening trying to get cocaine?

8 A. Yeah, that's true.

9 Q. Okay. So Pope was looking for cocaine from ---

10 A. I mean, I, that day, yeah.

11 Q. Okay. And were you aware that Curtis had over \$3,000
12 on him?

13 A. I was.

14 Q. Okay. And --- but you don't know how he got it?

15 A. I mean, he just told me bits and pieces.

16 Q. I'm sorry?

17 A. He told me bits and pieces, but I don't know. He
18 just said he did a come up. That's all I know.

19 Q. Okay. So what's that?

20 MS. DARKO: Objection, Your Honor. We're getting into
21 hearsay.

22 MS. ZMROCZEK: He's a ---

23 THE COURT: Overruled.

24 THE WITNESS: I'm sorry, could you repeat that?

25 MS. ZMROCZEK: Sure. It's not that important. I'll just

1 move on.

2 THE WITNESS: Okay.

3 BY MS. ZMROCZEK:

4 Q. So you in addition to giving this statement on
5 December 19th, and then the most recent one, you also were
6 talking to the police that night on body camera, correct?

7 A. Correct.

8 Q. And you told them numerous times on that body camera
9 that these two --- that these two strangers picked you up,
10 right?

11 A. Yeah, that's correct. That's who he called. Yeah.
12 That's correct.

13 Q. Okay. So when you --- but when you said we just
14 flagged him down, were --- did you not know at the times that
15 he had called them or what?

16 A. No, it was --- it was dark. So when, I mean, flagged
17 him down, I mean, he called his friends to come pick us up and
18 it was the road we was on. That's why we wasn't able to catch
19 a Uber or anything. Because it was so dark we couldn't see the
20 address. So we stood --- I stood like, kind of back, he kind
21 of stood like at the end of the road and flagged them down. I
22 mean, we knew that --- we knew it was a ride coming to pick us
23 up, but didn't, like they were strangers.

24 Q. Okay. When you were meeting with them, the
25 solicitor's office, and you told them that the windows of the

1 car were rolled down some and I'm just trying to clarify. So
2 were there --- were there multiple windows rolled down or ---
3 or one or what is it that you were ---

4 A. The only --- the only one that I remember being
5 rolled down is Curtis window.

6 Q. Okay. And --- and today we clarify, can you just
7 show with your fingers how much?

8 A. I really can't, because I can't remember. I know it
9 was down enough for us to hear the confrontation that night.

10 Q. Okay. And so there --- you would agree that there
11 was a confrontation?

12 A. Yeah, of course.

13 Q. And --- and there was an argument?

14 A. Yeah. But those guys, Pope and Curtis was trying to
15 make peace. The confrontation came from the other guys.

16 Q. I understand, but there was still the confrontation?

17 A. That's correct.

18 Q. Okay. And it was heated?

19 A. Yeah, it started getting heated. That's why I was
20 (crosstalk).

21 Q. It got heated.

22 A. Yeah --- yeah.

23 Q. I want to ask you just a few more questions. So you
24 would agree with me that you saw --- you --- you were within
25 feet of Mr. Toatley, right?

1 A. Yeah. He was standing next to the --- yeah, that's
2 correct.

3 Q. Okay. And --- and he had at --- at any opportunity
4 with a gun ever pointed at you?

5 A. When I --- not --- you asked it while I was sitting
6 in the car. I mean, what are you --- what are you asking?

7 Q. Was --- at any opportunity was a gun ever pointed at
8 you? That's what I was asking.

9 A. Not while I was in the car.

10 Q. Okay. Was it pointed out when you were outside of
11 the car?

12 A. When I ran --- when I ran, I don't know what he did.
13 My back was turned. I was trying to get in the store. I was
14 running for my life, so I don't know what he did.

15 Q. Okay. And when you ran through the car and you
16 stopped at the ice machine, you then turned around and got a
17 good look, right?

18 A. I did.

19 Q. Okay. And you didn't see any gun pointed at you
20 then?

21 A. Ma'am, I was running for my life.

22 Q. Okay.

23 A. So I don't know what he did. I was running for my
24 life, trying to get inside the store to get help for me and the
25 people that was involved in the accident.

1 Q. Okay. At --- on December 12th, so a few days before
2 this, so seven days before, was Curtis with you at that time?

3 A. I don't remember. I mean, what are you asking?

4 Q. If you knew about Curtis and Hope's discussion about
5 purchasing a gun?

6 A. No, I did not. Curtis didn't have a gun.

7 Q. Okay. And did you have access to his phone?

8 A. I mean, he used to show me certain stuff. Yeah.

9 Q. Certain stuff, right?

10 A. Yeah. But I never saw that. No. Like dealing with
11 him and Corey certain stuff. Yeah.

12 Q. Okay. So he showed Corey's stuff?

13 A. Certain stuff. I'm not saying he showed me his whole
14 phone. I went through his whole phone. No, I can't say that.

15

16 Q. Okay. In addition to having a relationship, he and
17 Corey also did some work together, right? Moving product?

18 A. I don't know that side of his life, ma'am.

19 MS. ZMROCZEK: Okay. (Inaudible).

20 THE COURT: Yes, ma'am.

21 MS. ZMROCZEK: I have no further questions, Your Honor.

22 THE COURT: Redirect?

23 RE-DIRECT EXAMINATION

24 BY MS. DARKO:

25 Q. Ms. Bethel, Ms. Zmroczek asked you a group of

1 questions about this sort of conspiracy theory about Pope that
2 you thought maybe this was a setup.

3 A. Uh-huh.

4 Q. And you --- do you believe that today?

5 A. No, I don't.

6 Q. And I believe you testified that you knew of that
7 Corey and Pope existed, but you didn't really recognize them
8 that night?

9 A. No. Curtis introduced us all once we got in the car.

10 Q. And did you think that you were going to be killed
11 when the shots started being fired?

12 A. I mean, yeah, I did -- I didn't know.

13 Q. Is that why you ran?

14 A. That's correct. I was running for my life.
15 (Crosstalk).

16 Q. (Inaudible).

17 A. That's correct.

18 MS. DARKO: Nothing further.

19 THE COURT: Anything further from this witness, Ms.
20 Zmroczek?

21 MS. ZMROCZEK: Nothing further, Your Honor.

22 THE COURT: Okay. Thank you. You may step down.

23 THE WITNESS: Thank you.

24 THE COURT: Call your next witness.

25 MS. DARKO: Thank you, Your Honor. The State calls Keega

1 Gilbert.

2 THE CLERK: Raise your right, please. Could you State
3 your full name please?

4 MR. GILBERT: Keega Sage Gilbert.

5 THE CLERK: Would you spell your first name please?

6 MR. GILBERT: K-E-E-G-A.

7 THE CLERK: Do you swear or affirm the testimony you shall
8 give in this case is the truth, the whole truth, and nothing but
9 the truth, so help you God?

10 THE WITNESS: I do.

11 KEEGAN GILBERT,

12 being first duly sworn, testifies as follows:

13 DIRECT EXAMINATION

14 BY MS. DARKO:

15 Q. Good morning, Deputy Gilbert. Where were you working
16 back in December of 2020?

17 A. I was working in Richland County at --- at the we
18 call it the Region III area. It's the Fairfield Road area of
19 Richland County.

20 Q. And what specifically was your position at that time?

21 A. I was a master deputy working patrol on the road.

22 Q. And do you recall working a shooting incident back
23 on December 19, 2020?

24 A. I do.

25 Q. And based on your position with your department at

1 that time, what was your role when you responded to that scene?

2 A. My role responding to that scene is taking count of
3 initially what was going on containment treating any wounds that
4 were --- that were present, seeing what other resources would
5 be needed for managing that situation.

6 Q. And specifically what was the address of the scene
7 that you were responding to?

8 A. It was [REDACTED] Road.

9 Q. And were you able to respond directly to the incident
10 location there or did you get stopped on the way?

11 A. No, while I was on the way to that scene, I was
12 stopped on Buckner Road almost at the intersection of Buckner
13 Road at Fairfield Road with somebody running out into the road
14 essentially screaming for help, bleeding.

15 Q. And were you able to determine who that was?

16 A. Yes, ma'am.

17 Q. Who was that?

18 A. That person's name was Pope Hope.

19 Q. And how did he appear when you encountered him on
20 that roadway?

21 A. Extremely distraught, upset, frightened. He was
22 bleeding from the face.

23 Q. And in assessing his injuries, and just his state,
24 did he tell you what had happened to him?

25 A. He had --- he said and reiterated several times that

1 he'd been shot. It certainly appeared as such at that time.
2 And we --- we just were getting him help, medical help if
3 possible.

4 Q. And did you stay with him until EMS arrived?

5 A. I did.

6 Q. And what did you do after that?

7 A. As soon as he left with the ambulance, I then got
8 back in my car and went directly to the --- the scene where we
9 were initially dispatched.

10 Q. And to your understanding, that was the --- the main
11 portion of the incident location, is that right?

12 A. Yes, ma'am.

13 Q. And were --- if you could just kind of describe at
14 that point, what was the nature of the scene?

15 A. By the time that I got there, we had received quite
16 a bit of help from the City of Columbia Police Department when
17 I had arrived. The officers from the city of Oakland Police
18 Department already had the entire parking lot of that
19 convenience store broke off with caution tape. They'd already
20 begun identifying who was where and --- and what parties were
21 involved or not. So they'd already had that all contained. EMS
22 had already responded out there and assessed the situation as
23 far as what they needed to do and who needed to go to the
24 hospital immediately.

25 Q. And you're talking about containing the scene. Were

1 the vehicles involved in this incident still on scene at that
2 time?

3 A. Yes, ma'am.

4 Q. And were you confronted by a bystander about
5 releasing one of those vehicles?

6 A. Yes, ma'am.

7 Q. And who was that?

8 A. That was a Ms. Bria Ruffin.

9 Q. And what was her demeanor when she spoke to you?

10 A. Confused, surprised, excited kind trying to figure
11 out what was going on. She was talking a lot with me.

12 Q. How long after law enforcement responded was Bria on
13 scene? Do you know?

14 A. Exactly no. But it was --- it was not too terribly
15 long after I arrived at the actual incident location.

16 Q. And were you able to release that bar to her?

17 A. No.

18 Q. Why not?

19 A. Because it was directly involved in the --- in the
20 situation that we were dealing with and had to be held for
21 evidentiary purposes.

22 Q. And would that have been up to the investigator on
23 scene?

24 A. Yes, ma'am.

25 Q. And do you remember who that was that night?

1 A. There were several, but the one that I interacted the
2 most with was Investigator Rains.

3 Q. And did you pass on Rains request and information to
4 Vicki?

5 A. I did.

6 Q. And during the time that you were responding to this
7 incident, was your body cam activated the entire time?

8 A. Yes, ma'am.

9 Q. And did it capture the events that you just
10 described?

11 A. It did.

12 Q. I'm showing you what's been marked as States 11 and
13 12. Do you recognize these two items?

14 A. Yes, ma'am.

15 Q. And what are they?

16 A. They are both physical copies of my body cam footage.

17 Q. And how are you able to --- to recognize it?

18 A. I, myself initialed and dated.

19 Q. And that would've been when you reviewed it?

20 A. Yes, ma'am.

21 MS. DARKO: At this time, Your Honor, the State, would
22 admit into evidence States 11 and 12.

23 THE COURT: Any objection?

24 MS. ZMROCZEK: No objection, Your Honor.

25 THE COURT: States 11 and 12 are admitted without

1 objection.

2 (State's Exhibits 11 and 12 were admitted into evidence)

3 MS. DARKO: Permission to publish?

4 THE COURT: Yes, ma'am.

5 MS. DARKO: State is now publishing State's 11.

6 (Video Played)

7 MS. DARKO: Now publishing State's? 12.

8 (Video played)

9 MS. DARKO: I have nothing further for this witness. Ms.
10 Zmroczek, any questions for Mr. Gilbert?

11 THE COURT: Are you going use the video again, the screen?

12 MS. ZMROCZEK: I --- I will, Your Honor.

13 THE COURT: You will?

14 MS. ZMROCZEK: Yes.

15 THE COURT: Okay.

16 MS. ZMROCZEK: Yeah. I'm Going to mark this for --- I
17 think it's Defense 2.

18 THE COURT: Is it two, Ms. Zmroczek?

19 MS. ZMROCZEK: Yes, Your Honor.

20 THE COURT: Okay.

21 MS. ZMROCZEK: Your Honor, (inaudible) we trying to work
22 out some logistics?

23 THE COURT: Yes, ma'am.

24 MS. DARKO: Your Honor, just first (inaudible) purposes,
25 may we approach?

1 THE COURT: Sure.

2 MS. DARKO: Okay.

3 THE COURT: Actually come around here. It's just easier
4 for me to hear.

5 (Bench conference off record)

6 CROSS-EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. Officer Gilbert, sorry for the confusion. You had
9 a body cam on the whole evening, the whole --- the whole time
10 that evening, right?

11 A. Yes.

12 MS. ZMROCZEK: And at -- right now, I don't have any
13 questions for you. I -- I will have to recall you later on.
14 But for now, those are all the questions I have.

15 THE WITNESS: Okay.

16 THE COURT: Anything further from this witness, Ms. Darko?

17 MS. DARKO: Nothing from us.

18 THE COURT: Okay, thank you. You may step down. Call
19 your next witness.

20 MS. DARKO: Thank you, Your Honor. The State calls Vicki
21 Rains.

22 THE CLERK: Can you state your full name, please.

23 MS. RAINS: Vicki Rains.

24 INVESTIGATOR VICKI RAINS,

25 being first duly sworn, testifies as follows:

1 THE COURT: Your witness?

2 DIRECT EXAMINATION

3 BY MS. DARKO:

4 Q. Investigator Rains, where do you work?

5 A. Richland County Sheriff's Department.

6 Q. And what's your current position?

7 A. I'm a sergeant in the Criminal investigation
8 division.

9 Q. And did you hold the same positions back in December
10 of 2020?

11 A. I was in major crimes back in 2020, and now I'm over
12 Victim Services Unit.

13 Q. And how did you come to be involved in this case?

14 A. I was on call and I received a call that I needed to
15 respond to.

16 Q. Okay. And if you could just explain what that means
17 to be on call for a investigator in major crimes?

18 A. Absolutely.

19 MS. ZMROCZEK: And, Your Honor, I'm so sorry. I just ---
20 you speak really low and it's hard for me to hear if you could
21 speak up little bit. Perfect, thank you.

22 THE WITNESS: You're welcome. Every six weeks we go on
23 call which means we work overnight so that there's always an
24 investigator on duty in the event there's a major event that
25 happens.

1 BY MS. DARKO:

2 Q. And what background information, if any, did you have
3 on the incident that you're responding to that night?

4 A. I was advised there was multiple people who had
5 sustained gunshot wounds and there was at least one deceased.

6 Q. And what address or location did you respond to?

7 A. [REDACTED] Road.

8 Q. And what time did you get there?

9 A. I believe it was around like 2:56 or around,
10 somewhere around that time.

11 Q. And that's based on the report you made in connection
12 with this incident?

13 A. It is.

14 Q. And can you describe the nature of the scene when you
15 got there?

16 A. It was chaotic. There was multiple people on scene.
17 There was CPDO, Columbia Police Department Officers on scene.
18 There was bystanders, witnesses, victims. There was a deceased
19 person in the front seat of the vehicle and two people that had
20 been transported and a lot of people around.

21 Q. And was the scene secured when you arrived?

22 A. It was. Columbia Police Department had arrived
23 almost immediately and had put up the crime scene tape to secure
24 the scene.

25 Q. And why is establishing that her rear crime scene

1 tape important?

2 A. That location is a high traffic area, so there's a
3 lot of people in and out of that store, so securing that scene
4 so that no evidence is lost or damaged or anything is very
5 important.

6 Q. So you said in this case the scene was secured fairly
7 quickly?

8 A. Yes, it was.

9 Q. And after obtaining the initial information you just
10 described, what did you do?

11 A. I made contact with the officers on scene to find out
12 exactly what was going on. I was advised that there was
13 actually video surveillance of the incident, so I went inside
14 and met with the store clerk to look at the video.

15 Q. And do you recall, or do you have in your notes what
16 his name was? His first name?

17 A. Hesham.

18 Q. And were --- was he able to help you view that
19 footage?

20 A. He was, there was multiple cameras, so it took a
21 little bit to actually get the view because they all had
22 different views of the store, but he was eventually able to show
23 me the video of the incident.

24 Q. Okay. And were you able to generally understand what
25 --- what happened based on those views at that time?

1 A. Yes.

2 Q. And did, excuse me, do you -- court's indulgence?

3 THE COURT: Yes, ma'am.

4 BY MS. DARKO:

5 Q. I'm showing you what's been marked as State's 47.

6 Do you recognize this item?

7 A. Yes, I do.

8 Q. And is --- how --- is that a fair and accurate
9 depiction? What is it? I apologize.

10 A. This is the area where the clerk is behind like the
11 glass or plastic where I went to view the video.

12 MS. DARKO: At this time, Your Honor, State would offer
13 State's 47 into evidence.

14 THE COURT: Any objection?

15 MS. ZMROCZEK: No objection to that picture.

16 THE COURT: State's 47 is admitted without objection.

17 (State's Exhibit 47 was admitted into evidence)

18 MS. DARKO: Permission to publish, Your Honor?

19 THE COURT: Yes, ma'am.

20 BY MS. DARKO:

21 Q. Vicki, is this where you met with Hesham?

22 A. It is.

23 Q. And this area that I'm pointing to on the counter
24 right in front of the window is that where Hesham was navigating
25 through the surveillance video?

1 A. Yes.

2 Q. In front of that I guess glass in area. How --- let
3 me ask it this way. How were you able to actually view the
4 footage? Were you viewing it behind or did they have a
5 monitoring system?

6 A. They had a monitoring system.

7 Q. And that's a --- like a live and active monitoring
8 system, so you can see what's going on?

9 A. Yes. With multiple views, yes.

10 Q. And as you were reviewing the footage, were you in
11 interrupted at some point by Deputy Gilbert?

12 A. I was. He came to tell me that someone ---

13 MS. ZMROCZEK: Objection, Your Honor.

14 THE COURT: Overruled.

15 THE WITNESS: I was. He came to tell me that someone had
16 arrived on scene and wanted to take the suspect vehicle.

17 BY MS. DARKO:

18 Q. And did you speak with the person that was seeking
19 to have that car released to them?

20 A. I went outside to speak with her, but she had already
21 departed by the time I got outside.

22 Q. And were you given that person's identity and contact
23 information so that you could follow up with them?

24 A. Yes, I was.

25 Q. And what was that name?

1 A. Bria Ruffin.

2 Q. And did you recognize that name?

3 A. I did.

4 Q. How did you recognize it?

5 MS. ZMROCZEK: Objection, Your Honor. I think we have a
6 matter of law.

7 MS. DARKO: Your Honor. I think we could handle this at
8 sidebar.

9 THE COURT: You all approach.

10 (Side bar off the record)

11 THE COURT: The objection was overruled.

12 BY MS. DARKO:

13 Q. Did you know Bria Ruffin personally?

14 A. Yes.

15 Q. And did you know who her boyfriend was?

16 A. Yes, I did.

17 Q. And you knew him personally?

18 A. Yes.

19 Q. After being given this information, were you able to
20 review the surveillance footage again, focusing on the sequences
21 with the suspect?

22 A. Yes, I was.

23 Q. And did you recognize the suspect wearing black with
24 a gun?

25 A. Yes, I did.

1 Q. And who was that?

2 A. James Toatley.

3 Q. And do you see that person seated in the courtroom
4 today?

5 A. I do.

6 Q. And if you could just identify for the record, where
7 he's seated and what he's wearing.

8 A. He is seated at the defendant's table to my right
9 wearing a gray button-down shirt.

10 Q. And at some point a -- was a photo lineup developed
11 based on this information?

12 A. It was.

13 Q. And were you able to speak with the surviving victim,
14 Jamica Bethel on scene?

15 A. I did.

16 Q. And how did she appear to you?

17 A. She was very traumatized and very upset.

18 Q. And did you end up taking her statement there that
19 night or did you end up taking it somewhere else?

20 A. I transported her to headquarters for the Sheriff's
21 Department and took her statement there.

22 Q. And was that a statement that you drafted or she
23 drafted?

24 A. I wrote it and she read it and signed it.

25 Q. And, well, do you remember about what time it was

1 when you got that statement?

2 A. I think it was about 4:45.

3 Q. Okay. And that's a.m?

4 A. Yes. 4:45 a.m.

5 Q. And was the photo lineup available for her to view
6 at that point?

7 A. It was not. We submitted it to Sled and it wasn't
8 available.

9 Q. And do you know whether she came back to complete the
10 lineup?

11 A. She did.

12 Q. And you mentioned that there were other bystanders
13 and witnesses on scene. Were you able to interview anyone else
14 on scene?

15 A. Yes, I interviewed one of the witnesses that said he
16 had witnessed the entire incident.

17 Q. And did you get his name?

18 A. I did.

19 Q. What was his name?

20 A. Mr. Riley.

21 Q. And about what time did you speak with him?

22 A. It was about around 3:40, 3:45.

23 Q. And he also gave her a statement?

24 A. He did. I wrote it and he read it and signed it.

25 Q. You mentioned that some of the victims had been taken

1 to the hospital. Were you able to also speak with Pope Hope
2 that --- that evening?

3 A. I did. After I got the first two statements, I went
4 to Prisma Hospital and interviewed Pope Hope.

5 Q. And about what time was that?

6 A. About 6:55, 7 o'clock in the morning.

7 Q. And I know you mentioned that you didn't have a photo
8 lineup available yet when you interviewed Jamaica at around 4:45
9 that morning. Was it available yet when you talked to Hope?

10 A. No.

11 Q. About that ---

12 A. No, it wasn't. When we submitted them to Sled, it
13 takes a little bit to get him back.

14 Q. And do you know whether he eventually completed it
15 photo lineup when it was available?

16 A. I believe he did, yes.

17 Q. And the store clerk who helped you navigate the
18 surveillance footage, did he give a statement and complete a
19 lineup?

20 A. He did.

21 Q. And when was that done?

22 A. Myself and Investigator Short went back out and met
23 with him the next night when we came on duty and showed him the
24 photo lineup.

25 MS. DARKO: Nothing further for this witness, Your Honor.

1 THE COURT: Ms. Zmroczek?

2 CROSS-EXAMINATION

3 BY MS. ZMROCZEK:

4 Q. Thank you, Your Honor. Good afternoon.

5 A. Good afternoon.

6 Q. And Investigator Rains. So what is your --- what are
7 your duties at the Richland County Sheriff's Department?

8 A. Currently I'm a sergeant in victim services.

9 Q. Okay. And so in order, well, in order to even become
10 a Deputy, you have to go to the academy, right?

11 A. Yes.

12 Q. The police academy?

13 A. Yes.

14 Q. And they train you how to do certain aspects of your
15 job, right?

16 A. Correct.

17 Q. And then you --- you received more training
18 throughout your years not only from the Criminal Justice
19 Academy, but --- but internally as well, right?

20 A. Yes.

21 Q. And one of those things that they teach you, it seems
22 kind of silly, but one of the things that they teach you is how
23 to write a report, right?

24 A. Yes.

25 Q. Because they want your reports to be truthful?

1 A. Yes.

2 Q. Accurate?

3 A. Yes.

4 Q. And complete.

5 A. Yes.

6 Q. And you did a report in this case, didn't you?

7 A. I did a follow up. The Deputy actually did the
8 report.

9 Q. Right. So when cases kind of get assigned, they get
10 assigned to, I guess like the case leader or case manager, or
11 that's like their case, right?

12 A. Correct.

13 Q. But then they have assistance because one person
14 can't do all of the jobs that are required, right?

15 A. Yes.

16 Q. And so in this case it was Investigator Eisenhower
17 was the lead case agent, right?

18 A. Yes. I worked all night. He came the next morning
19 and took over, yes.

20 Q. Right. And assigned it himself. But you were still
21 assisting with the investigation, right?

22 A. Yes.

23 Q. Okay. And so you did certain things and then, like
24 you said, "Wrote a follow up report," right?

25 A. Yes.

1 Q. Just like you were trained to do?

2 A. Yes.

3 Q. And in that information, you --- in that report, you
4 put important information so that we can ask you questions about
5 it later on, right?

6 A. Yes.

7 Q. Okay. So do you have a copy of your report with you?

8 A. Yes, I do.

9 Q. Okay. if I --- if you need to refer to it when I ask
10 you questions, I'm certainly not trying to trick you. A.
11 Uh-huh.

12 Q. All right. You may. But so in that report you ---
13 you put down that you learned through your investigation and
14 speaking with Ms. Bethel that Mr. Dinkins wanted to leave
15 because he had a bad feeling, right?

16 A. Yes.

17 Q. Okay. Did you ask any follow up or further questions
18 on describing that feeling or where that came from?

19 A. She just said he didn't feel like being there.

20 Q. Okay. And that was the club, right?

21 A. Yes.

22 Q. Okay. And then you learned that they flagged someone
23 down on the side of the road?

24 A. Yes.

25 Q. Okay. And you learned about the argument that took

1 place amongst the groups with the people that were in the Black
2 Crown Vic and the people that were in the --- the four people
3 that rode up, right?

4 A. Correct.

5 Q. Okay. You also were told that Ms. Bethel stated that
6 she did not get a good look at the shooters (inaudible). That's
7 what your report says, right? And it's at the end of the first
8 paragraph, just so, I mean, you can read the whole thing.

9 A. Yes. No, it's fine. Yes. Yes, that's correct. It
10 has an S.

11 Q. Okay. And she stated that she did not get a good
12 look at the shooters because she was in the back seat behind the
13 driver. That was your --- that's your report indicate, right?

14 A. Yes.

15 Q. Okay. You learned also from Ms. Bethel that Mr.
16 Dinkins dealt cocaine?

17 A. Yes.

18 Q. And that he had issues with people.

19 A. I believe that's in her statement. Yes.

20 Q. Okay. You testified that you went to the hospital
21 and spoke with Mr. Pope, right?

22 A. Yes.

23 Q. And then later on, what did you do after you spoke
24 with everyone? Did you go back and locate the vehicle that Mr.
25 Dinkins and Ms. Ruffin -- that Ms. Bethel had abandoned?

1 A. I didn't personally go out there. I had a Deputy
2 follow up to see if the vehicle was parked at the location, they
3 said.

4 Q. Okay. And if you're turn to page two and the, I'm
5 looking at the last paragraph of your report.

6 A. Uh-huh.

7 Q. Again, not trying to trick you, I know that this was
8 a while.

9 A. Yes.

10 Q. Does that refresh your recollection?

11 A. Yes. It does. Yes.

12 Q. Okay. That's fine. Okay. So I'll ask the question
13 again.

14 A. Okay.

15 Q. Did you, after the crime scene, did you --- after you
16 left the crime scene, did you then go and locate the vehicle of
17 the --- the RAV4 that they were driving in?

18 A. Yes.

19 Q. Okay. And what did you learn about that vehicle?

20 A. When I ran the tag and realized it was a stolen
21 vehicle, I called the Deputy and had them go out.

22 Q. Okay. And the tag was --- so the tag was stolen as
23 well?

24 A. It --- I --- it just says I ran the tag on the
25 vehicle, which returned stolen.

1 Q. Right, okay. The tag and the people?

2 A. Yes.

3 Q. Okay. And you passed that information along to the
4 people that --- that could address that issue?

5 A. Correct.

6 Q. Okay. You also received another name that evening
7 of --- of a person that was at the location named (inaudible);
8 is that correct?

9 A. Yes.

10 MS. DARKO: Objection, Your Honor. I think we have a
11 matter of law on this line of questioning.

12 THE COURT: You all approach.

13 (Bench conference off record)

14 THE COURT: Objection sustained.

15 BY MS. ZMROCZEK:

16 Q. Okay. You --- when you gather information from
17 witnesses you're not wearing a body cam, right?

18 A. No, I'm not.

19 Q. Okay. Those I think are for the patrol and road
20 deputies?

21 A. Yes.

22 Q. Okay. But you also take people back to the station
23 to --- to one of your stations for interviews, right?

24 A. We can, yes.

25 Q. Okay. Is there a reason that you don't record those

1 interviews?

2 A. We record suspect interviews. We do not record
3 witness or victim interviews.

4 Q. Right. But you would agree that the policy for
5 Richland County says that --- that recording witness interviews
6 or any of your interviews is in the discretion of the officer,
7 right?

8 A. We don't typically do that. I mean, there are times
9 that possibly a witness or a victim could turn into a suspect,
10 so we do record those, but typically we just don't record
11 witnesses or victims.

12 Q. Right. But --- but you're not forbidden to, you just
13 choose not to?

14 A. Yes.

15 Q. Okay. But you would agree that had --- if there's
16 recordings that we can see questions and answers as they're
17 being provided versus just what you type up on your report,
18 right?

19 A. Yes.

20 Q. Because you would agree that a report of a statement
21 or a statement that is typed by you, there's conversations that
22 occurred outside of what's put in that report. Correct?

23 A. There can be, we try to do the question and answer.
24 I mean, they might make a comment, can I get a drink or
25 something that we may, we don't put in a statement.

1 Q. And --- and certainly when they come in, you don't
2 just say, what is your name and then type their name like you
3 have conversations with them.

4 A. Correct.

5 Q. Naturally.

6 A. Take --- yes.

7 Q. You would agree that recording also captured
8 demeanor?

9 A. Yes.

10 Q. If someone is intoxicated, that that could be
11 captured on recording?

12 A. Yes.

13 Q. As well, because that can affect what people remember
14 and what they say, right?

15 A. Yes.

16 Q. Okay. You --- in addition to getting some witness
17 interviews, you were also in charge of just making sure that all
18 the property and all the evidence, items of evidence that were
19 collected remained under locking key, right?

20 A. Crime scene collects all of those and turns them into
21 evidence or what their process is.

22 Q. Okay.

23 A. If I collect any, yes, I make sure it's secure and
24 turned into evidence.

25 Q. Okay. And so as the --- as --- as --- as a --- as

1 an assisting investigator, you don't make determinations on what
2 gets tested, what gets --- what gets sent for testing, those
3 kinds of things, that --- that's up to the lead investigator,
4 right?

5 A. Yes.

6 Q. Okay. You were asked on direct after watching the
7 video, if you had understanding of what happened, right?

8 A. Yes.

9 Q. You would agree with me, there's no audio on any of
10 the videos.

11 A. Correct.

12 Q. And so you can't hear what's being said amongst or
13 between the parties or the people, correct?

14 A. Correct.

15 Q. And so your understanding is simply by what you see,
16 right?

17 A. Yes.

18 Q. So you know, if there are arguments or discussions
19 or things being said back and forth, you aren't privy to those,
20 right?

21 A. I can't hear them. Just trying to go by body
22 language, yes.

23 Q. Okay. (Inaudible). So at part of --- as being an
24 investigator, there are different stages as to what you do to
25 --- to get a full understanding of what happened, right?

1 Meaning you don't just rely on a video or a witness statement,
2 you try to put those altogether?

3 A. Correct.

4 Q. Right?

5 A. Yes.

6 Q. And if some of the information is --- is relayed to
7 you differently, that can --- that can affect what somebody's
8 charged with or, or how a case proceeds, right? If you provided
9 information, you --- you just go with the information that's
10 provided to you, right?

11 A. Well, we substantiate that information depending on
12 what it is we're giving. We don't just take someone's word for
13 it and go with that. We collect, like you said, all the
14 information.

15 Q. Right. And then there are some things that you can't
16 substantiate, like what someone said because you couldn't hear
17 it, right?

18 A. Correct.

19 MS. ZMROCZEK: Okay. Thank you. No further questions.

20 THE COURT: Redirect.

21 RE-DIRECT EXAMINATION

22 BY MS. DARKO:

23 Q. Investigator Rains, you have testified that you
24 reviewed the surveillance video --- video in this case initially
25 to get an understanding and then at --- at length and in greater

1 detail is you're able to obtain it ---

2 A. Yes.

3 Q. --- and make it part of the --- the file. Is that
4 right?

5 A. That's correct.

6 Q. And I'm showing you what's been pre-marked as State's
7 210, 211, 212 and 213.

8 MS. ZMROCZEK: Your Honor, if I may see them?

9 THE WITNESS: Thank you.

10 BY MS. DARKO:

11 Q. Do you recognize these items?

12 A. Yes.

13 Q. And what are they?

14 A. They are photos from the scene and showing Jamaica
15 Bethel running from the vehicle.

16 MS. ZMROCZEK: Your Honor, I would agree --- I would argue
17 that this was out --- this is outside the scope of --- of
18 redirect, Your Honor.

19 MS. DARKO: She was eliciting from Ms. Rains that Ms.
20 Bethel did not give a description, did not see what she said she
21 saw, essentially. And that is why I'm showing the stills to
22 Investigator Rains.

23 THE COURT: Objection's overruled.

24 BY MS. DARKO:

25 Q. And are they fair and accurate depiction of the video

1 surveillance stills from the video surveillance that you
2 reviewed that evening?

3 A. Yes.

4 MS. DARKO: Your Honor, I would move to admit State's 210
5 through 213 and request to publish.

6 THE COURT: Any additional objection, Ms. Zmroczek?

7 MS. ZMROCZEK: No.

8 THE COURT: State's 210, 211, 212, 213 are admitted over
9 defendant's objection. And you may publish them.

10 (State's Exhibit 210, 211, 212, 213 were admitted
11 into evidence)

12 BY MS. DARKO:

13 Q. And Investigator Rains, you what -- you're getting
14 a statement, you're just putting down what the --- the person
15 is saying to you. Is that fair?

16 A. Yes.

17 Q. And regardless of whether you're questioning it or
18 it doesn't make sense to you, you're just recording that
19 information?

20 A. Right. I don't try to change their story, I just
21 write it as they're saying it.

22 Q. And you testified on direct that Ms. Bethel was
23 extremely traumatized that night?

24 A. Yes.

25 Q. And then you went back and reviewed the camera

1 footage. In that footage, did you see in fact, Ms. Bethel
2 getting very clear looks on the footage?

3 A. Yes. She turns and looks several times

4 MS. DARKO: Request to --- I'm publishing now what's been
5 admitted as States 210?

6 THE COURT: Yes, ma'am.

7 BY MS. DARKO:

8 Q. And is that one of the instances of Ms. Bethel
9 looking back towards Mr. Toatley?

10 A. It is.

11 Q. And is that another instance of Ms. Bethel looking
12 back towards Mr. Toatley?

13 A. It is.

14 Q. And here?

15 A. Yes.

16 Q. And here?

17 A. Yes.

18 Q. If you had no reason at all to believe that she would
19 have been able to identify him or participate, take in a photo
20 lineup after everything that you reviewed, would you have shown
21 her a photo lineup?

22 A. No.

23 MS. DARKO: Nothing further for this witness.

24 THE COURT: Anything further, Ms. Zmroczek?

25

RE-CROSS-EXAMINATION

1 BY MS. ZMROCZEK:

2 Q. Yes, Your Honor. Investigator Rains, you said she
3 asked you about taking witnesses Statements and you're just
4 putting down what they said, right?

5 A. Yes.

6 Q. Okay. Did you ever ask her or anybody to give a
7 description of the people involved?

8 A. Yes.

9 Q. Okay. And you asked that in your initial interview?

10 A. I spoke with her when she was in the vehicle like in
11 the back of the patrol car when I arrived on scene, I spoke with
12 her, you know, general conversation as we were going.

13 Q. Right.

14 A. And then when she gave her Statement at headquarters.

15

16 Q. Okay. And where did she give a description of them?

17 A. She different times just said it was a black male.
18 She said that she was trying to get Nano in the back to get in
19 the vehicle and her window was cracked. So the person kind of
20 bent down and looked at her.

21 Q. Okay.

22 A. When she was trying to get Nano to get into the
23 vehicle.

24 Q. All right. And did you --- did you put any
25 description that she gave in your report?

1 A. She --- the only description she had was a black
2 male. She --- she couldn't really describe further than that.
3 No specific details about him.

4 Q. Okay. And which window was cracked?

5 A. The passenger side behind Pope Hope. The back
6 passenger.

7 Q. The back passenger side?

8 A. Yes.

9 Q. Thank you. And --- and so when you were you
10 available or around when they took images of the --- that car
11 later on?

12 A. I was on scene when crime scene was on scene, yes.

13 Q. Okay. Did you roll up that window at all?

14 A. I did not.

15 Q. And I am going to show you what's been marked as
16 Defense Exhibit 2 --- 3, and ask if you recognize this picture?

17 A. Yes, ma'am.

18 Q. And does it fairly accurately depicts a picture of
19 the vehicle that evening and you saw crime scene taking a
20 picture of it?

21 A. Yes.

22 MS. ZMROCZEK: Your Honor, at this time we would move
23 Defendant's 3 into evidence.

24 THE COURT: Any objection from the State?

25 MS. DARKO: No objection, Your Honor.

1 THE COURT: Defendant's 3 is admitted without objection.

2 (Defendant's 3 was admitted into evidence)

3 BY MS. ZMROCZEK:

4 Q. Thank you, Your Honor. And I'll move to publish it.
5 And so this is the window right here that we're discussing, so
6 there's no confusion, right?

7 A. Yes.

8 Q. And you did not alter that window?

9 A. I didn't, I can't say if the driver or someone else
10 in the car didn't. After her interaction, I --- I don't know
11 if they rolled it up after.

12 Q. Okay. And certainly the entire transaction was
13 captured on video, correct?

14 A. Correct.

15 Q. And so that would reflect the Windows location at the
16 time as well, right?

17 A. I --- you can see him bend down. I don't know if you
18 can actually see the window.

19 Q. So after you took Ms. Bethel's Statement, she asked
20 you about at 4:45 in the morning, and you learned that she
21 perhaps thought it was a setup, right?

22 A. Yes.

23 Q. What investigation did you do to to clear or verify
24 that?

25 A. I took her statement, then I went on to the hospital

1 and that --- and captain Eisenhower took over after that.

2 Q. I'm so sorry.

3 A. Captain Eisenhower took over after I interviewed her.
4 Then I went to the hospital to interview Pope Hope. So I am
5 Captain Eisenhower took over after that. I did relay
6 information that I had, but ---

7 Q. So --- so you don't know what information was done
8 to look into that aspect of it? Is that --- is that --- is that
9 what I understand your answer to be?

10 A. Well, as the investigation went, it was clear that
11 you know, he --- they were also shot, so they wouldn't have set
12 up a scene for themselves to get shot.

13 Q. And you would agree that sometimes things don't
14 always go as planned, right?

15 A. Correct.

16 MS. ZMROCZEK: Thank you. No further questions.

17 THE COURT: All right, thank you. You may step down. And
18 ladies and gentlemen, let's take a lunch break. Be back in your
19 jury room at 2:30. Don't discuss the case amongst yourselves
20 or with anyone else. Don't do any research about the case.
21 Just enjoy your lunch and be back at 2:30. Thank you.

22 (Jury exiting the courtroom)

23 THE COURT: All right. Counsel involved in this case, you
24 should also be back at 2:30. Court staff, I need you back at
25 two o'clock. I have a civil matter to be heard on the record

1 always put you there. So anyway, they've never explained to me
2 why, but okay, we're going to resume the trial of the case. The
3 State can call its next witness.

4 MR. TAYLOR: State calls, Kerri --- Investigator Kerri
5 McClary.

6 THE BAILIFF: Okay. Raise your right and court clerk,
7 swear in the witness.

8 THE CLERK: Thank you. Please have a seat in the witness
9 stand. State your full name for the record, please spell your
10 first name.

11 THE WITNESS: My name is Kerri, K-E-R-R-I. Last name
12 McClary, M-C-C-L-A-R-Y.

13 THE COURT: You may proceed.

14 KERRI MCCLARY,
15 being first duly sworn, testifies as follows:

16 DIRECT EXAMINATION

17 BY MR. TAYLOR:

18 Q. Oh, Investigator McClary. Is it okay if I call you
19 that?

20 A. Yes.

21 Q. Where are you employed?

22 A. I'm currently employed with the Richland County
23 Sheriff's Department.

24 Q. How long have you been employed there?

25 A. I began employment with them in 2013.

1 Q. Do you still live there?

2 A. I do. I am --- actually, I retired from a full-time
3 crime scene position last April of that last year. I went back
4 to the department in a part-time status where I am assigned to
5 our training division, and I'm currently training our new hired
6 deputies basic crime scene processing, evidence collection,
7 packaging, so on.

8 Q. And on December 19, 2020, what were you employed as
9 at Sheriff Department?

10 A. During that time, I was employed full-time in the
11 crime scene, latent fingerprint unit with the Richland County
12 Sheriff's Department

13 Q. Investigator --- Investigator McClary, what is crime
14 scene investigation?

15 A. Basically, crime scene investigation involves, we
16 receive specialized training in the areas of crime scene
17 documentation. So we're documenting the scene through
18 photographs. We also take extensive notes and at times we
19 produce sketches. We document the scene, those --- through
20 those manners. We also examine the scene for possible evidence
21 and we will collect evidence. We may process evidence at the
22 scene or we may collect it and bring it back to our laboratory
23 where we'll process it in a controlled environment of our lab.

24 Q. What are some of the ways that you collect evidence?

25 A. Well, we photograph it prior to collecting it. And

1 then once we've determined what we're collecting, we will
2 package it in a manner that's going to preserve possible
3 evidence on it. We may place it in a paper envelope, paper bag,
4 paper box and then we will secure it in our vehicle while we
5 complete processing of the scene.

6 Q. What was your --- what is your standard procedure as
7 a crime scene investigator? When you first arrive at the scene,
8 how do you normally approach a crime scene?

9 A. Typically, once I am asked to respond to the incident
10 location, I will --- once I arrive, I will typically make
11 contact with the responding deputies that are there. They will
12 provide me with that initial information such as the incident
13 location, the physical address case number, any victim
14 information, and any pertinent facts that they've developed to
15 that point.

16 Q. And as you go through the crime scene, what do you
17 normally do?

18 A. Documentation is a very big part of crime scene work.
19 And so we typically take extensive photographs.

20 Q. Do you also collect evidence?

21 A. We do. Once we document how everything is
22 positioned, where it's located at the time that I arrived at the
23 scene typically if we've identified things that are going to be
24 collected I'll place evidence markers next to those items, and
25 then I will re-photograph that scene showing where those markers

1 are, which are for us being able to photographically show in the
2 photographs where those particular items of evidence are. Once
3 they're photographed, we will then collect those items

4 Q. Other than say, physical evidence, what other kind
5 of evidence do you collect?

6 A. It's all physical evidence. I mean, so it could be
7 a variety of things. It could be things biological in nature,
8 possible blood, hair, fiber evidence fingerprint evidence
9 physical evidence in the capacity of fired cartridge casings
10 bullets, bullet fragments. It could really be anything.

11 Q. Turning to the night of December 19, 2020, did you
12 follow that procedure, use outline in this case?

13 A. Yes, I did.

14 Q. Okay. So on that --- on --- on that night, could you
15 tell us how you arrived there?

16 A. We --- we respond with our crime scene vehicle. So
17 our vehicles that are assigned to us in the unit are fully
18 stopped with a variety of different items that we might need,
19 different tools we might need to handle any particular incident,
20 location, or any particular crime scene. So I drove to the
21 incident location. When I arrived, I observed that we had
22 additional units there. I later was informed that there were
23 units with Columbia Police Department. I had investigators with
24 Richland County Sheriff's Department had already gotten on the
25 scene, as well as some of our --- our first responding deputies.

1 Q. Do you remember where this incident location was?

2 A. I would have to refer to my report for the actual
3 street address. Is that okay?

4 Q. Yes.

5 A. The incident location address was [REDACTED]
6 Road.

7 Q. Is that in Richland County?

8 A. Yes.

9 Q. So when you arrived at that address, could you tell
10 us, tell the jury what you saw?

11 A. When I arrived to the scene, I observed that there
12 was crime scene tape up around the parking lot area of this ---
13 this location. And as I mentioned, there were already some law
14 enforcement agencies on scene both with --- with Columbia Police
15 Department, Richland County Sheriff's Department.

16 Q. Were there any vehicles on scene within the crime
17 scene tape?

18 A. Within the crime scene tape? Yes, there was a Camry
19 that I was informed by our initial responding officers was the
20 victim's vehicle. And then my I also observed that there was
21 a Black Crown Vic that was there. During the investigation
22 while I was there on the scene I was informed that that was the
23 suspect's vehicle.

24 Q. Could you describe kind of the store the building you
25 were looking at?

1 A. It was like a convenience store big open parking lot.
2 Those were the only vehicles that I observed. There was an
3 additional vehicle, but I believe that belonged to the store ---
4 store clerk.

5 MR. TAYLOR: Okay. I beg the court's indulgence.

6 BY MR. TAYLOR:

7 Q. Investigator McClary, do you recognize these
8 photographs? Did you recognize this?

9 A. Yes. These are photographs I took overall
10 photographs, documenting the scene as it was when I arrived.

11 Q. And you took those photographs?

12 A. Yes, I did.

13 Q. Are these photographs true and accurate for ---
14 copies, versions of the photos you took?

15 A. Yes, they are.

16 MR. TAYLOR: Your Honor, backtrack a little bit. The
17 State has in his hand what's been pre-marked as State's Exhibit
18 15, 16, 17, 18, 19, and 20. And I've already showed these to
19 defense counsel. State will move that (inaudible) into
20 evidence.

21 MS. ZMROCZEK: Without objection.

22 THE COURT: State's 15, 16, 17, 18, 19, and 20 are
23 admitted without objection.

24 (State's Exhibits 15, 16, 17, 18, 19 and 20 were admitted
25 into evidence)

1 MR. TAYLOR: Thank you, Your Honor. State to publish the
2 same?

3 THE COURT: Yes, sir.

4 BY MR. TAYLOR:

5 Q. Investigator McClary, what are we looking at?

6 A. That's a general overall photograph. Just general
7 overall documentation of the scene. Trying to include that
8 there is crime scene tape up. So a --- a perimeter has been
9 established. And just basically what --- what the scene
10 appeared as when I arrived.

11 Q. I'm pointing at this --- this yellow line here. What
12 is that?

13 A. That would be the crime scene tape. The --- the
14 responding units had up around the perimeter of the parking lot
15 area.

16 Q. Okay. And for the record, I'm pointing at this ---
17 this gray Camry. What is that?

18 A. That would be the victim's vehicle.

19 Q. And what is this --- this other vehicle that I'm
20 pointing at?

21 A. That would be the --- excuse me, the --- the Black
22 Crown Vic that was the suspect's vehicle.

23 Q. And what is this building?

24 A. That was the convenience store. I believe it was the
25 motor. I don't recall the name. Like Motor --- Motor City Log,

1 Motor. I can't remember.

2 Q. Okay. What are we looking at here?

3 A. That's just another angle, overall view of the scene.
4 When I --- when I got to there, I mean, started that initial
5 scene documentation.

6 Q. Could you tell us what's in the image?

7 A. You can see both of the vehicles and where they are
8 positioned in front of the store. Also picked up some of the
9 area to the side of the store just showing how the --- the scene
10 was, the --- how the --- the scene appeared, the parking lot
11 area. In this photograph, I also captured some of the
12 apparently the first responding officers, some of our
13 investigators that were there discussing things with the case.

14 Q. What is this --- this sign here in this photograph?

15 A. I cannot read it from back here. I'm sorry. Q

16 That's okay --- that's okay. What are we looking
17 at here in this photograph? This is State's 17.

18 A. Once again, this is just another angle. Those
19 initial overall photographs that I took to document the scene.
20 You can see the back of the Black Crown Victoria. And then the
21 side of the victim's Camry.

22 Q. What are we looking at in States 18? This photograph?

23 A. Once again, that's just another overall view. You
24 can see the --- the other side, the driver's side of that Black
25 Crown Victoria where it's positioned in relation to the store

1 as well as where it's positioned in relation to the victim's
2 Camry.

3 Q. This is State's 19. What are we looking at here?

4 A. This is a closer view of the scene. We begin by
5 taking overall views, which is a wider angle where you can see
6 much greater --- greater space. Now I'm beginning to move in
7 a little bit closer. These are more medium mid-range
8 photographs, and we're just moving in closer so that we can get
9 better documentation of the vehicle, how it was located, the
10 color tag, all of that basic kind of information. And once
11 again, I'm tying --- tying with this image. I'm tying the
12 vehicles into where they were located in front of this vehicle,
13 or excuse me, in front of this --- this store.

14 Q. Could you describe for us what you --- what you see
15 about the gray Camry in this photograph? Anything notable?

16 A. I'm just photographing how the vehicle was when I
17 arrived. In this particular view you can see that the passenger
18 side front door is open. We can also make out that the --- the
19 driver's side doors are open.

20 Q. Okay.

21 A. I'm sorry. Part of the plexiglass around the judge's
22 area is kind of impeding what I can see.

23 MR. TAYLOR: Your Honor, could Mr. McClary come down?

24 THE COURT: Yes. You can step down. I need you to ---
25 I need her to stand where you are in front of that microphone.

1

2 MR. TAYLOR: Yes.

3 THE WITNESS: Okay.

4 THE COURT: Okay.

5 THE WITNESS: Sorry about that.

6 THE COURT: No. It's what it is.

7 THE WITNESS: Yes, sir.

8 BY MR. TAYLOR:

9 Q. Okay. let's continue where we were.

10 A. Yes, sir. So in this particular image, I'm actually
11 just documenting how the vehicle was when I arrived at the
12 scene. So you can see what doors are open on the vehicle. We
13 can make out the vehicle tag and its position relative to the
14 front of the store.

15 Q. And I have what --- I have State's Exhibit 20. What
16 do we see in this photograph?

17 A. It's just another angle of primarily the victim's
18 vehicle. As I move in closer, you're beginning to be able to
19 visualize that there are things located on the ground in close
20 proximity to that passenger side of the vehicle. I have yet to
21 have added any evidence markers at this time.

22 Q. Of the two vehicles that are on scene, which did you
23 photograph first? Which did you focus on first?

24 A. The victim's vehicle, the Camry, photographing the
25 area around it as I found it. And then beginning to mark

1 evidence.

2 Q. Do you remember what evidence was --- was around that
3 Gray Camry?

4 A. I believe on the passenger side, I found some fired
5 cartridge casings. There were some jewelry items. I believe I
6 had some red brown stains which appeared to be blood. I believe
7 I also located a projectile or a bullet on the ground as well.

8 UNIDENTIFIED MALE: To go sit there.

9 BY MR. TAYLOR:

10 Q. When you say you mark things, what does that mean?

11 A. We will take we have plastic tins that we were refer
12 to as evidence markers, and that's what I'm talking about. I'll
13 place those on the ground in close proximity to the items that
14 I'm trying to document or through photographs. We can also use
15 adhesive stickers. They might have letters, numbers on them.
16 We can also use those if we need to affix them to something.

17 Q. Okay. Turning to, well, moving to the area
18 delineated by State's 20. Do you --- do you recognize these?

19 A. Yes. These are photographs of the incident location
20 that night.

21 Q. Are those --- are these true and accurate copies of
22 versions of the photographs that night?

23 A. Yes, they are.

24 MR. TAYLOR: Your Honor, I have in my hand State's Exhibit
25 21, 22, 23, 24, 25, 28, 29, 30, 31, 34, 33, 36, and 37. The

1 State would ask if they could be moved into evidence.

2 MS. ZMROCZEK: Have reviewed those specific numbers, Your
3 Honor. No objection.

4 THE COURT: So State's 21, 22, 23, 24, 25, 28, 29, 30, 31,
5 33, 34, 36, and 37.

6 MR. TAYLOR: Did you say 24, Your Honor?

7 THE COURT: Yes.

8 MR. TAYLOR: Okay, perfect.

9 THE COURT: Yes. Okay. Those are admitted without
10 objection.

11 (State's Exhibits 21, 22, 23, 24, 25, 28, 29, 30, 31, 32,
12 33, 34, 36, and 37 were admitted into evidence)

13 MR. TAYLOR: The State to publish?

14 THE COURT: Yes, sir.

15 BY MR. TAYLOR:

16 Q I'm placing on the --- on the --- the display system
17 State's 21. Investigator McClary, can you tell us what we see
18 here.

19 A. Those are evidence markers that I placed on the
20 ---the ground identifying different items of evidence. It
21 appears to be item or marker, 1, 2, 3, 4, 5, 6, and 7.

22 Q. What are those items?

23 A. One and two were fired cartridge casings. Three was
24 a gold color chain, four was a RBS or Red Brown Stain. Five was
25 a cigar package, six was a black cell phone, seven was a gold

1 colored pendant.

2 Q. Okay. I'm putting on the display State's 22. What
3 are we looking at here?

4 A. This is a photograph of the driver's side of the
5 victim's vehicle, and I'm taking a general overall photograph
6 where I've placed evidence marker eight on the ground next to
7 an item of evidence.

8 Q. What is evidence marker eight?

9 A. Evidence marker eight was identifying a green cell
10 phone.

11 Q. Moving to a different topic briefly. After you mark
12 and collect something, then what happens to that --- that
13 evidence?

14 A. Once we collect it and we're complete with scene
15 processing, then I will transport the evidence back to our
16 laboratory where it will be held for further processing or where
17 I may submit it to our evidence and property room. I believe
18 on this particular scene the two cell phones were actually, I
19 chained them over. I completed a chain of custody form where
20 I transferred these items directly to one of the investigators
21 on the scene.

22 Q. Okay. When these items are sent to property, are
23 they given a --- a different number than what they're marked as
24 at the scene?

25 A. Yes, that is correct. Where I place evidence markers

1 by these items, that's for my documentation. Once these items
2 are entered into our evidence and property room at our
3 headquarters, they are assigned of an --- an actual item number,
4 and that item number will be different than what my markers show
5 my evidence markers. So they're assigned an actual item number
6 once they're entered into our system at the department.

7 Q. Why are they given item numbers? The property?

8 A. The item numbers are assigned so that we have a
9 reference to them so that we can maintain tracking of where they
10 go throughout the department different analysts who come in
11 contact with it. It's a way for us to be able to report and
12 identify a particular number.

13 Q. Okay. For items, no, markers one through eight, do
14 you know what, from your notes, what property numbers they were
15 given?

16 A. I do.

17 Q. Could you --- could you tell us please?

18 A. Yes. My evidence marker one is item 63. Evidence
19 marker number two is item 64. Marker number three is item 119.
20 Evidence marker four is item 82. Evidence marker five is item
21 62. Evidence marker six is item 152. Evidence marker seven is
22 item 118. Evidence marker eight is item 153.

23 Q. Okay. Were any swabs taken from those items?

24 A. At a later time, yes. After processing in the lab
25 they were.

1 Q. Okay. This is State's 23. What are we looking at?

2 A. This is just a closer view where I'm showing where
3 item or evidence marker 1, 2, 3, 4, and five are in relation to
4 the front of the store as well as to the vehicle, the victim's
5 vehicle.

6 Q. This is State's 24. What are we looking at?

7 A. This is a closer view of one of the fired cartridge
8 casings located on the ground and marked by evidence marker one.

9 Q. Did you collect that?

10 A. I did collect that, yes.

11 Q. This is State --- this is State's exhibit 25. What
12 are we looking at?

13 A. This is another fired cartridge casing located on the
14 ground near the --- the passenger side of the victim's vehicle.
15 It is marked with evidence marker number two.

16 Q. And you collected that?

17 A. Yes, I did.

18 Q. This is State's 28. What does that photograph show
19 us?

20 A. This is evidence marker three. It is the gold chain
21 gold color chain that was located on the pavement or the ground
22 next to the victim's vehicle.

23 Q. This is State's 29. What are you --- what --- what
24 is in that photograph?

25 A. This is a photograph of some of the red brown stains

1 that were on the ground next to the passenger side of the
2 vehicle. They're identified by evidence marker number four.

3 Q. This is State's 30. What are we looking at?

4 A. This was the cigar package that I located on the
5 ground next to the passenger side of the --- the victim's
6 vehicle. It is being identified with evidence marker number
7 five.

8 Q. This is State's 31. What are we looking at?

9 A. This is a photograph showing where the cell phone and
10 the gold color pendant were located. The cell phone being
11 identified by evidence marker number six and the golden color
12 pendant being documented or --- or being marked by evidence
13 marker number seven.

14 Q. Do you collect both of those items?

15 A. I did.

16 Q. This is State's 34. What --- what do we see in that
17 photograph?

18 A. This is a photograph showing the green cell phone
19 that was on the parking lot on the ground next to the driver's
20 side of the victim's vehicle. It's marked with evidence marker
21 number eight.

22 Q. Did you collect that?

23 A. I did.

24 Q. This is State's exhibit 33. What do we see in that
25 photograph?

1 A. This is a --- a broader angle view of the driver's
2 side of the vehicle. You can see the --- the victim still in
3 the front seat of the --- the vehicle, and you can see item
4 evidence marker eight. That's just a --- a broader view of what
5 --- what I was seeing when I was there.

6 Q. Did you collect item eight?

7 A. Yes, the two cell phones were collected and chained
8 over.

9 Q. Thank you. This is States 36. What do we see in
10 this photograph?

11 A. This is another photograph of the evidence markers
12 on the side passenger side of the victim's vehicle. During
13 photography and the --- the overall medium close-up progression
14 views of those initial items of evidence we located a projectile
15 on the ground, and so I have taken an overall view, or excuse
16 me, an orientation view here showing the --- in the --- the
17 addition of evidence marker number nine. And that is where we
18 located the projectile.

19 Q. You, did you collect evidence marker nine?

20 A. I collected the projectile, yes.

21 Q. Okay. Was the evidence marked by number nine, the
22 projectile logged into Richland County property room?

23 A. Yes, it was.

24 Q. What number was it given?

25 A. The item number was item 65.

1 Q. And then I have here States 37. What does that
2 photograph show us?

3 A. That's just a closer view of the --- the bullet, the
4 projectile that was located on the ground.

5 Q. Did you take any swabs from what is marked as number
6 five?

7 A. The cigar package?

8 Q. Yes.

9 A. I would have when I processed the evidence.

10 Q. Yes, ma'am. What other photos of the vehicle do you
11 --- do you take to memorialize it?

12 A. When we do documentation of this nature, as I stated,
13 we start with an overall broader view and then we move in closer
14 for those mid-range those orientation views, and then we'll go
15 through to a close-up progression where we're actually moving
16 in closer so that we can make out detail in a closer view of
17 different areas, different items. Once again, we're just
18 trying to show how the scene appeared. We do that prior to the
19 addition of evidence markers or scales, anything of that nature,
20 and we do those photographs prior to moving or removing anything
21 from the scene.

22 Q. I have in my hand State on what was pre-marked for
23 as State's Exhibit 38, 39 and 41. Do you recognize these?

24 A. Yes. These are photographs I took of the vehicle.

25 Q. And those are true and accurate versions of those

1 photographs?

2 A. Yes.

3 Q. Displays?

4 A. They are.

5 MR. TAYLOR: Your Honor, the State would move for what's
6 been pre-marked as State's Exhibit 38, 39 and 41 into evidence.

7 MS. ZMROCZEK: Without objection.

8 THE COURT: State's 38, 39 and 41 are admitted without
9 objection.

10 (State's Exhibits 38, 39 and 41 were moved into evidence)

11 MR. TAYLOR: The State would move to publish the same?

12 THE COURT: Yes, sir.

13 BY MR. TAYLOR:

14 Q. What do we see in this photograph?

15 A. This is a photograph of the tag that was on the back
16 of the victim's Camry.

17 Q. Okay. And what do we see here?

18 A. Here I am photographing the vin and vehicle
19 information that's located on the inside frame of the victim's,
20 the driver front door of the victim's vehicle.

21 Q. And what do we see here?

22 A. That would be a photograph of the van that you see
23 through the windshield when you're standing over the hood
24 looking down.

25 Q. Why do you take photographs of --- of things like

1 that? Of those things?

2 A. Primary reason for taking photographs is to
3 photographically document anything of significance, ma'am? So
4 we do that so that we have a photographic record of --- of these
5 --- this information.

6 Q. In your examination of the gray Camry, did you notice
7 any damage of evidentiary value to the vehicle?

8 A. Yes, I did.

9 Q. What was that damage?

10 A. I observed that the --- the rear windshield was
11 shattered and had some parts missing. I also observed that
12 there was damage to the passenger side front door window. It
13 was shattered and part of it was missing. When I moved --- I'm
14 sorry.

15 Q. I'm sorry. Keep going.

16 A. No, when I moved in closer to examine that passenger
17 side door area, I observed that there also appeared to be a
18 defect in the --- the --- the frame of the window at the B
19 pillar. The --- there was a whole impact defect that actually
20 went through the window frame, and I have a subsequent defect
21 in the B pillar of that vehicle.

22 Q. Where on the car is the B pillar?

23 A. The B pillar, if you're looking at a four-door car,
24 okay, you've got the windshield, you've got the roof line, and
25 then you've got the rear windshield. If you've got a two-door

1 vehicle if you can picture where the front door closes and opens
2 that metal frame that goes from the bottom of the car up to the
3 roof line, it's --- it's hard metal, and that's what we refer
4 to as a B pillar. The A pillar would be along the windshield.
5 It's basically the car's frame but the A pillar would be along
6 the windshield. And the C pillar on this type of vehicle would
7 be along the back windshield.

8 Q. I've got State 23. Could you point to the B pillar
9 on this --- on this photograph?

10 A. Yes. On this particular image, the B pillar's going
11 to be right here.

12 Q. And where would the A pillar be?

13 A. The A pillar would be here along the roof, or excuse
14 me, along the front windshield roof.

15 Q. And where would the C pillar be?

16 A. C pillar would be back along here.

17 Q. Thank you. I have what's been pre marked as States
18 42. Do you recognize this? Do you know what that is?

19 A. Yes, this is, oh --

20 Q. What is it?

21 A. This is a photograph of the defect that I observed
22 on the exterior side of the window frame, the passenger side
23 front door window frame.

24 MR. TAYLOR: Your Honor, the State would move into
25 evidence what's been pre-marked as a State's Exhibit 42.

1 MS. ZMROCZEK: Without objection.

2 THE COURT: State's 42 is admitted without objection.

3 (State's Exhibit 42 was admitted into evidence)

4 MR. TAYLOR: State would move to publish --- publish for
5 the same?

6 THE COURT: Yes, sir.

7 BY MR. TAYLOR:

8 Q. This is State's 42. What are we looking at?

9 A. Showing part of the shattered window on the --- the
10 passenger side front door and showing the actual defect or
11 impact on the exterior side of this particular door.

12 Q. Okay. Did you later examine the B pillar --- that
13 B pillar walk closely at a later date? .

14 A. Yes, I did.

15 Q. Did you observe --- observe anything of evidentiary
16 value in the backseat of this gray Camry?

17 A. I did. I observed a fired cartridge casing in the
18 backseat. It was located behind the driver's side or the
19 driver's front seat. It was on the --- the seat behind that.

20 Q. Did you --- did you mark that casing you found?

21 A. I did. That was evidence marker number 10. And the
22 item number for that was item 66.

23 MR. TAYLOR: Your Honor, I have in my hand State's Exhibit
24 43, 44 and 45.

25 BY MR. TAYLOR:

1 Q. Do you recognize those --- those ---that?

2 A. Yes, I do.

3 Q. What are they or how do you recognize them?

4 A. These are actually photographs I took the first one
5 being through the windshield, or excuse me, through the window
6 on the --- the driver's or the passenger side rear window, door
7 window. The other two are where I've placed an evidence marker
8 next to them and moved around to the driver's side and took
9 additional photographs of where that fired cartridge casing was
10 located.

11 MR. TAYLOR: Your Honor, the State would move to enter
12 State's 43, 44 and 45 into evidence.

13 MS. ZMROCZEK: Without objection.

14 THE COURT: States 43, 44 and 45 are admitted without
15 objection.

16 (State's Exhibits 43, 44 and 45 were admitted into
17 evidence)

18 MR. TAYLOR: State would move to publish the same.

19 THE COURT: Yes, sir.

20 BY MR. TAYLOR:

21 Q. Okay. What do we see in States 43?

22 A. This is a photograph I took actually through the
23 glass of the window on the --- the passenger side rear door just
24 photographing how it was inside before I opened a door or went
25 into, I observed over here what appear to be a fired cartridge

1 casing.

2 Q. What do we see in this photograph?

3 A. This is where I placed evidence marker number 10,
4 next to that fired cartridge casing and took an orientation
5 photograph view.

6 Q. And then in State's 45, what are we looking at?

7 A. That is a closer view of the fired cartridge casing
8 that was in the back seat.

9 Q. Did you collect of that casing marked number 10?

10 A. Yes, I did.

11 Q. Was there anything else in or around the gray Camry
12 or the --- that --- that you marked?

13 A. No, I don't believe there was.

14 Q. Was there anything towards the store entrance that
15 you marked?

16 A. Yes. On the sidewalk?

17 Q. Yes.

18 A. Yes.

19 Q. What was that --- what was that?

20 A. It was a cigarette butt and one of the investigators
21 on scene instructed me to --- to collect it. So I photographed
22 it prior to marking it and prior to collecting it.

23 Q. Is that standard practice to collect cigarette butts?

24 A. When you're dealing with communal areas such as
25 business stores parking lot areas, typically that's not

1 something we do. Unfortunately, people do throw down trash
2 candy wrappers, spit out gum throw down cigarette butts, stuff
3 of that nature. And so typically that is not something that we
4 do. But, you know, I'm assisting the --- the investigators and
5 so they --- they instructed me to document and collect this, and
6 so I did.

7 Q. Was his cigarette butt marked number 16 given an item
8 --- item number property report?

9 A. The evidence marker number was 16. The actual item
10 number assigned to it was item 29.

11 Q. I have in my hand what's been pre-marked as State's
12 60, 61 and 46. Do you recognize those?

13 A. Yes. These are the photographs I took.

14 Q. What are they?

15 A. The front of the store where I've added item, or
16 excuse me, marker 16, where you can see the cigarette butt and
17 then a closer view of March 16 and the cigarette
18 Butt.

19 MR. TAYLOR: Your Honor, the State would move to enter
20 what's been pre-marked as State 46, 60 and 61 into evidence.

21 MS. ZMROCZEK: Without objection.

22 THE COURT: 46, 61 and 60 are admitted without objection.

23 (State's Exhibits 46, 61 and 60 were admitted into
24 evidence)

25 BY MR. TAYLOR:

1 Q. What are we looking at in States 46?

2 A. This is an orientation view of the front of the
3 store. You can kind of make out where the --- the cigarette
4 butt is located on the sidewalk.

5 Q. This is State's 60. What do we see?

6 A. So you're seeing the marker 16 and the cigarette
7 butt.

8 Q. Did you go inside the little book store and inside
9 --- inside that convenience store?

10 A. Yes, I did.

11 Q. Can you tell us what you saw on it?

12 A. I took some overall photographs inside the store.
13 One of the investigators had informed me that there was a potato
14 chip bag on the store counter that had been placed there by the
15 suspect. And so I was asked to photograph and collect it.

16 Q. Was that potato chip bag given a marker or item
17 number?

18 A. I did not place an evidence marker by the chip bag
19 because it was the only item that was there on the counter that
20 I was collecting. So I just took my overall photographs, kind
21 of a, an orientation view, and then a close-up. It was a Zaps
22 potato chip bag When it was logged into our evidence and
23 property room, it was assigned item number 56.

24 Q. I have in my hand what's been pre-marked as States
25 186. Do you know what this is?

1 A. Yes. This is a photograph of the --- the potato chip
2 bag on the store counter.

3 Q. And that's a --- you took that photograph?

4 A. Yes.

5 Q. Is that a true and accurate representation of the
6 potato chip bag you took that night?

7 A. Yes, it is.

8 Q. Your Honor, the State would move to enter State's 186
9 into evidence.

10 MS. ZMROCZEK: Without objection, Your
11 Honor.

12 THE COURT: State's 186 is admitted without objection.

13 (State's Exhibit 186 was admitted into evidence)

14 MR. TAYLOR: State would move to publish the same.

15 THE COURT: Yes, sir.

16 BY MR. TAYLOR:

17 Q. What do we see in this photograph?

18 A. It's a photograph of the countertop in the store and
19 the potato chip bag.

20 Q. Why did you collect that potato chip bag?

21 A. The investigators had apparently observed on video
22 that the suspect had placed it there.

23 Q. Returning to the areas you've delineated in State's
24 Exhibit 17, were there any other vehicles at the incident
25 location that you examined?

1 A. Other than the victim's Camry?

2 Q. Yes.

3 A. I took photographs of the Black Crown Victoria just
4 general overall photographs around the exterior of the vehicle.
5 And then I did take photographs through the window, so I placed
6 my camera lens and my flash unit flushed to the window so that
7 I can photograph through the window to document what was inside
8 the vehicle. I did not actually go into the vehicle at that
9 time, no.

10 Q. Was there anything of evidentiary value around that
11 black ground today?

12 A. I --- I did locate some fire to cartridge casings as
13 I was walking around, they were marked and they were
14 photographed and they were collected.

15 Q. Your Honor, I have in my hand State --- what's been
16 pre-marked the State's 49, 54, 55, 56, 58, 59, 50, 51, 52, 53,
17 57, 62, and 63. Do you recognize these?

18 A. Yes. These are those photographs I took around the
19 vehicle and of the Black Crown Vic.

20 Q. And are those true and accurate representations of
21 the photographs you took that night of those items and things?

22 A. Yes, they are.

23 MR. TAYLOR: Your Honor, the State would move State's
24 Exhibit 49, 54, 55, 56, 58, 59, 50, 51, 52, 53, 57, 62, and 63
25 into evidence.

1 MS. ZMROCZEK: Without objection.

2 THE COURT: So it's really States 49 through 59 as well
3 as 62 and 63 admitted without objection.

4 (State's Exhibits 49 through 59, 62 and 63 were admitted
5 into evidence)

6 MR. TAYLOR: Thank you, Your Honor. Yes, ma'am. The
7 State will move to publish the same.

8 THE COURT: Yes, sir.

9 BY MR. TAYLOR:

10 Q. This is State's 49 on the viewing board. What do we
11 see in that photograph?

12 A. This is just general overall documentation of the
13 exterior passenger side of the Black Crown Vic.

14 Q. This is State's 54. What are we looking at?

15 A. Photographing the back of the Black Crown Vic to show
16 the tag, and you can also see some evidence markers on the
17 ground next to it.

18 Q. What evidence markers do we see?

19 A. 11 and 13.

20 Q. What does that license plate read?

21 A. SIQ511.

22 Q. Thank you. This is State's 56 on the viewing board.
23 What --- what are we looking at?

24 A. Showing the relationship of evidence markers 11, 12
25 and 13 in relation to the back of the Crown Vic?

1 Q. This is State's 58. What do we see?

2 A. This is a closer view of a fired cartridge casing on
3 the ground. It's marked with evidence marker number 11.

4 Q. This is State's 59. What do we see?

5 A. Another fired cartridge casing on the ground and it's
6 marked with evidence marker number 12.

7 Q. This is State's 50. What do we see?

8 A. Another closer view of fired cartridge casing that
9 is marked with evidence marker number 13.

10 Q. This is State's 51. What do we see?

11 A. A closer view of fired cartridge casing on the ground
12 next to evidence marker 14.

13 Q. This is State's 52. What do we see?

14 A. This is a photograph of a fired cartridge casing.
15 I located in close proximity to the trash dumpster. It is
16 marked with evidence marker 15.

17 Q. This is State's 57. What is in this photograph?

18 A. This is an overall view. You can see evidence marker
19 12 --- 11, 12, 13, 14, and 15 would be out here where the trash
20 dumpster is.

21 Q. And what is --- what is this? Is that the side of
22 the building there?

23 A. Yes, that's the side of the store, the convenience
24 store.

25 Q. This is State 62. What is in that photograph?

1 A. I located an additional fired cartridge casing on the
2 ground in close proximity to that Crown Vic. And so I placed
3 evidence marker 17, to show the relationship from that fired
4 cartridge casing to the --- the Black Crown Victoria

5 Q. And I have here State 63. What are we looking at?

6 A. That is a closer view of that fired cartridge casing
7 on the ground next to evidence marker 17.

8 Q. Were all these markers 11 through 17 given property
9 report item numbers?

10 A. Yes.

11 Q. Could you tell us what these are, please?

12 A. Marker 11 was item number 69. Marker 12, item 70.
13 Marker 13, item 71. Marker 14, item 72. Marker 15, item 73.
14 Marker 17, marker --- or excuse me, marker 17, item 74.

15 Q. After documenting this area as delineated in this
16 prior exhibits, where did you turn your attention to then?

17 A. After photographing those fired cartridge casings ---

18 Q. Yes.

19 A. --- and collecting them. Just taking additional
20 photographs of I don't remember --- recall if I took the
21 photographs of the interior of the vehicle before or after I
22 collected those fired cartridge casings on the ground.

23 Q. Did you take any additional photographs of the
24 interior of the gray Camry?

25 A. I did take additional photographs.

1 Q. What prompted you to take those?

2 A. Well, once we get general overall documentation
3 through that overall medium close-up progression when we get to
4 the point where we are ready to remove the --- the deceased
5 individual from the car we will take photographs after the body
6 has been moved to show where they were positioned and if there
7 was any possible evidence in and around or under them.

8 Q. Okay. Where was this perceived individual located?

9 A. He was in the driver's side front seat, the driver's
10 seat with the seatbelt still around him.

11 Q. Was there another deceased person at the location
12 when you arrived?

13 A. No.

14 Q. I have what's been pre-marked as State's Exhibit 65.
15 Do you recognize this?

16 A. Yes. This is a photograph of the driver side, front
17 seat after the body had been removed.

18 Q. And that's a true and accurate representation of what
19 you saw and what you photographed that night?

20 A. Yes, it is.

21 MR. TAYLOR: Your Honor, the State would move that ---
22 what's been pre-marked State 65 be entered into evidence.

23 MS. ZMROCZEK: Your Honor I --- I haven't, I think it's
24 about time for a break, but I also have an issue to discuss with
25 this. I was trying to line those up appropriately.

1 THE COURT: Sure. Please return to jury room, don't
2 discuss the case. We'll bring it back shortly.

3 (Jury exiting the courtroom)

4 THE COURT: Ms. Zmroczek.

5 MS. ZMROCZEK: Thank you. And just so --- so the court
6 can see it I'll --- I'll publish it just so the court can see
7 what I'm talking about. So this is State's 65, Your Honor.
8 Obviously there's a --- a lot of chunky blood and stuff. The
9 pictures up until this point haven't ton of blood. So as I was
10 going through these pictures trying to speed up the process a
11 little bit, what I find with is, you know, one or two pictures
12 to continue this, but it appears that there are about three or
13 four more that are coming. And so what I would prefer is that
14 the court not allow all of the same pictures of --- of the same
15 blood.

16 I understand it's blood, I understand it's part of the
17 crime scene. But just like if 65 comes in, I think then there's
18 like 74, there's a couple more that with this same depiction,
19 and so that's my concern.

20 THE COURT: Well, what's the legal basis of your
21 objection?

22 MS. ZMROCZEK: That it would be more prejudicial than
23 (inaudible). Just because of the blood, Your Honor. I'm just
24 trying to, when --- when I talk about the duplicate, there's one
25 step come after this.

1 THE COURT: All right, well, we're not there yet, so the
2 objection is overruled. Let's take 10 minutes or so. Ms.
3 McClary, you can step down from the witness stand if you like.
4 Do not discuss your testimony with anyone over the break. See
5 you all in 10 minutes.

6 (Off the record.)

7 THE BAILIFF: You may be seated and as usual make sure all
8 electronic devices are turned off except the one that's
9 authorized to have on. Thank you.

10 MS. ZMROCZEK: Your Honor, I'll --- during the break, I
11 was able to go through the rest of the pictures and I have no
12 objection. I withdraw my objection for this one. And they
13 corrected any of the other issues that I had. And so --- so
14 that we're on the record, so we speed it up a little bit.

15 I --- I understand that they intend to move the remainder
16 of their picture sent through this witness and we would not be
17 objecting.

18 THE COURT: Okay. Let's go ahead and give me exhibit
19 numbers on this.

20 MR. TAYLOR: Exhibit numbers are, we scout on 65 and we
21 have 66, 32, 40, 35, and then we have 67, 68, 69, 70, 71, 72,
22 73, 74, 75, 76, 81 --- 81, 80, 79, 78, 77, 82, 83, 84, 85, 86,
23 87, 88, 89, 90, 91, 92, 93, 94, 95, 97, 98, 99 (inaudible) 121,
24 122, 123, 129, 130, 131, 132, 133, 134, 135, 136, 110, 111, 112,
25 113, 114, 116, 117, 118, 119, 124, 125, 126, 128, 137, 138, 139,

1 140, 141.

2 THE COURT: All of those exhibits are admitted without
3 objection.

4 MR. TAYLOR: Okay. Thank you, Your Honor.

5 THE COURT: All right, bring the jury please. And those
6 were all going to be this witness?

7 MR. TAYLOR: Yes, Your Honor.

8 THE COURT: Okay.

9 THE BAILIFF: Jurors seated , Your Honor.

10 THE COURT: All right, thank you. We're still on the
11 direct examination of Kerri McClary. Ladies and gentlemen,
12 while you were out of the courtroom, we handled certain matters
13 of law, but also to speed things up just a little bit, there are
14 a number of exhibits that have been introduced or admitted into
15 evidence without the defense objection. I just give you that
16 explanation because we've been going through the process for
17 each set of exhibits. I don't want you to wonder why we've
18 stopped doing that temporarily. And so here's your explanation.
19 With that Ms. McClary, you may proceed.

20 MR. TAYLOR: Thank you, Your Honor. (Inaudible 03:43:18).

21 THE COURT: Yes.

22 MR. TAYLOR: Thank you, Your Honor. Do we resume to
23 publish State's Exhibit 65?

24 THE COURT: You may publish anything that has already been
25 admitted.

1 MR. TAYLOR: Yes. Thank you, Your Honor. Yes, ma'am.

2 Thank you, Your Honor.

3 BY MR. TAYLOR:

4 Q. (Inaudible) in this photograph?

5 A. This is a photograph of the driver front seat. Once
6 the body had been removed from it, you're seeing the center
7 console area and you're seeing the seat --- seat back part of
8 the steering column.

9 Q. What is this on the --- the center here?

10 A. Those are red brown stains apparent blood.

11 Q. Okay. And I'm sorry, these photos -- I'm sorry for
12 these photos. This is State 66, what do we see? What is in
13 that photograph?

14 A. This is a closer view of the decedent the head area
15 chest and shoulders while he was still inside the vehicle.

16 Q. This is State's 40. What do you see in this
17 photograph?

18 A. This is a view from the driver's side rear seat where
19 we're showing the placement of, of the decedent in the --- the
20 front seat.

21 Q. Did you note any defects on the --- the headrest?

22 A. There was I did observe a defect kind of in the edge
23 area. I took additional photographs.

24 Q. (Inaudible).

25 A. Yes, once I had it towed back to our headquarters and

1. secured in our forensic garage and I processed it the following
2 day. Actually it was later that same day.

3 Q. This is State's 67. What do we see?

4 A. These are part of the general overall documentation
5 I took of the vehicle. Just showing the condition, the exterior
6 areas before beginning to add any evidence, markers or anything
7 of that nature.

8 Q. This is State's 70. What do we see?

9 A. Just showing an identifying shot of the tag that was
10 on the victim's vehicle.

11 Q. This is State's 72. What is in this photograph?

12 A. This is another view of the passenger side of the
13 victim's vehicle. We can see the shattered back window area.
14 We can also see the shattered window on the passenger side front
15 seat. And we can make out the defect that's on the --- the
16 window frame near the B pillar.

17 Q. Did you notice anything of evidentiary value on the
18 front or windshield of the car?

19 A. Yes. During my overall examination of the vehicle
20 and my documentation process, I did observe a fired cartridge
21 casing kind of resting under the --- the windshield wiper on the
22 windshield itself.

23 Q. Did you mark this?

24 A. I did mark it with an evidence marker. I believe it
25 was AA. Yes, evidence marker AA.

1 Q. This is State 77. What do we see?

2 A. This is a kind of an orientation view showing where
3 the fired cartridge casing is on the windshield wiper blade.
4 And this is the windshield area.

5 Q. Was that casing you marked AA given a property report
6 number?

7 A. Yes, it was.

8 Q. Do you know what number that was?

9 A. The fired cartridge casing AA is item number 67.

10 Q. Was there anything --- moving your investigation was
11 there anything evidentiary value seen on the outside driver's
12 side of the vehicle?

13 A. On the driver's side of the vehicle?

14 Q. Yes, ma'am.

15 A. In my initial observations, just general overall
16 documentation and I also during this time did process the
17 outside of the vehicle for --- for latent prints. I --- I did
18 collect some latent prints from the driver's side, exterior
19 driver's side.

20 Q. What are latent prints?

21 A. When we're processing an item of evidence or a
22 vehicle for fingerprints, located on the palms side of your
23 hands, the tips of your fingers, the soles of your feet is a
24 certain type of skin we refer to as friction ridge skin. It has
25 a series of raised and --- and lower areas, the ridges and the

1 spaces in between.

2 Along the ridges of our skin, we have pores through those
3 we emit sweat. Okay? We emit moisture. And so when that skin
4 comes in contact with the surface oftentimes that moisture is
5 transferred to the surface that is touched. A way for us to be
6 able to develop those types of prints is by using a very finely
7 ground graphite. It's we refer to it as black powder. It's a
8 very lightweight fine, the ground powder. We apply it with a
9 brush as we go over the surface with that powder. That powder
10 will then adhere to the ridge detail that moisture on the ---
11 the print that was deposited onto the surface. And that's what
12 we mean when we talk about processing a surface for latent
13 prints.

14 Q. This is States 82. What do we see in this
15 photograph?

16 A. So this is the exterior driver's side of the vehicle.
17 I have placed marker numbers. They're adhesive. And those are
18 just --- this is just a general o orientation photograph of
19 where all of those prints were developed and where I placed the
20 evidence marker next to the latent print. We take this
21 photograph prior to lifting the prints.

22 Q. Were these prints you lifted that are marked given
23 are property report numbers?

24 A. The latent print cards that I submitted into evidence
25 and property were item number 140.

1 Q. Were any --- was anything of evidentiary area value
2 found on the rear of the --- the gray Camry.

3 A. I did develop ridge detail, I believe, and lifted a
4 print on top of the trunk on the rear of the vehicle.

5 Q. What was this --- what was this marked as?

6 A. Exterior trunk should be identified by marker number
7 six, the latent print.

8 Q. What property report number is that given?

9 A. All of the latent print cards were submitted together
10 in one envelope, and they were all given the item number of 140.

11 Q. Anything of evidentiary value found in your
12 investigation on the passenger side rear quarter panel?

13 A. Yes, I ended up photographing and swabbing some red
14 brown stains on the exterior passenger side rear quarter panel.

15 Q. Was this --- was this given a marker?

16 A. The marker for that particular stain was number
17 seven, evidence marker seven. The item number given to it is
18 132.

19 Q. This is State's 88. What is in that photograph?

20 A. That is showing evidence marker number seven and the
21 passenger side rear quarter panel.

22 Q. Was any --- did you do --- what investigation did you
23 do with the passenger side of the vehicle?

24 A. I did overall documentation on the passenger side.
25 I processed that side with black powder. I also took additional

1 closer views of the --- the impact to the frame of the door
2 along with the subsequent defect, or --- or impact in the B
3 pillar of the door.

4 Q. This is States 92. Could you describe for us what's
5 in that photograph?

6 A. So I have marked this impact with evidence marker
7 number eight. This is the --- it was actually a perforating
8 impact, meaning it entered and exited the window frame at the
9 B pillar the subsequent entry into the B pillar of the window,
10 or excuse me, of the door. So this is just a --- a orientation
11 photograph showing that.

12 Q. This is State 101. What is this thing? This --- the
13 stick, what is that?

14 A. These are known as trajectory rods. And when we have
15 I referred to that --- that impact of a perforating impact. So
16 when we have a bullet impact that enters and exits and then goes
17 into another location, we can use these trajectory rods through
18 that perforating impact and line up to where the final resting
19 point or --- or another area where this particular vehicle was
20 struck with that bullet.

21 When we place these markers in there, it'll give us an
22 angle from to back up down. So it gives us a better
23 visualization of what that flight path of that --- that bullet
24 was.

25 Q. Was any occurring against the driver's side tearing

1 the vehicle of --- did you notice anything evidentiary damage
2 to that vehicle?

3 A. On the driver's side?

4 Q. Yes.

5 A. When I moved in closer, I observed on the headrest
6 itself, the --- the driver's side front seat headrest. There
7 appeared to be another defect in the edge of it. And as I
8 examined it closer, it appeared to be a perforating impact,
9 which means it exited or entered and exited that headrest.

10 Q. This is State 106. What are we looking at?

11 A. So this is a photograph showing the driver. This is
12 the driver front seat. This is the headrest. You can make out
13 the defect in that particular area.

14 Q. This is States 132. What are we looking at?

15 A. So this is a closer view where I've actually placed
16 the trajectory rod through this defect. I took photographs
17 closer of the impact itself so that you could make out detail
18 in the actual defect prior to placing that trajectory rod in it.
19 But this is just showing that --- that flight travel where it,
20 it entered into the side and exited out through the front side.
21 So this would be the front portion of the headrest.

22 Q. This is State's 135. When is in that photograph?

23 A. That's just a --- a different angle showing the ---
24 the trajectory rod in there where you can see that it's kind of
25 got a downward angle to it. And we place these rods in here

1 when we have these perforating impacts. I'm going to place it
2 in there in the orientation that it actually, the bullet
3 traveled through that headrest, so it's showing that it entered
4 the backside and exited on the front side.

5 Q. Were any swabs taken from the left side of the
6 vehicle, interior or --- or exterior?

7 A. I collected multiple swabs. After latent print
8 processing, I also collected a swab of RVS on the passenger side
9 front seat, it was actually the seat portion.

10 Q. Uh-huh.

11 A. That was identified in my photographs as marker 10,
12 evidence marker number 10. The actual item number is 139.

13 Q. Did you collect any --- any fingerprints or swabs
14 from one of the windows on the left side of the car?

15 A. Left side. You're referring to driver's side or
16 passenger side?

17 Q. Passenger side, I'm sorry.

18 A. Yes, I collected --- I collected a latent print on
19 the interior side of the passenger side rear door. I believe
20 it was on the window. That was evidence marker number nine.

21 Q. Was that given a property number?

22 A. That would be 140.

23 Q. Did you collect anything else from inside the car?

24 A. I did. I collected --- I located a fired cartridge
25 casing. I located a couple fragments which are a portion of the

1 actual bullet that has come off. And I also located and
2 collected a tooth from underneath the passenger side front seat.

3 Q. Were any phones found in the car?

4 A. I did locate a phone in the center console dash area
5 of the --- the Camry photographed it and I did collect that.

6 Q. What were all those items marked as?

7 A. All of those or the phone?

8 Q. Of --- all of them.

9 A. Okay. The fired cartridge casing that I collected
10 from the driver's side rear floorboard evidence marker AC, item
11 number 68. The swab of red brown stain on the passenger side
12 front seat was evidence marker number 10, item number 139. The
13 cell phone collected from the dash console was item 54. I did
14 not use an evidence marker for that. The projectile that I
15 located under the driver's side front seat, evidence marker AD,
16 item number 58. I located and collected a projectile fragment
17 from the transmission home between the driver's side front and
18 center console evidence marker AE, item 59.

19 The tooth I collected from the floor under passenger side
20 front seat. It was identified by marker AF, and the item number
21 was 61. I also collected some rental agreement paperwork from
22 the center console. Those were chained over to an investigator
23 that evening. I see where they were logged into our evidence
24 and property room as item number one.

25 Q. Last photograph, what are we looking at here?

1 A. This is a closer view of the tooth that I located on
2 the floorboard underneath that seat identified by marker
3 evidence marker AF.

4 Q. Did you do any further processing of any evidence you
5 gathered that night of --- at these two --- at this location or
6 at this garage?

7 A. I processed items of evidence that I collected. It
8 actually wasn't that night. It was the following day when I
9 came back on shift, so I processed those in the lab.

10 Q. What do you mean by process?

11 A. The processing of like the fire cartridge casings
12 that I collected. Typically, our process involves, we visually
13 examine it to see if there's anything of value on it. If ---
14 if we see anything biological in nature, if we see ridge detail
15 the next step in that processing sequence is to place those
16 items in a fuming chamber. And it is an enclosed chamber where
17 we will take a super glue. The --- the chemical in super glue
18 is cyanoacrylate. We have learned through years and years and
19 years of research that when you heat super glue that
20 cyanoacrylate, it releases fume. Okay? And it's kind of a
21 vapor. We also incorporate humidity into that chamber. We
22 expose those items to the heat and humidity and the fumes from
23 the cyanoacrylate, and they --- they'll do those fumes, those
24 vapors will adhere to the fingerprint moisture if it's --- if
25 it's present on that item.

1 And then it hardens and it kind of protects and cases that
2 ridge detail. So that allows us to do per the processing,
3 whether it be through a chemical means you know, a --- a dye
4 stain, fluorescing dye stain or powders. And once we go through
5 the process you know, the last thing that we will do is actually
6 use black fingerprint powder and go over those to see if we
7 develop any identifiable ridge detail.

8 The actual projectile that I and the fragments that I
9 collected, I would not do any processing with those. Those
10 would be logged into our evidence and property room where our
11 firearms analysts would --- would examine those. Once I process
12 the fire cartridge casings for any latent print, any possible
13 latent prints, the next thing we do is swab those and I will
14 take a sterile cotton swab, we add sterile water to that swab,
15 and then we will swab the exterior of that surface. And that
16 is for us to be able to collect any possible DNA that might be
17 on that. Those swabs and those cartridge casings will then be
18 packaged as they're supposed to per --- per our procedures and
19 they will be submitted to our evidence on property room.

20 I collected a \$5 bill also in the vehicle. I apologize,
21 I forgot to mention that it was in the driver's side door panel.
22 It was just in plain view. I ended up collecting that as well
23 when I was processing the vehicle. And because that is a porous
24 surface paper is porous, meaning any latent print or fingerprint
25 residue moisture that we get on that would absorb into the

1 fibers of the paper. And so that would be processed with a
2 chemical process we use called non-hydrant. And what the
3 non-hydrant does is it reacts to the amino acid properties in
4 our --- our fingerprint residue. And if there's a positive
5 reaction, we will see the ridges actually turn to a --- a real,
6 it's a pretty pink purple kind of magenta color.

7 Q. (Inaudible).

8 A. Yes.

9 Q. Could you tell us what they were entered into
10 evidence property room as?

11 A. Yes, I can do that. The swab collected from the two
12 nine --- nine --- nine millimeter fired cartridge casings,
13 evidence markers one and two were logged into the evidence room
14 as item number 76. The swab I collected from the cigar package
15 evidence marker five, item number 77. The swab I collected from
16 the nine millimeter fired cartridge casing evidence marker 10,
17 item number 78.

18 I collected a swab from six nine millimeter fired
19 cartridge casings, evidence markers 11 through 15 and 17. Item
20 79. I collected a swab from the Zaps potato chip bag that was
21 entered as item 75. I collected a swab from the nine millimeter
22 fire cartridge casing labeled marker AA. That was item 79. I
23 collected a swab from the nine millimeter fire cartridge casing
24 AC that was item 80.

25 Q. Did you do any further investigation regard to this

1 matter?

2 A. No, I did not.

3 Q. (Inaudible).

4 THE COURT: There's the one in front of the jury's box.
5 There's an equipment (inaudible). They all have speakers on
6 them.

7 MR. TAYLOR: Yeah, it must have.

8 THE COURT: Oh, it was that one.

9 MR. TAYLOR: I believe her.

10 THE COURT: (Inaudible).

11 MR. TAYLOR: All right. Let me know I'm look at you this
12 time.

13 THE COURT: All right. Cross-examination, Ms. Zmroczek.

14 MS. ZMROCZEK: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ZMROCZEK:

17 Q. I'm going to mark this. Or has it been marked.
18 Sorry. Investigator McClary questioning will be a lot shorter.
19 You also did a sketch of the scene, right?

20 A. Yes. I produced a rough sketch there at the scene,
21 yes.

22 Q. Okay. And obviously it's not to scale and I've added
23 a few numbers, but I'm going to have you look at Defense Exhibit
24 4, and then the numbers in blue that I've added were the
25 corresponding Richland County property numbers that were added

1 according to your testimony.

2 So if you can just look at that and ---

3 A. Yes, that appears correct.

4 Q. Okay. So does that then fairly and accurately
5 represent the crime scene statute? Did --- which we understand
6 is not to scale with the additional Richland County property
7 members assigned to the items that you marked?

8 A. Yes.

9 Q. It does. Your Honor, at this time we'll move
10 Defendants 4 into evidence.

11 THE COURT: Any objection, Mr. Taylor?

12 MR. TAYLOR: No, Your Honor.

13 THE COURT: Defendants 4 is admitted without objection.

14 (Defendants Exhibit 4 was admitted into evidence)

15 BY MS. ZMROCZEK:

16 Q. Thank you, Your Honor. And I --- I won't need you
17 to step down but can you see it from there? Okay. And
18 obviously you just reviewed it, right?

19 A. Right.

20 Q. So like we said, it wasn't to scale and the blue
21 numbers just simply represent the corresponding property
22 numbers, correct?

23 A. That is correct.

24 Q. Okay. So while it's up here, I'll just leave it up
25 here because, so FCC is what you have match for several of, of

1 these FCC. What does FCC stand for?

2 A. That's an abbreviation for Fired Cartridge Casing.

3 Q. And so, and then I see, for example, number nine is
4 listed as a projectile. What's the --- what is --- what's the
5 difference between a Fired Cartridge Casing and a projectile?

6 A. The projectile is the actual bullet. If you look at
7 a single round of unfired ammunition it has the cylinder base
8 you'll hear people refer to that a lot as brass. But that's the
9 cartridge case. You'll have gunpowder primer inside of that.
10 And then the bullet is the actual component that once the gun
11 is fired, travels down the barrel and exits the muzzle end of
12 the weapon. And so it can be referred to the actual term is
13 bullet, or sometimes we will call it projectile.

14 Q. Okay. So --- so it is kind of what comes out of the
15 --- the Fire Cartridge --- Fire Cartridge Casing?

16 A. The bullet exits the gun, the casing that it was in
17 the cartridge case. Once that bullet has been fired, is then
18 ejected out of the gun.

19 Q. Okay. And the notice you did that typically, do they
20 --- do they eject in a certain direction or how does that work?

21 MS. DARKO: Your Honor, I would object to this line of
22 questioning. I think that this is more appropriate for a
23 ballistics.

24 MS. ZMROCZEK: If you don't know, then we'll move on.

25 THE COURT: Overruled. If you know.

1 MS. ZMROCZEK: If you know.

2 THE WITNESS: It's different with different weapons.

3 BY MS. ZMROCZEK:

4 Q. Okay. And then if people are running around, things
5 can get moved before you get there, right?

6 A. That's true, yes.

7 Q. Okay. And then on item number 16 --- your item
8 number 16. You --- you take bench notes. What are bench notes?

9 A. Our bench notes, we have department forms that were
10 created specifically for our --- our crime scene, latent print
11 unit. They are forms where we document pertinent information
12 time of arrival to the scene, the incident location address
13 victim information if we have it. People present on the scene.
14 Our --- our bench notes are just our way to keep up with what
15 --- what information we develop, what evidence we collect what
16 processing is completed while we're on the scene or whether
17 we're --- we're conducting work in the laboratory. It's ---
18 it's just basically our way of keeping our notes.

19 Q. And so when you were talking about typically you
20 don't collect cigarette, but --- but you were directed to
21 collect item number 16 marked and collect item number 16. And
22 that was directed by another investigator that was on scene?

23 A. Yes, that was true.

24 MS. ZMROCZEK: And I think those are all the questions
25 that I have for you.

1 THE COURT: Anything further, Mr. Taylor?

2 RE-DIRECT EXAMINATION

3 BY MR. TAYLOR:

4 Q. Just one point. Out of all the things you've
5 collected, did you collect a gun?

6 A. From the crime scene or?

7 Q. Yes, ma'am.

8 A. No --- no.

9 Q. Did you collect a gun from the vehicle, gray Camry?

10 A. The Camry? No. I --- I did not collect any weapons.

11 No gun.

12 MR. TAYLOR: Not further questions, Your Honor.

13 THE COURT: Anything further?

14 MS. ZMROCZEK: Nothing further.

15 THE COURT: Okay. Thank you. You may step down.

16 THE WITNESS: Thank you.

17 THE COURT: Thank you.

18 THE WITNESS: Appreciate it.

19 THE COURT: Do we have a --- a matter of law at this
20 point?

21 MR. WALTON: Yes, Your Honor.

22 THE COURT: Okay. I was trying to remember. Yay. All
23 right. Ladies and gentlemen, please return to your jury room.
24 Do not discuss the case. We'll bring you back shortly.

25 (Jury exiting the courtroom)

1 ---

2 MR. WALTON: Your Honor, I'm happy to skip through this
3 part, but the video demonstrates how Mr. Hesham was able to view
4 the defendant at close range. If you are willing to concede
5 that. And ---

6 MS. ZMROCZEK: Your Honor, I think that --- that we've met
7 the requirements of the hearing, but if they want to keep going,
8 it's --- it's fine.

9 THE COURT: Okay. I mean, she's not going to make any
10 kind of motion.

11 MS. ZMROCZEK: I'm not, Your Honor, I think that --- that
12 what the law requires is that we have a hearing. So to know
13 what his testimony is. His testimony is --- is that he was
14 closed. We've seen the video of with him in it numerous times
15 about how close he was. Your Honor, I don't think I have, I ---
16 I think it would be a futile for me to make an argument. I
17 think we have covered all the requirements that are required
18 under Neil v Bigger, so.

19 THE COURT: Okay.

20 MS. ZMROCZEK: Certainly, I mean, I --- I think that we've
21 met the --- that they've met the standard at this point.

22 THE COURT: Wonderful.

23 MR. WALTON: No further questions.

24 THE COURT: All right. Mr. Hesham can step down
25 temporarily. We're going to take just five minutes, five, maybe

1 seven minutes. Bring the jury back in and then call him as a
2 witness. Okay. All right. Five-minute break.

3 (Off the record.)

4 THE COURT: Mr. Bowen, please bring the jury.

5 THE BAILIFF: The juror's seated, Your Honor.

6 THE COURT: Thank you. All right. State can call it's
7 next witness.

8 MR. WALTON: State calls Hesham Elghamrawi.

9 THE BAILIFF: Go forward. Right here. Right there.
10 Place your left hand on the bottom. Raise your right and face
11 that correct.

12 THE CLERK: Thank you, sir. Please have a seat at the
13 witness stand. State your full name for the record. Please
14 spell your first name and your last name.

15 THE WITNESS: My name is Hesham Elghamrawi.

16 THE CLERK: Can you spell your name?

17 THE WITNESS: Hesham, H-E-S-H-A-M, Elghamrawi,
18 E-L-G-H-A-M-R-A-W-I.

19 HESHAM ELGHAMRAWI,

20 being first duly sworn, testifies as follows:

21 DIRECT EXAMINATION

22 BY MR. WALTON:

23 Q. Good evening, Mr. Elghamrawi. Is it okay if I call
24 you Mr. Hesham?

25 A. Yes, sir.

- 1 Q. Mr. Hesham, where are you from?
- 2 A. I'm from Egypt.
- 3 Q. Okay. And do you live in South Carolina now?
- 4 A. Yes, sir.
- 5 Q. And how long have you lived in South Carolina?
- 6 A. 15 years. Oh, in South Carolina?
- 7 Q. Yes.
- 8 A. Around eight years.
- 9 Q. How long have you lived in the United States?
- 10 A. 15 years.
- 11 Q. 15 years. And is English your first language?
- 12 A. No, the second language.
- 13 Q. What is your first language?
- 14 A. Arabic.
- 15 Q. Arabic. Okay. And have you testified in court
- 16 before?
- 17 A. No.
- 18 Q. And have you ever been a witness to a crime?
- 19 A. No.
- 20 Q. Switch gears a little bit. What --- what type of
- 21 work do you do, Mr. Hesham?
- 22 A. I'm the manager in the convenience store.
- 23 Q. And --- and back in December of 2020, did you work
- 24 at the Motor City Market convenience store?
- 25 A. Yes.

1 Q. And at that time, how long had you been working
2 there?

3 A. It's the first day for me.

4 Q. That was your first day. So December 19, 2020, was
5 that your first day?

6 A. Yes.

7 Q. And were you working by yourself?

8 A. Yes.

9 Q. Okay. Do you remember a shooting happening that
10 evening?

11 A. Yes, sir.

12 Q. Prior to the shooting taking place, what were you
13 doing that day?

14 A. I'm behind the register.

15 Q. And do you remember anyone coming inside the store?

16 A. Yes.

17 Q. Okay. Please tell the jury about the people who came
18 in.

19 A. It's two people come to the store, buy some item
20 that's ---

21 Q. And did they --- what happened? Did you see either
22 of those two people with a gun?

23 A. Oh, yes, that's one. That's two people. One of
24 them, the gun, it fell down from his pocket in the floor. The
25 other one, he picked it up. And this time I tell him that is

1 not allowed to be inside the store with the gun.

2 Q. And the one who picked up the gun, what was he
3 wearing?

4 A. Oh, he wearing black shirt.

5 Q. So after he picked up the gun, what did he do?

6 A. He put in --- in his pocket.

7 Q. Put it in his pocket?

8 A. Yes.

9 Q. Okay. And did he buy anything?

10 A. Yeah, he buy some item from the store.

11 Q. Okay. And did he come to the register?

12 A. Yes, both together.

13 Q. Okay. And when he came to the register, how close
14 was he to you?

15 A. It's so close.

16 Q. When you say so close, how --- how do you mean?

17 A. I mean, it just be between me and him. It just last
18 like this.

19 Q. And did you get a good look at his face?

20 A. Yeah, (inaudible).

21 Q. I'm showing you what's been previously marked as
22 State's Exhibit No. 4. Mr. Hesham, do you recognize this?

23 A. Yes, sir.

24 Q. And what is this?

25 A. This is the guy he beat the --- the gun from the

1 floor and that the other guy, he fell down the gun from me.

2 Q. Okay. And is this a true and accurate copy? A
3 picture of ---

4 A. Yes.

5 Q. --- that the guy who picked up the gun looked like
6 that night?

7 A. Yes.

8 MR. WALTON: Okay. Your Honor, at this time the State
9 moves to what was previously pre-marked as State Exhibit No. 4,
10 admitted as evidence.

11 MS. ZMROCZEK: Without objection.

12 THE COURT: State's 4 is admitted without objection.

13 MR. WALTON: Permission to publish?

14 THE COURT: Yes, sir.

15 BY MR. WALTON:

16 Q. And Mr. Hesham, when you say the man in black, is
17 that the one you saw with the gun?

18 A. The one behind him fell down.

19 Q. Okay.

20 A. From him. And the one he wearing black, he picked
21 it up and he put it in his pocket.

22 Q. Okay. So after he picked up the gun and you said he
23 came close to you, did he leave the store? The man in the black
24 who had the gun?

25 A. Yes. Both together. They left the store.

1 Q. Okay. And did he come back in the store?

2 A. Yeah, he come back at the store.

3 Q. Okay. Tell --- tell the jury about when he came back
4 into the store.

5 A. All right, this time I have two customer because I
6 have two windows served from. So I have one behind the door,
7 the end, and the one in middle of the store. I have to come,
8 two customer come and in the window, buy some cigarette or
9 something. And after that, the other two is come before the one
10 he's had the gun before he --- he was behind them, behind these
11 two in the window.

12 Q. Okay. And what was he doing?

13 A. He's the --- the okay, I see that. Why he come back,
14 these two. Because it is something weird this night. I don't
15 know, I feel like something going to happen. I don't know why,
16 but I feel that is the two people behind that talking together
17 about and market for the other two in the --- in the register.
18 After that, the two in behind the window left and the other two
19 already left behind him.

20 Q. Okay. And before the other two left, one man in the
21 black that you said had a gun, when you came back in, did you
22 see --- did you get a good look at his face? Second time?

23 A. Yes, because this come before.

24 Q. Okay. And ---

25 A. Two times.

1 Q. Yeah. And the second time, did you get a good look
2 at his face?

3 A. Yes. Sure.

4 Q. And --- and how far was he from you the second time?

5 A. It behind the --- the two in the register.

6 Q. Okay. So you said that he --- that everybody left
7 the store after that?

8 A. The first two, he left the store after the --- the
9 other two behind them, he left behind.

10 Q. Okay. And after they left the store, did you hear
11 gunshots?

12 A. Yes.

13 Q. Okay. And after the gunshots, did a woman run inside
14 at the store?

15 MS. ZMROCZEK: Your Honor, I would object to leading.

16 MR. WALTON: It's a yes or no question.

17 THE COURT: Yeah. You leading questions, you do call for
18 yes or no answers. The objection's sustained. Rephrase your
19 question.

20 BY MR. WALTON:

21 Q. After you heard the gunshots what happened next?

22 A. That's one lady. She come inside the store very fast
23 and she go all the way back to the store and I tell her what is
24 happened, what's wrong. She tell me that the shooting outside.
25 So I locked the door immediately and I tried to see in the

1 camera, but this time my TV, the camera TV it was to another
2 picture inside the store, not outside the store. So when I ---
3 when I tried to --- to put the --- the whole camera outside, I
4 didn't see anything. I just see the black car outside in the
5 car. It was happening outside.

6 Q. And did you call 911?

7 A. Yeah, immediately.

8 Q. And did law enforcement come to the scene?

9 A. Yes.

10 Q. And did you tell them what happened?

11 A. Yes.

12 Q. The shooting happened around 2:30 a.m. on December
13 19, 2020. Do you remember going to the sheriff's department
14 later that day?

15 A. Yes.

16 Q. And did you give a statement to law enforcement? A
17 Yes.

18 Q. And did you tell them that you --- that you saw a man
19 at the gun?

20 A. Yes.

21 Q. And which man did you say had that gun?

22 A. The one he had with black clothes.

23 Q. And while you were at the Sheriff's department, were
24 you shown a photo lineup?

25 A. Yes.

1 Q. And did you select the person from that photo?

2 A. Yes.

3 Q. Mr. Hesham, I'm showing you what's been previously
4 marked as State's Exhibit No. 6 and number 5. Do you recognize
5 this?

6 A. Yes. This is my signature.

7 Q. And is your signature on what?

8 A. In the photo.

9 Q. Your signature on the photo. And is this the photo
10 line that you were shown ---

11 A. Yes.

12 Q. --- on December 19th?

13 A. Yes.

14 Q. And did you make a selection on this?

15 A. Yes, it's here.

16 Q Okay.

17 A. I have number three.

18 Q. Okay. And is this the actual form that you received?

19 Did you ---

20 A. Yes.

21 MR. WALTON: Your Honor, at this time, the State moves to
22 have what's been previously marked as State's Exhibit No. 6 and
23 No. 5 admitted as evidence.

24 MS. ZMROCZEK: Without objection.

25 THE COURT: Okay.

1 MR. WALTON: Permission to publish, Your Honor?

2 THE COURT: You said five and six?

3 MR. WALTON: Uh-huh.

4 THE COURT: Five and six are already in, but we must have
5 missed a --- oh no, I'm sorry. My numbering is off. Five and
6 six are admitted without objection.

7 (State's Exhibits 5 and 6 were admitted into evidence)

8 MR. WALTON: Thank you.

9 THE COURT: I've got 135 and 136. I apologize

10 MR. WALTON: Permission to publish?

11 THE COURT: Yes, sir.

12 BY MR. WALTON:

13 Q. Mr. Hesham, is this the person that you selected?

14 A. Yes.

15 Q. And who is that person?

16 A. He's the one, he wearing the black.

17 Q. And is he the one that had the gun?

18 A. Yes, he's the one that he picked the gun --- the gun
19 from the floor.

20 Q. Okay. And do you see that person in the courtroom
21 today?

22 A. Yes, I see him, but he's, I mean he is totally
23 different because he's in shape.

24 Q. Okay. And what is he wearing?

25 A. The gray.

1 Q. Please let the record reflect that the Mr. Hesham has
2 identified the defendant. Mr. Hesham, when you selected photo
3 number three, as the man who saw this gun, did anybody tell you
4 to pick that picture?

5 A. Absolutely not.

6 Q. And were you aware that the Motor City Market had
7 security cameras inside of the store?

8 A. Sure.

9 Q. And have you had a chance to review those footing
10 from that, those security cameras before coming to court today?

11 A. Yes, sir. I did.

12 Q. Mr. Hesham, I'm showing you what's been previously
13 marked as State's Exhibit No. 14. Do you recognize this?

14 A. Yes, sir.

15 Q. And what is this?

16 A. That's is the CD what's happened this night?

17 Q. Okay. When you say what happened this night, do you
18 mean the night of the shooting?

19 A. Yes.

20 Q. Inside of the store?

21 A. Yes.

22 Q. And did you initial this?

23 A. Yes.

24 Q. And did you date this disc?

25 A. Yes.

1 Q. And does this disc truthfully and accurately depict
2 what happened December 19, 2020?

3 A. Yes.

4 MR. WALTON: Your Honor, at this time, the State
5 moves to have what's been previously marked as State's Exhibit
6 No. 14 admitted as evidence.

7 MS. ZMROCZEK: Without objection.

8 MR. WALTON: Permission to publish, Your Honor?

9 THE COURT: Yes, sir. State's 14 is admitted.

10 (State's Exhibit 14 was admitted into evidence)

11 BY MR. WALTON:

12 Q. Thank you, Your Honor. Can you see Mr. Hesham?

13 A. Yeah.

14 Q. (Inaudible) Mr. Hesham. Is this?

15 A. Yes, this is one.

16 Q. That is the first one?

17 A. Yes.

18 Q. Okay. Go to channel four. Trying to pull a clip
19 form. Is this the same footage you saw from another angle?

20 A. Yes.

21 Q. And that's you sitting there?

22 A. Yes.

23 Q. This is the man in Black with the guns.

24 A. Obviously, yes.

25 Q. Mr. Hesham, what is going on right now?

1 A. Yeah, (inaudible). He --- he was inside to me.

2 Q. Is that where he dropped the gun?

3 A. Yes.

4 Q. And you saw --- and who picked it up?

5 A. Yeah.

6 Q. What was the man who wearing that picked it up?

7 A. The one he have the --- the black clothes.

8 Q. Okay. Just jump. Channel six. Is this the man you
9 said came in and bought cigarettes?

10 A. Yes. And the other --- the other one he also.

11 Q. And on direct, you said these two men were talking
12 about those two men?

13 A. Yes.

14 Q. And did you see any of them again?

15 A. I'm sorry?

16 Q. Did you see any of those people again?

17 A. No.

18 MR. WALTON: Okay. No further questions, Your
19 Honor.

20 THE COURT: Ms. Zmroczek, cross-examination.

21 CROSS-EXAMINATION

22 BY MS. ZMROCZEK:

23 Q. Thank you, Your Honor. May it please the court.

24 Good afternoon, Mr. Hesham.

25 A. Good afternoon.

1 Q. I want to just ask you a few questions, okay? A

2 Yes.

3 Q. The guy that had the gun when he walked into the
4 store was the guy in the red shorts, right?

5 A. Yes.

6 Q. Okay. The now the store got in trouble for selling
7 alcohol to --- to those people, right? (Crosstalk) Are you
8 allowed to sell alcohol to people who have --- who are clearly
9 intoxicated?

10 A. Yes.

11 Q. Okay. And that's --- that's what happened that
12 night, right?

13 A. Uh-huh.

14 Q. In fact, I think we saw things were rolling on the
15 ground. They were --- they were dropping cans of beer, right?

16 A. No, it is not beer. It is I guess he's a must of
17 what he buy. It's a must have soda.

18 Q. Must have what?

19 A. The must what he buy is soda and chips.

20 Q. Oh, it was soda that --- that's what was following
21 up.

22 A. Yes, they were. Because if that beer, it would be
23 broke.

24 Q. Okay.

25 A. But this is --- this is like plastic.

1 Q. All right. But that --- but --- but point being is
2 that they were dropping them as they were trying to get him up
3 to the counter, right?

4 A. Yes.

5 Q. Okay. Now, and the camera's filming exactly what's
6 --- what --- what's happening, right? So if people are swaying,
7 you're not moving the cameras. Those are people that are
8 swaying, right?

9 A. No.

10 MS. ZMROCZEK: Okay. Thank you. I have no further
11 questions.

12 THE COURT: Anything further from this witness, Mr.
13 Walton?

14 MR. WALTON: No, Your Honor.

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

16 UNIDENTIFIED SPEAKER: Watch your step down. Watch kind
17 of high. All right.

18 THE COURT: Okay. And you're free to go. Thank you for
19 being here.

20 THE WITNESS: Appreciate it so much.

21 THE COURT: Thank you. All right folks. Let's call it
22 a day. Please be back in your jury room tomorrow morning at
23 9:30. As you know, we're going to order lunch for you. So that
24 takes one element out of the equation. So you should have
25 placed drill and shoulders, yes, this afternoon. Don't discuss

1 MR. BELLI: B-E-L-L-I.

2 PAUL MICHAEL BELLI,

3 being first duly sworn, testifies as follows:

4 THE CLERK: Thank you. (Inaudible).

5 MS. DARKO: Your Honor, can we make this quickly because
6 (inaudible) for this witness begins (inaudible).

7 THE COURT: All right. You may proceed, Ms. Darko.

8 DIRECT EXAMINATION

9 BY MS. DARKO:

10 Q. Good morning, Mr. Belli. Where are you currently
11 employed?

12 A. I am currently employed with Sound Thinking
13 Incorporated, which is now the new name for ShotSpotter.

14 Q. And is the title you called the Forensic Services
15 Manager?

16 A. It is.

17 Q. And in general terms, what is ShotSpotter exactly?

18 A. ShotSpotter is a gunshot location and detection
19 system.

20 Q. And with regard to your role as a Forensic Service
21 Manager, what is -- what are your responsibilities associated
22 with that role?

23 A. My day-to-day responsibilities are conducting
24 business records checks so pulling information required by --

25 MS. ZMROCZEK: Your Honor. Sorry. I'm having trouble

1 hearing.

2 THE WITNESS: Can't hear. Is this better?

3 MS. ZMROCZEK: That is much better. Thank you.

4 THE WITNESS: Okay. My day-to-day businesses are pulling
5 records related to ShotSpotter incidents and providing a, a
6 certification that we hold those records. In addition to that,
7 I conduct detailed forensic analysis on incidents that are
8 requested by various jurisdiction.

9 BY MS. DARKO:

10 Q. And what background and training led to your position
11 at ShotSpotter?

12 A. I was a Deputy Sheriff for the Sacramento County
13 Sheriff's Office in California for approximately 25 years.
14 During my tenure there I reached the rank of Lieutenant. The
15 assignments I held in there were patrol, detectives,
16 approximately seven years as homicide detective. Three years
17 as a supervisor in the homicide bureau, and two years as a
18 lieutenant commanding our centralized investigations division.

19 Q. And when you were in that role, were you responding
20 to ShotSpotter calls?

21 A. As a Patrol Watch Commander, when I promoted to
22 Lieutenant I was responding to calls in the field. I would say
23 no less than 150 ShotSpotter activations within the area that
24 I was responsible for patrol.

25 Q. Is it safe to say that before you began working for

1 ShotSpotter, you were already familiar with the system in terms
2 of responding to those calls?

3 A. I was. We had a variety of training related to the
4 system itself, as well as the computer applications that were
5 housed within our vehicles that would let us know where to
6 respond to when there was an activation.

7 Q. And once you began working with ShotSpotter, how did
8 you kind of qualify to analyze the ShotSpotter, a piece of
9 acoustic event data and the records associated there with?

10 A. It's all on the job training. So when I started in
11 November of 2022, I began working with two of our senior experts
12 related to conducting a detailed forensic analysis. They review
13 my work regularly. I get assigned detailed forensic reports.
14 In addition to that, I've spent time with our engineers going
15 over the system itself, going over the sensors, what makes them
16 up, and how they are deployed within the customer's areas that
17 they designate. In addition to that, I've spent no less than
18 16 hours with one of the founders who helped develop the science
19 behind the system itself. In addition to that, I've attended
20 guest lectures by experts in the field of acoustic gunshot.

21 Q. And how long has the ShotSpotter System been around?

22 A. It's been around since 1995. The first deployment
23 was in the Bay Area in California.

24 Q. And how many cities in the United States are
25 currently in work with ShotSpotter?

1 A. We're over 120.

2 Q. And in your role as a Forensic Service Manager, how
3 many ShotSpotter records or gunshot incidents have you analyzed?

4 A. Our first part of the training is to actually go
5 through training where you are listening to activations and
6 making determinations about gunfire or fireworks or backfires,
7 helicopter noises, things of that nature. So 100s of those as
8 I progressed through and as a -- conducting detailed forensic
9 analysis of cases conservatively 75.

10 Q. And are you primarily analyzing data from one
11 ShotSpotter system in just one geographic area or multiple
12 across the country?

13 A. Multiple across the country.

14 Q. And have you testified in court with regard to the
15 records both audio and written connected to ShotSpotter acoustic
16 event data?

17 A. I have.

18 Q. And how long has ShotSpotter been in operation in our
19 area, in the Columbia area?

20 A. Columbia area was 2019.

21 Q. And you've already explained sort of what ShotSpotter
22 is. Can you just explain in more specific terms how it actually
23 works?

24 A. Okay. So as I discussed, we have a geographical area
25 that is defined by the customer. So when they contract with us

1 to actually place our sensors within an area, they tell us where
2 they want. At that point, we conduct an analysis of that area
3 to figure out where the best placements would be. And we place
4 those sensors within the -- that particular area that's defined
5 by the customer. Once we do that the system is online and
6 begins to detect impulsive noises throughout that entire array.

7 Very commonly what we see in those systems is our -- how
8 we actually deploy those and place those in there. We're
9 looking at trying to place them approximately 40 feet off the
10 ground for a number of reasons. The first being it gets above
11 that general city noise. And it also limits the ability for us
12 to necessarily detect voices or to record those voices. We can
13 also mount them on poles and you know, other structures but
14 never on trees or something that would be moving around.

15 Q. Okay. And if you could just take us through if
16 there's an acoustic data event from the moment that event
17 occurs, how the system records that event and how that's
18 transmitted and ultimately kept in store.

19 A. Okay. So the system's made up of essentially three
20 pieces. The sensors that we talked about a location server that
21 the sensors send their information to, and then also the
22 application that is running within the officer's vehicles. So
23 when a bang, boom or a pop the -- an impulsive noise occurs the
24 sensors within that array detect that. Each of those sensors
25 contains a GPS chip. It also has a computer, a small computer

1 chip in it, and is able to communicate wirelessly over cellular
2 network.

3 When that impulsive sound is detected the sensors begin
4 to transmit that information to the location server. It takes
5 a minimum of three sensors to detect an incident to actually
6 locate it. A fourth is needed on single gunshot events for
7 confirmation. When you have multiple gunshot events there's
8 enough data points there that you could do it with the three
9 sensors.

10 So when the sensors detect that information as I said,
11 they send that to our location server, which is housed in the
12 middle of the country. That location server begins to do some
13 mathematical equations which is called a multilateration
14 equation. And it begins to plot a hyperbolic curve related to
15 each of those sensor data that it's receiving. And the way that
16 those are done, the multilateration is essentially determining
17 an unknown point using multiple known points. So, as I said,
18 the sensors themselves know exactly where they are in space and
19 time because of the GPS chips that they have. And we use time,
20 distance of arrival to actually calculate where that unknown
21 location would be.

22 The system basically graphs that time distance of arrival
23 calculation that uses the speed of sound, which we know is 760
24 miles per hour. And where those hyperbolic curves cross is a
25 general -- or the location where that gunshot came from.

1 Q. And in terms of representing the location on the
2 records associated, are you relying on your own mapping system?
3 Are you utilizing Google Maps, or what is affixed to the actual
4 record?

5 A. So we use Google Map data related to that. And then
6 each customer also gives us -- so when you're mapping that --
7 those curves, they are also specifically related to longitude
8 and latitude. So it makes it much easier for us to actually map
9 that. So the system itself is dealing all in longitudinal
10 latitude, so it gives you a very accurate location where that
11 gunshot came from.

12 The customer also supplies us with address property data
13 or property address data, and we basically geolocate that. So
14 we get the longitude and latitude, we plug that into the system
15 or the database that the customer provided, and then we can
16 provide an address for where that occurred. What we train the
17 officers to do is actually go to the dot. So they're actually
18 responding to a latitude and longitude less than they're
19 responding to an actual address.

20 Q. And when you say customer, are you referring to the
21 policing agency in the jurisdiction that has requested this
22 installation of the sensors?

23 A. I am.

24 Q. And is that how you come into a particular
25 jurisdiction, is through a policing agency?

1 A. Yes.

2 Q. And you already mentioned the incident review center.
3 If you can just explain what that is.

4 A. So when the system detects a possible gunshot or
5 noise that has the characteristics of gunfire it begins to try
6 to locate it. It looks at the sound signature for it as well.
7 And if it determines that it has a probability of being gunfire,
8 it sends it to one of two incident review centers, as we call
9 them, the IRC. Those are staffed by people that have been
10 trained to listen to gunfire. They've gone through several
11 weeks of training related to each of those incidents. So when
12 they get that information they review the incident itself. They
13 look at where, you know, what the location is, they look at the
14 day and the time that it's occurring, and then they actually
15 listen to the sound that was sent to them. And they make a
16 determination as to whether or not they're going to send that
17 to the customer or the municipality as gunfire. That typically
18 takes place within about 30 seconds or so of the shot inside.

19 Q. And how accurately the ShotSpotter locate gun fire?

20 MS. ZMROCZEK: Your Honor, I would argue that we're
21 getting into --

22 MS. DARKO: Withdrawn. I'll withdraw that question, Your
23 Honor.

24 BY MS. DARKO:

25 Q. How accurate are the clocks associated with a

1 particular event?

2 A. So each of the sensors is calibrated to the atomic
3 time, so it's accurate down to the millisecond.

4 Q. And what is the range of a ShotSpotter sensor?

5 A. In the right conditions approximately a mile.

6 Q. And how can you tell the system was working properly
7 at the time of the shooting?

8 A. The first way you can tell is that it actually
9 detected it and began to locate it. Each of the sensors is
10 constantly in communication with our location server. So we
11 know if there's a problem with a particular sensor in the
12 beginning.

13 Q. And you've already spoken about (inaudible). So
14 these sensors require maintenance.

15 A. They're actually pretty maintenance free, but there
16 are sometimes you know, issues that happen just like any other
17 computer. But we design our arrays as we call them where you
18 could have 30 percent of the sensors be non-functioning and
19 still be very active.

20 Q. But you are monitoring whether or not the system is
21 working properly, whether or not the sensors are working
22 properly?

23 A. We are.

24 Q. And how long and where is the gunshot audio and data
25 associated with the gunshot that stored?

1 A. It is stored indefinitely, and it is stored in the
2 cloud on Amazon web servers, which were -- are highly secure.

3 Q. And can the ShotSpotter operator create or alter the
4 details of the incident stored on the system?

5 A. No, they cannot.

6 Q. And in your capacity as a Forensic Services Manager
7 are you able to access the acoustic event data, including the
8 audio of the gunshot and any written records associated with
9 those gunshots?

10 A. I am.

11 Q. And were you asked to review ShotSpotter data in
12 connection with this incident of December 19, 2020?

13 A. I was. .

14 MS. DARKO: Just checking (inaudible), do I have your
15 items marked?

16 MS. ZMROCZEK: Yes, ma'am.

17 BY MS. DARKO:

18 Q. I am showing you what's been pre-marked as states
19 206, 220 and 221. Do you recognize those items?

20 A. I do.

21 Q. And what are they?

22 A. They are investigative lead summaries related to two
23 incidents the first being 80384857, and the second 80384858,
24 which is an internal designation for our incident numbers.

25 Q. Okay. And are those two ILS reports that you

1 referenced associated with the gunshots that you were asked to
2 pull for this incident on December 19, 2020?

3 A. They are.

4 Q. And how are you certain that you're able to recognize
5 the audio portion of those?

6 A. Each of the audio files is listed in this document
7 as well. It gives you a sensor number a range from -- and a
8 range from the incident.

9 Q. And with regard to the disc of the recording did you
10 review that disc?

11 A. I did.

12 Q. And how do you know that you reviewed it?

13 A. I was present with one of the attorneys while we
14 listened to each of the audio files and looked at them.

15 Q. And it -- is it a fair and accurate reporting of the
16 gunshots associated with those events on December 19, 2020?

17 A. It is.

18 MS. DARKO: At this time, Your Honor, the State would move
19 to admit 206, 220 and 221.

20 MS. ZMROCZEK: Your Honor, I would object under hearsay.
21 I would ---

22 THE COURT: Let me see the documents, Ms. Darko. Where's
23 206?

24 MS. DARKO: Oh, this is the -- this, sorry.

25 THE COURT: Oh, okay. No, you don't need to. I think the

1 foundation has not been laid at this point. The objection is
2 sustained.

3 MS. DARKO: Your Honor, may I publish 206? Are you saying
4 that the foundation has not been laid for all three?

5 THE COURT: Is there an objection as to 206?

6 MS. ZMROCZEK: There is, Your Honor.

7 THE COURT: You all approach. All right. So the previous
8 objection was sustained as to State's 220 and 221. There was
9 also a hearsay objection as to State's 206. That is overruled.
10 You may publish 206.

11 BY MS. DARKO:

12 Q. Mr. Belli, with regard to the gunfire that we just
13 heard that you reviewed and it was associated with the records
14 on your system, which record is associated with that, that you
15 have in front of you and that you brought with you in court
16 today?

17 A. That would be 80384857.

18 Q. And the report that has that reference number on it,
19 is that a -- I believe that's Exhibit number 220?

20 A. That is correct.

21 Q. And is that a fair and accurate copy of the records
22 that you keep in connection with those shots in your position
23 with ShotSpotter?

24 A. It is.

25 Q. And you regularly keep these records and maintain

1 them in the course of ShotSpotter's business?

2 A. Correct.

3 MS. DARKO: Your Honor, at this point, the state would
4 move to introduce 220.

5 THE COURT: 220 only?

6 MS. DARKO: At this time.

7 THE COURT: Not 221?

8 MS. DARKO: Not 221.

9 THE COURT: Got it. Any objection at this time?

10 MS. ZMROCZEK: Again, Your Honor, I would maintain that
11 same objection.

12 THE COURT: Okay. That objection's now overruled. Proper
13 foundation has been laid, State's 220 is admitted over
14 defendant's objection.

15 (State's Exhibit 220 was admitted into evidence)

16 MS. DARKO: Request to publish, Your Honor?

17 THE COURT: Yes, ma'am.

18 BY MS. DARKO:

19 Q. And Mr. Belli, if you can just -- is this the Google
20 Map appearing at the top of 220?

21 A. It is.

22 Q. Okay. And that approximates the location of the
23 gunfire?

24 MS. ZMROCZEK: Your Honor, I would object to leading.

25 THE COURT: Sustained.

1 BY MS. DARKO:

2 Q. Does -- what does that indicate to your view? What
3 are you -- what is the record communicating?

4 A. So that is a graphical view of the location where the
5 -- this incident was automatically located by the system. The
6 circle provides a general statement of accuracy meaning within
7 25 meters or approximately 82 feet from that location.

8 Q. And we can see it on the record, but what is the
9 address associated with this gunfire incident?

10 A. [REDACTED] Road.

11 Q. And with regard to the incident audio indicated on
12 the bottom of the record, what are we looking at there with
13 regard to the, I believe it's four sensor references?

14 A. Correct. Those are the four sensor records retained
15 in our system related to that incident.

16 Q. And we're -- what was the audio that we heard, which
17 sensor is that associated with?

18 A. I don't recall specifically which one you played.
19 I can't see the exact number of the incident. It should be part
20 of the file name.

21 Q. And let the record reflect that that is 1094. And
22 how far is sensor 1094?

23 A. 1094 is approximately 238 feet or 73 meters from the
24 location depicted on that map, marked by the six.

25 Q. With regard to the balance of the sensors that are

1 referenced, does that mean those are the only sensors that
2 picked up the gunfire or that those are the closest ones to the
3 incident?

4 A. Those were the four that were chosen by the system
5 to be retained. That would not be the only ones that likely
6 participated within this incident. Many sensors participate but
7 the system makes a decision related to which ones it will retain
8 for perpetuity.

9 Q. And I'm showing you what's already been admitted as
10 State seven, and I'm handing back to you what's already been
11 admitted as State's 220. Are those the same Google Map
12 location?

13 MS. ZMROCZEK: Again, Your Honor, I would object. I
14 believe that if she's not going to proffer him as an expert
15 witness, that his determination on what's the same and what
16 isn't is improper. I think that if she wants to submit that
17 evidence, the jury can make their determination. But to have
18 someone testify that's not been qualified as an expert, I would
19 argue is improper.

20 MS. DARKO: I can rephrase, Your Honor.

21 THE COURT: Okay. And in the future, let's do legal
22 objections, rule numbers and legal principles. That's what's
23 most appropriate. Ms. Darko, rephrase.

24 BY MS. DARKO:

25 Q. You already testified that you rely on Google Maps

1 to provide the mapping image at the top of your reports is --
2 and I believe it was State seven that I handed you?

3 A. Correct.

4 Q. Is that a Google map of the incident location?

5 A. It appears to be, yes.

6 MS. DARKO: And request can you go ahead and publish that
7 second audio?

8 BY MS. DARKO:

9 Q. State has just publicized the audio associated with
10 sensor 1094? For the items that I handed up, I believe that was
11 221.

12 A. That's correct.

13 Q. Is that the ILS report associated with the gunshots
14 that we just heard report today?

15 A. Yes, it is.

16 Q. And those are the gunshots from [REDACTED] Road
17 from December 19, 2020?

18 A. Yes, they are.

19 Q. And what time did those gunshots occur according to
20 your report?

21 A. 02:38 and 43 seconds.

22 Q. And is that time reflected on the ILS or on Exhibit
23 220 or item 220?

24 A. 221, yes. It is.

25 Q. 221. Yes, sir.

1 MS. DARKO: At this time, Your Honor, state would -- let
2 me ask this one more question.

3 BY MS. DARKO:

4 Q. And those are records that you keep in connection
5 with your role as a records custodian with ShotSpotter?

6 A. Yes, they are.

7 Q. And they're a fair, accurate representation of the
8 records stored out of your system in connection with this
9 shooting incident?

10 A. Yes, they are.

11 MS. DARKO: At this time, Your Honor, the state would move
12 to admit State 221.

13 THE COURT: Any additional objection or same objection?

14 MS. ZMROCZEK: No, I would maintain my same objection.

15 THE COURT: States 221 is admitted over the defendant's
16 objection.

17 (State's Exhibit 221 was admitted into evidence)

18 MS. DARKO: Request to publish?

19 THE COURT: Yes, ma'am.

20 BY MS. DARKO:

21 Q. And again, the -- if you could just go through what
22 we're publishing here in States 221 with regard to how many
23 sensors picked up this incident and the location.

24 A. For this particular case, it shows you the four
25 sensors that were saved by the system. And it has a graphical

1 map depicting the location where the system automatically
2 located that gunfire that is displayed by the number two. And
3 the circle around it is the accuracy circle, which is 25 meters
4 or 82 feet.

5 Q. And what was the range for the sensor associated with
6 number 1094?

7 A. 238 feet or 73 meters.

8 Q. And with regard to the date and time this gunfire
9 picked up at what time?

10 A. This gunfire was picked up at 2:38 and 43 seconds.
11 So 2:00 a.m. in the morning,

12 Q. And I'm just going back to republish 220. What date
13 and time did those first five shots occur?

14 A. I believe it was six shots. That was December 19,
15 2020 at 2:38 and 34 seconds.

16 Q. With regard to the five shots and then the second
17 report for the two shots, why are those just simply not
18 delineated under one report, one ILS? Why does the system
19 separate them?

20 A. So the system essentially picked up two different
21 incidents because of the time differences between the two that
22 they -- when they occurred.

23 Q. And what would be the time difference that would
24 require the system to generate two separate incidents as
25 represented that way?

1 220 sensors, 1094. Where is that located?

2 A. I can't provide the location --

3 Q. Why is that?

4 A. -- related to that. I don't have it with me, but we
5 also do not provide the location of the sensors without judicial
6 process.

7 Q. Okay. So we're relying on information, but you won't
8 tell us where the sensors location; is that correct?

9 A. That's correct.

10 Q. Okay. Is it -- how far off the ground is it?

11 A. I can't specifically speak to that sensor. I did not
12 pull that information.

13 Q. Okay. But you said it is approximately 247 feet
14 away?

15 A. Correct.

16 Q. Away from what?

17 A. Away from the location that it automatically detected
18 that gunfire came from.

19 Q. Okay. And would that location be the car, the store,
20 where would that location be?

21 A. That location would be the latitude and longitude
22 that the system calculated. It's graphically displayed by the
23 yellow numbers at the top of the page.

24 Q. Okay. So sensor 1048, which is 379 feet away, I'm
25 assuming that you're also not going to disclose where that's

1 located?

2 A. Correct.

3 Q. Is it -- is it located on the same side of the
4 street? Do you even know where it's located in relation to --
5 are all of these sensors in one place?

6 MS. DARKO: Your Honor, asked and answered. He already
7 said that he cannot speak to the location.

8 THE COURT: Sustained.

9 BY MS. ZMROCZEK:

10 Q. Okay. Are these triangulated?

11 A. No. Triangulation is a slightly different process.
12 This is multilateration.

13 Q. How long does it take for sound to travel 247 feet?

14 A. It travels at 760 miles per hour. I'm not sure the
15 exact time between -- before that.

16 Q. So when this time that you said was 2:38, what time
17 did you say it was?

18 A. I'd have to refer to it to refresh my recollection.
19 And -- and which incident you're speaking to. You're speaking
20 to 8457?

21 Q. Yes.

22 A. Okay. And you asked specifically which -- which
23 shot?

24 Q. That was supposed to be. Yes.

25 A. Okay. 2:38:34 and 272 milliseconds.

1 Q. Okay. And, so as you're going through your report
2 provides an incident timeline, and then on the last page there
3 are disclaimers.

4 A. Correct

5 Q. With regards to you. Okay. The first disclaimer,
6 read that to the jury.

7 A. The investigative lead summary is produced using data
8 automatically generated by the ShotSpotter system and has not
9 been independently reviewed by our forensic engineers, although
10 it provides precise trigger pull, location and timing as
11 determined automatically by the ShotSpotter system. This
12 summary should only be used for initial investigative purposes
13 because the shot timing, location, and count could differ once
14 reviewed by a ShotSpotter Forensic Engineer. Factors such as
15 obstructed or attenuated, muzzle blast, weapon discharge in an
16 enclosed space, or if the weapon discharge is of 25 or smaller
17 caliber may prevent the sensors from detecting all or some of
18 the shots fired. The summary has been generated solely for the
19 purpose for which it was provided. Nothing herein shall to any
20 extent substitute for the independent investigation of the
21 shooting incident. The data and conclusions herein should be
22 corroborated with other evidentiary sources such as recovered
23 shell casings and witness statements.

24 Q. Thank you. So there are limitations as to what the
25 ShotSpotter can pick up, right?

1 A. There are.

2 Q. And then there are also it -- can it -- how can it
3 differentiate -- can it differentiate backfires at cars?

4 A. It can, but that's also why we employ a reviewer to
5 actually listen to each one of those incidents prior to
6 publishing.

7 Q. Can it differentiate numbers of guns?

8 A. Not specifically. It -- it counts gunshots.

9 Q. Okay. Just the gunshots.

10 A. Correct.

11 Q. And you said it should be corroborated by for
12 example, shell casings. So you just published eight shots,
13 right?

14 A. Correct.

15 Q. So we should expect to see eight (inaudible)?

16 A. Not necessarily.

17 Q. Okay. You -- can you testify, you said you already
18 can't testify as to how many guns there were, correct?

19 A. Correct.

20 Q. Okay. And by listening to that, you can't -- you
21 cannot differentiate what type of weapon was used, correct?

22 A. Correct.

23 Q. And so these systems are strategically placed. Who
24 determines the placement of these systems?

25 A. We do.

1 Q. And how do you determine where to place these
2 systems?

3 A. We look at the geographical area, and based upon
4 that, we essentially determine where we want to place the
5 sensors for the best possible coverage.

6 Q. And what information do you use to determine that?

7 A. It's on site as well as map.

8 Q. So when you come to -- so someone comes to Columbia
9 and just decides where to put it -- put -- put these locations?

10 A. Yes.

11 Q. Okay. And who is that?

12 A. Those are going to be our installers employed by
13 ShotSpotter.

14 Q. Okay. And they choose higher crime, low income
15 areas; is that correct?

16 A. The areas that are -- that where we have the arrays
17 are not chosen by us, they're determined by the municipality.

18 Q. Okay. So that was my question. I'm sorry. So who
19 in the -- you said municipality, so in Columbia, who would make
20 that determination?

21 A. The agency that contracted with us.

22 Q. And so they give you a geographic location?

23 A. Correct. They -- they define an area that they would
24 like covered, and we look at that area and then we place the
25 sensors.

1 Q. And they're placed on, I'm not asking about the
2 sensors in general, where and how are they affixed? Not where
3 specifically, but where in general are they fixed?

4 A. So in -- in general, like, I said earlier, our goal
5 is to attach them to structures. We can also attach them to
6 street poles, streetlights, things of that nature that is
7 something we try not to do because of how low those are. Those
8 are typically 20 feet tall. Our goal is at 40 feet heights.

9 Q. And when you say structures, do you mean like
10 telephone poles or trees or?

11 A. No trees, nothing that would move like that. So
12 telephone poles would be an -- a viable option, but -- but
13 typically what we're trying to choose are actual buildings,
14 residences and structures and things of that nature.

15 Q. And do you get permission from the building owners?

16 A. We do.

17 Q. And so again, if -- if -- if there were a location
18 on this building, it would say zero feet, right?

19 A. Correct.

20 Q. Okay. And again, is it prepared -- is it secret like
21 the north, south, east, west of these locations? Is that also
22 you're not able to tell us?

23 A. That's correct.

24 Q. How many reports around this same evening did you
25 have for that time period?

1 A. Those are the only two I'm aware -- I'm aware of.

2 Q. And how far back did you go, hours or?

3 A. I looked specifically at these two incidents.

4 Q. Just at these two?

5 A. That's correct.

6 MS. ZMROCZEK: No further questions.

7 THE COURT: Any redirect?

8 MS. DARKO: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. DARKO:

11 Q. When Ms. Zmroczek was having you read that
12 disclaimer, it covered corroborating the -- the audio of
13 proposed gunfire with witness statements. Is that what it
14 said there in the disclaimer that you read?

15 A. That could be inferred, yes.

16 Q. And is it a fair statement that where you have an
17 eyewitness saying that what we heard here in court was
18 gunfire, you could use that to corroborate the audio here in
19 court?

20 A. Correct.

21 MS. DARKO: Nothing further.

22 THE COURT: Anything further, Ms. Zmroczek?

23 MS. ZMROCZEK: Nothing further.

24 THE COURT: All right, thank you. You may step down.

25 Call your next witness.

1 MR. WALTON: State calls Michelle Seay. Come forward to
2 be sworn. (Inaudible).

3 THE CLERK: State your full name please.

4 MS. SEAY: Michelle Seay.

5 THE CLERK: Spell last name?

6 MS. SEAY: S-E-A-Y.

7 MICHELLE SEAY,

8 being first duly sworn, testifies as follows:

9 THE CLERK: Thank you. Please be seated.

10 THE COURT: Your witness.

11 MR. WALTON: Yes, Your Honor.

12 DIRECT EXAMINATION

13 BY MR. WALTON:

14 Q. Good morning. Ms. Seay, how do you work?

15 A. I work for the Richland County Sheriff's Department.

16 Q. And what is your position there?

17 A. I'm currently a latent print examiner.

18 Q. Okay. Is that -- in 2020 what was your position?

19 A. I was a crime scene investigator.

20 Q. And back then, how long have you been a crime scene
21 investigator?

22 A. I joined the crime scene unit in January of 2018.

23 Q. And what type of training did you receive to be a
24 crime scene investigator?

25 A. I received in-house and out of house training through

1 our unit. Our in-house training consisted of multiple tests,
2 reading multiple book sources to cover documentation of
3 evidence, processing of evidence, photography, how to
4 reconstruct shooting scenes, how to document bloodstain
5 evidence, et cetera.

6 Q. Okay. And so basically what was your job
7 responsibilities?

8 A. As a crime scene investigator, our job
9 responsibilities were during a shift. We had a few hours that
10 we were the on-call investigator for the whole county. If we
11 got called out to a scene, may it be anything from as simple as
12 a larceny all the way up to a homicide or any other kind of
13 death, we would go out and process. During our non on-call
14 hours we would do other things like process, items of evidence
15 or vehicles that an investigator had obtained a search warrant
16 for or just simply done a request for a processing for and then
17 we would also attend autopsies.

18 Q. And do you specialize in any area crime scene
19 investigation?

20 A. I currently specialize in latent print analysis.

21 Q. Latent -- normally do crime scene investigators
22 receive training (inaudible) prints?

23 A. Yes we do. We -- all crime scene investigators
24 receive training in how to process for latent prints, how to
25 document latent prints and how to collect latent prints.

1 Q. Just approximately -- approximately how many scenes
2 did you respond to within your career?

3 A. When I was a crime scene investigator, I would
4 respond to approximately about 30 or so scenes in a month.

5 Q. Is it fair say each (inaudible) one?

6 A. Yes, sir.

7 Q. Okay. And as a crime scene investigator, do you only
8 process evidence at the scene of time?

9 A. No, sir.

10 Q. And where else would you process evidence?

11 A. We can process evidence in either our forensics lab
12 at the Richland County vehicle compound or in our forensics
13 garage.

14 Q. Okay. So I'm going to switch gears to an incident
15 from December 19, 2020 which occurred at [REDACTED] Road.
16 Did you process any evidence in connection with that case?

17 A. Yes, sir.

18 Q. And what did you do?

19 A. I did two things. I escorted two vehicles related
20 to it and I also processed a vehicle related to it.

21 Q. Okay. And what vehicles did you process?

22 A. May I refer to my notes?

23 Q. Yes.

24 A. I processed a 2008 Ford Crown Vic.

25 Q. And where did you process that Crown Vic?

1 A. In our forensics garage.

2 Q. And where is the forensics garage located?

3 A. Our forensics garage is located in the back parking
4 lot of the Richland County headquarters.

5 Q. And what is the forensics garage?

6 A. It's just basically a garage. It's got enough space
7 for two vehicles. It's also got some drying chambers in there
8 and it's a secure area that only people in crime scene have
9 access to.

10 Q. Why was it taken to the forensic garage rather than
11 being towed? Process where it was at?

12 A. It was transported to the forensic garage from the
13 Richland County compound. Because we knew that there was one,
14 it's a homicide vehicle. We treat those kinds of vehicles with
15 a little bit more care. We want to be able to have a controlled
16 environment where the wind's not blowing, it's not possibly
17 going to rain or anything like that while we're doing our work.

18 Q. And once the vehicle was out the garage, when did you
19 begin processing it?

20 A. According to my notes, very soon after the vehicle
21 arrived at the garage, I began processing it.

22 Q. To process it, how long did it take?

23 A. I began processing the vehicle at 1:41 and I
24 completed processing the vehicle at 4:18.

25 Q. We've been using the word processing a lot. What

1 does it mean process the vehicle?

2 A. In this particular situation, processing the vehicle
3 as referring to me documenting the vehicle in its entirety with
4 photographs and my notes that I took in my bench notes. It also
5 refers to me using black powder to search for potential latent
6 prints and also swabbing areas of interest for your -- possible
7 DNA and also collecting anything that might be of evidentiary
8 value for the criminal investigators.

9 Q. So just now you mentioned black powder for latent,
10 what is that and can you explain how that process works for the
11 jury?

12 A. Black powder is very fine black dust for
13 oversimplifying it that adheres to the oils, fats and waxes that
14 are again in water that's going to be left behind whenever you
15 leave a latent print on a surface.

16 Q. And then how would you -- after that, if there is a
17 latent print, what would you do? How would you get it
18 collected, how that work?

19 A. I would document in my bench notes the location of
20 where it was located. I would photograph it and then I would
21 attempt to lift it with lift tape and preserve it on a latent
22 print card.

23 Q. Is black powder the only latent way to check for
24 prints?

25 A. No, sir.

1 Q. And what -- what are some of the other ways?

2 A. Some of the more common ways that we also look for
3 latent prints would be cyanoacrylate, which is fancy work for
4 super glue. We also have magnetic powder and we have hydrate
5 and iodine fuming that we also use on porous surfaces. And then
6 we also have some dicing that we can use too.

7 Q. Does the type of surface matter when you decide which
8 process do you use?

9 A. Yes, sir.

10 Q. And how so?

11 A. Like I said, the men hydrant and iodine is going to
12 be for your porous surfaces so you can't really use those on
13 non-porous, which means something smooth and hard. And
14 cyanoacrylate or super glue is primarily used on non-porous
15 surfaces to kind of plasticize the print. It doesn't make it
16 permanent but it makes it a little less fragile so that way we
17 can use things like dyes and black powder and magnetic powder
18 to enhance it even more.

19 Q. Okay. And in general, when you're processing the
20 vehicle, checking the print on the vehicle, which areas do you
21 choose?

22 A. I will always use or go and process the areas that
23 are typically handled in a vehicle. So like radio, door
24 handles, rear view mirrors, areas like that that people
25 typically touch. Also, if I see something that looks like it

1 potentially could be out of place or of interest, I'll process
2 around that area as well.

3 Q. Okay. And when you process these common touched
4 areas, do you always find fingerprints?

5 A. No, sir.

6 Q. And why is that?

7 A. Leaving behind a fingerprint isn't always a
8 guarantee. Even if you are leaving behind something, it might
9 just be a smudge.

10 Q. And if you don't find a fingerprint, does that mean
11 someone could touch for a particular purpose?

12 A. No, sir.

13 Q. Actually turn your attention to the black powder in
14 this case, what parts of the vehicle did you process the
15 fingerprints?

16 A. I processed the inside and outside of the driver's
17 door, the inside and outside of the front passenger's door,
18 inside and outside of the rear driver's side door, inside and
19 outside of the rear passenger's side door. The radio, the rear
20 view mirror, the driver's visor mirror, the front passenger
21 visors mirror and the trunk, the hood and the gas cap door.

22 Q. And what type of fingerprint testing did you use on
23 this?

24 A. Black powder.

25 Q. Black powder. And why did you -- or why did you use

1 black powder in this case?

2 A. Black powder is one of the more easier ways to do a
3 vehicle. Cyanoacrylate requires a chamber in which to use it.
4 A little difficult to put a whole car in a chamber and magnetic
5 powder does not work very well on metal surfaces.

6 Q. And why did you check those areas of the vehicle?

7 A. Because those are all commonly touched areas of a
8 vehicle that you need to touch in order to operate a motor
9 vehicle.

10 Q. And what was the -- what was the results from that
11 test, black powder test?

12 A. In the end, negative.

13 Q. Does that mean that nobody touched those areas?

14 A. No, sir.

15 Q. Now earlier you mentioned that you also collect items
16 from interior vehicle. Why do you do this?

17 A. I might be collecting an item, just go ahead and turn
18 it into evidence and property so that way our crime or criminal
19 investigator can go ahead and use it or do something with it.
20 I also might be collecting it to go ahead and submit so that way
21 DNA section could pull something out and do their DNA processing
22 on it or I'll be pulling it out to take it back into our lab to
23 be able to use those further latent print processing techniques.

24 Q. Okay. So in regards to the black powder test, what
25 items did you collect?

1 A. I collected a black jacket, a blue -- two blue masks,
2 a red mask, a black bag, two ice house cans, a blue lighter, a
3 blue -- a bud light cap, a water bottle, a magazine with 32 on
4 fire cartridges, another blue mask, a white and black mask, a
5 blue glove, an envelope with the name James Toatley in a green
6 folder with paperwork with the name James Toatley. And I also
7 collected several swabs.

8 Q. And of those items that you collected, were any of
9 the processed for fingerprints?

10 A. Yes, sir.

11 Q. Which ones?

12 A. I took the two ice house cans, the black bag, the
13 blue lighter, the bud light cap, the water bottle, the magazine,
14 and all of the individual unfired cartridges from the magazine
15 and processed those in our lab.

16 Q. Okay. And why did you decide to go specific items
17 and not others?

18 A. The cloth items, those aren't things that I can
19 really do anything for latent print evidence on. So I'm going
20 to go ahead and submit those to evidence and property so that
21 way if DNA needs them, they can go ahead and get them things
22 like paperwork, I go ahead and submit them and wait to hear from
23 criminal investigators.

24 Q. Okay. And what type of testing did you use for those
25 to secondary items?

1 A. I used cyanoacrylate, black powder and magnetic
2 powder,

3 Q. So all three. So why did you do all three versus
4 just one?

5 A. I used cyanoacrylate on all of the items because like
6 I said, it kind of plasticizes the print to make it a little bit
7 more durable. And then I use black powder on the majority of
8 the surface, but I chose magnetic powder for the black bag.
9 When I say black bag, it's like a black grocery sack. Magnetic
10 powder works great on those, which is why I chose that
11 processing method.

12 Q. Okay. And what were the results from that test?

13 A. In the end, all negative.

14 Q. Okay. Does that mean that no weapon touched your
15 evidence?

16 A. No, sir.

17 Q. Now, earlier you mentioned that you collect things
18 also for possible DNA testing. Did you swab any of the items
19 you previously listed for DNA?

20 A. Yes sir.

21 Q. Which items did you swab? Well actually how does
22 that process work? This DNA swabbing process.

23 A. I take a sterile swab that's in a little package, I
24 open it up, I will wet it with distilled water so that way it
25 doesn't get contaminated with any other possible factors. I

1 will then take that sterile distilled water swab and swab an
2 area of interest that is typically touched or handle to operate
3 whatever the item is. I'll then place that swab in a carton box
4 and close it and put that box inside of an envelope and seal
5 that.

6 Q. And in this case the Black Crown Vic. Which items
7 did you swab from it?

8 A. All of the areas of the interior of the vehicle that
9 I mentioned that I processed.

10 Q. Okay. Once you swab those items areas, what do you
11 do?

12 A. I package them, seal them with my -- my initials and
13 the date and I submit them to evidence and property.

14 Q. Okay. And you said CSI and slash fingerprints you
15 don't -- you're not the one who tests things for DNA.

16 A. No, sir.

17 Q. You also mentioned that you took photographs. Did
18 you do that in this case too?

19 A. Yes, sir.

20 MR. WALTON: (Inaudible).

21 THE COURT: Yes, sir.

22 BY MR. WALTON:

23 Q. Investigator Seay, I'm approaching you with -- it's
24 been previously marked as state's exhibits 143, 146, 150, 152,
25 163, 167 through 173 and 184. Do you recognize those?

1 A. Yes, sir.

2 Q. What are they?

3 A. They're photographs that I took during the processing
4 of the Crown Vic.

5 Q. Is that in December 19th -- around December 19, 2020?

6 A. I processed the Crown Vic on December 21st

7 Q. Oh December 21st. And is this a true and accurate
8 depiction of this picture?

9 A. Yes, sir.

10 MR. WALTON: Your Honor, (inaudible) previously marked as
11 state's exhibit number 143 through 146. 150, 152, 163, 167
12 through 173 and 184 admit into evidence.

13 THE COURT: Any objection?

14 MS. ZMROCZEK: Excuse me. No objection.

15 THE COURT: Those exhibits will be admitted without
16 objection.

17 (State's Exhibit No. 143, 146, 150, 152, 163, 167, 173,
18 184 were admitted into evidence)

19 MR. WALTON: Thank you, Your Honor. Permission to
20 publish?

21 THE COURT: Yes, sir.

22 BY MR. WALTON:

23 Q. Investigator Seay, what is this?

24 A. That is an overall photograph of the Crown Vic.

25 Q. And why did you take that photo?

1 A. Whenever I'm documenting a vehicle, I take overall
2 photos of the exterior and interior of a vehicle to show its
3 condition as before I started doing anything

4 Q. For the record that is state's exhibit 143. State's
5 Exhibit 144.

6 A. That's just the rear of the same vehicle again,
7 documenting its condition before I begin my processing.

8 Q. Okay. State's exhibit 146.

9 A. That would be paperwork that I photographed that was
10 in the front dash of the vehicle.

11 Q. State's Exhibit 145.

12 A. That is a picture from the outside of the vehicle
13 looking into the rear seat of the vehicle.

14 Q. And had you opened the door at this time?

15 A. No, sir.

16 Q. And why is that?

17 A. Before I opened vehicle doors, just in case there
18 might be evidence that is disturbed inside the vehicle, once the
19 door is open if you actually put the lens of your camera right
20 up against the glass, as long as there's not too dark a window
21 tint you'll actually be able to see what is inside the vehicle
22 on the image without opening the door.

23 Q. Okay. State's Exhibit 152.

24 A. Overall exterior photograph of the car with the doors
25 open.

1 Q. Okay. And is based -- are you about to go inside the
2 car?

3 A. Yes, sir. Okay.

4 Q. State's 150.

5 A. I believe that is the interior of the driver's door.

6 Q. Okay. And is this one of the areas that you swabbed
7 for fingerprints and DNA?

8 A. Yes, sir.

9 Q. States 184. What is this?

10 A. That's going to be the exterior of the driver's door.
11 And with marker P1 and a scale.

12 Q. What is Marker P1? Why is that there?

13 A. P1 represented a -- basically stands for print one.
14 Whenever I find potential ridge detail while I'm processing, I
15 will label it P1, P2, so on and so forth. And take a picture
16 to show the area that I found potential ridge detail.

17 Q. Again -- but again, the result was negative on P1.

18 A. Yes, sir.

19 Q. State's exhibit 169. What is that?

20 A. Photograph of a lanyard with some IDs attached to it
21 that were hanging from the rear view mirror.

22 Q. Okay. State's 168.

23 A. That's just a closer up photograph to show the ID
24 that was attached to the lane yard.

25 Q. State's 170.

1 A. That is a interior photograph of the vehicle showing
2 the rear seat of the vehicle now with the doors open.

3 Q. And what are some of the things you see in this
4 picture?

5 A. I see a green folder that I eventually collected.

6 Q. In -- in general, what is just the condition of the
7 car?

8 A. Normal wear and tear, I would say probably with
9 personal items in it

10 Q. State's 171. What is that?

11 A. A more mid-range shot or a photograph to show kind
12 of that I'm focusing in on the items that were in the back seat.

13 Q. 172.

14 A. That is, I have moved the items and I'm photographing
15 the green folder specifically.

16 Q. 173.

17 A. I have opened the folder and this is the first
18 photograph that I would've taken as soon as I opened the folder
19 without starting to go through the items in the folder.

20 Q. Do you remember, you said there was an envelope
21 inside the vehicle? Where did you find that?

22 A. Between the front seats.

23 Q. Is this the envelope that you found?

24 A. I believe so, yes.

25 Q. Okay.

1 A. Yes.

2 Q. Okay. Sorry about that. That is state's 163. So
3 the items that you did not test your DNA after you collected
4 them, what did you do with them?

5 A. Submitted them to evidence and property.

6 Q. Investigator Seay this your signature on this?

7 A. Yes, sir.

8 Q. And what is this?

9 A. The label states is the envelope -- it contains an
10 envelope with the name James Toatley and a green folder with
11 paperwork with the name James Toatley.

12 Q. Investigator Seay I'm showing you what's been
13 previously marked as state's exhibit number 216 and 217. Do you
14 recognize this?

15 A. Yes, sir.

16 Q. What are they?

17 A. Paperwork with a name of James Toatley and envelope
18 with a name James Toatley.

19 Q. And are these the documents you collected from the
20 vehicle?

21 A. Yes, sir.

22 Q. And have they been changed in any way since you
23 collected them?

24 A. Not that I'm aware of.

25 MR. WALTON: Your Honor, at this time, the state move to

1 have what has been previously marked as Exhibit number 216 and
2 217 admitted into evidence.

3 MS. ZMROCZEK: Your Honor, I would argue it's duplicative
4 and cumulative. We already have pictures of those exact same
5 things that those would be my -- the basis of my objection

6 THE COURT: 216 and 217 will be admitted over the
7 defendant's objection.

8 (State's Exhibit No. 216 and 217 was admitted into
9 evidence)

10 MR. WALTON: Thank you, Your Honor. Permission to
11 publish?

12 THE COURT: Yes, sir.

13 BY MR. WALTON:

14 Q. Investigator Seay, I'm showing you state's exhibit
15 number 216. Was this document one of the documents recovered
16 from the Black Crown Vic?

17 A. Yes, sir.

18 Q. Okay. And can you read that name right here?

19 A. James Jamal Toatley.

20 Q. Okay. And this is from the green envelope within the
21 vehicle?

22 A. I would say yes.

23 Q. Okay. Investigator Seay I'm showing you what has
24 been previously marked as state's Exhibit 217. What name is on
25 that envelope?

1 A. James Toatley.

2 Q. And this was recovered from the Black Crown Vic that
3 you processed?

4 A. Yes, sir.

5 MR. WALTON: I have no further questions.

6 THE COURT: CROSS-EXAMINATION.

7 CROSS-EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. Good morning.

10 A. Good morning.

11 Q. So as crime scene investigator part of your duties
12 is to photograph and collect evidence, right?

13 A. Yes, ma'am.

14 Q. The reason that you do that is it can tell you
15 information about the crime, right?

16 A. Potentially.

17 Q. Potentially, not just the -- it can talk about
18 identification of the persons.

19 A. Can you rephrase the question?

20 Q. Sure. The reason that you gather information is to
21 -- a part of the reason is to try to understand who -- what
22 parties or what people were involved?

23 A. Yes.

24 Q. Okay. Also what happened or how something -- let me
25 rephrase that question. The other reason is because the crime

1 scene tells a story, right?

2 A. Yes, ma'am.

3 Q. It helps you not only, like I said, identify who it
4 is, but -- but the circumstances that occurred at that time.

5 A. Yes, ma'am.

6 Q. And so you want to collect -- you're not limited to
7 the evidence that you can collect, right?

8 A. Can you rephrase that --

9 Q. For -- certainly you can do -- you can collect, we
10 talked about -- extensively about fingerprints, right?

11 A. Uh-huh.

12 Q. You -- we -- shell casings?

13 A. Yes, ma'am.

14 Q. Papers?

15 A. Yes, ma'am.

16 Q. Gunshot residue?

17 A. Yes, ma'am.

18 Q. Money?

19 A. Yes, ma'am.

20 Q. Shell casings?

21 A. Yes, ma'am.

22 Q. Projectile?

23 A. Yes, ma'am.

24 Q. And -- and you -- and the goal is to use all of those
25 things to help understand what occurred in a -- during an event,

1 right?

2 A. Yes, ma'am.

3 MS. ZMROCZEK: Thank you. I have any further questions.

4 THE COURT: Any redirect?

5 REDIRECT EXAMINATION

6 BY MR. WALTON:

7 Q. Investigator Seay, did you respond to the scene of
8 crime (inaudible) case?

9 A. Not the same.

10 MR. WALTON: Okay. No further question.

11 THE COURT: Anything further, Ms. Zmroczek?

12 MS. ZMROCZEK: Nothing further.

13 THE COURT: Okay. Thank you. You may step down.

14 THE WITNESS: Thank you.

15 THE COURT: Folks, let's take a short morning break.
16 Please return to your jury room. Don't discuss the case. We'll
17 bring you back soon. Take a 15 minute break.

18 UNIDENTIFIED FEMALE: Thank you.

19 (Off the record.)

20 THE BAILIFF: Remain seated. Come to order please. Put
21 your cell phones turned off.

22 THE COURT: State ready for the jury?

23 MS. DARKO: Yes, Your Honor.

24 THE COURT: Defense is ready for the jury.

25 MS. ZMROCZEK: Yes, Your Honor.

1 THE COURT: Bring the jury please, Mr. Bower.

2 THE BAILIFF: Jury is seated, Your Honor.

3 THE COURT: Thank you. Welcome back folks. State call
4 your next witness.

5 MS. DARKO: Thank you, Your Honor. The state calls Scott
6 McDonald.

7 THE CLERK: Could you state your full name please?

8 MR. MCDONALD: Scott McDonald.

9 SCOTT MCDONALD,
10 being first duly sworn, testifies as follows:

11 DIRECT EXAMINATION

12 BY MS. DARKO:

13 Q. Good morning. Mr. McDonald, is it okay if I call you
14 Scott?

15 A. Yes.

16 Q. Where do you currently work?

17 A. Richland County Sheriff's Department.

18 Q. And were you working there back in December of 2019?

19 A. I was.

20 Q. And what was your position there?

21 A. I was a captain in the -- captain in criminal
22 investigative division in the technical services unit.

23 Q. And what does that position entail?

24 A. We're tasked with securing any surveillance videos,
25 videos from home surveillance systems as well. Downloading of

1 phones mainly.

2 Q. And how many years have you spent working in that
3 capacity?

4 A. I've been over that unit, I -- I -- I spent a
5 majority of my career in major crimes. I was a sergeant, a
6 lieutenant, a captain in major crimes, and I had technical
7 services under my purview as well as the intelligence unit
8 intelligence analyst. So I -- I've been over that for about 12,
9 14 years. I was not in the day-to-day operations of the unit
10 during that entire time I mainly managed it.

11 Q. And when you were over that unit, about what -- what
12 year was that?

13 A. Back around let's see so about 2014. So about nine
14 years.

15 Q. And I guess in that 10 year period of time, is it
16 fair to say that what technical services then has certainly
17 expanded?

18 A. Yes, it's greatly. The technology is evolving
19 extremely rapidly currently.

20 Q. And what are phone extractions?

21 A. Phone extraction is basically when we get a cell
22 phone and we hook it up to a forensic tool to complete an
23 extraction to download the data from the phone.

24 Q. And do you have to have any special training in order
25 to do a phone extraction?

1 A. Yes, we -- I have some vendor certifications
2 from the tools that we use. Plus we attend conferences,
3 webinars, other things like that to try to keep the skills
4 sharp.

5 Q. And what vendors would those be?

6 A. Cellebrite and Gray Key.

7 Q. And if you could just explain the general process of
8 how you do a phone extraction based on your training.

9 A. Okay. So it's like -- it's a multi-step process.
10 So when we receive a request to download a phone, we get a
11 forensic request form filled out by an investigator. At least
12 this is what we were doing at this time, requesting us to
13 download the phone. And the next thing we're checking for is
14 legal process. Is there a search warrant, is there a consent
15 to search or were there extenuating circumstances like the phone
16 belonged to a deceased victim where there's no expectation of
17 privacy, so we have to have a legal reason to download that
18 phone. And then once we have that, then we check also for a
19 chain of custody tracking who gave that phone to us or where did
20 we retrieve that from phone from before we begin the extraction.

21 Q. And then the process of actually completing the
22 extraction, how does that work?

23 A. So you examine the phone, you make sure it's -- the
24 phone is actually working. Try to identify the phone if
25 possible. The older phones were much easier. You could pop the

1 back off look under the battery, that type thing. Most of the
2 newer phones now are sealed so we're not able to, unless we have
3 consent or passcode, that type of thing. We connect them to our
4 forensic tool which reads the phone, identifies the phone, and
5 tells us what it should be able to get from that phone.

6 Q. And were you asked to do a phone extraction in
7 connection with this case?

8 A. Yes, I was.

9 Q. And were you subpoenaed here in court to testify
10 about that extraction?

11 A. I was.

12 Q. And which phone were you -- excuse me. Which phone
13 were you subpoenaed here in court to discuss today?

14 A. The Samsung S10 phone belonging to Bria Ruffin
15 (phonetic).

16 Q. And did you bring your file in connection with that
17 phone download?

18 A. I did.

19 Q. And you mentioned earlier that first you're looking
20 for the -- the legal document that allows you to even do the
21 phone extraction. Is that part of your file?

22 A. Yes, there was a consent to search that I was
23 presented with.

24 MS. ZMROCZEK: Your Honor, I believe you have a matter of
25 law.

1 THE COURT: You all approach.

2 BY MS. DARKO:

3 Q. Is that -- you are testifying documents that are
4 required for you to even begin an extraction, and I believe you
5 testified earlier on direct that you did believe -- bring your
6 file in connection with the extraction here with the today in
7 court?

8 A. Yes, ma'am.

9 Q. And that was a Samsung Galaxy S10?

10 A. That's correct.

11 Q. And as part of your file in connection with keeping
12 accurate records, do you retain the -- the legal documents in
13 addition to change of custody that -- that you referenced and
14 other documents in connection with doing that phone download?

15 A. I do.

16 Q. And you maintain those records in the event that you
17 have to testify in court or as a regular or part of your
18 business in acting as a analyst; is that correct?

19 A. That's correct.

20 Q. I'm showing you what's been marked as state's 183.
21 Do you recognize this item?

22 A. Yes ma'am, I do. It's consent to search for the
23 Samsung S10 belonging to Bria Ruffin.

24 Q. And is that document that you have with you here in
25 court and that you were subpoenaed to court to testify to today?

1 A. Yes.

2 Q. And is it true and accurate copy of the documents
3 that you kept in connection with conducting this call?

4 A. Right. I -- I have a copy of all this. The
5 originals would've gone back to the case officer. So the -- the
6 file I have with me are copies

7 Q. And -- but that is what you received (crosstalk)?

8 A. That is what I received, yes.

9 MS. DARKO: And, Your Honor, at this time, the state would
10 admit state's 183.

11 THE COURT: Let me see the document again. Any objection,
12 Ms. Zmroczek?

13 MS. ZMROCZEK: Your Honor, I would object to hearsay.

14 THE COURT: Objection. Sustained. I am sorry. The
15 objection is overruled. Okay, you may proceed, Ms. Darko.

16 MS. DARKO: I request to publish state's 183.

17 THE COURT: Yes, ma'am.

18 BY MS. DARKO:

19 Q. Scott, is this the consent to search that you
20 received in connection with conducting this phone download?

21 A. Yes, it is.

22 Q. And if you don't have a legal document or the legal
23 document, isn't in your file are you able to proceed?

24 A. I -- I wouldn't have proceeded without a legal
25 document, either a search warrant, a consent, or if there was

1 an extenuating circumstances like an offender death, and it was
2 the phone belonging to that victim where there would be no
3 expectation of privacy, but without one of those three, we would
4 not proceed with downloading that.

5 Q. And certainly, how many phone downloads do you think
6 you do a year?

7 A. Currently, none. Back then I was probably doing well
8 over 100 a year.

9 Q. And is it safe to say that you can't specifically
10 remember every single download that you do off the top of your
11 head?

12 A. Certainly not.

13 Q. And that's why it's important to keep the records
14 that you referenced earlier?

15 A. That's correct.

16 Q. And in going back and reviewing your file, in the
17 event that there was not a consent to search, is it safe to say
18 that there also wouldn't be a -- a phone download because you
19 couldn't proceed?

20 A. That is correct.

21 Q. And you testified earlier that the next procedure is
22 making sure that there's a chain of custody in connection with
23 that -- that phone. Did you receive a chain of custody in this
24 case, according to your file?

25 A. I did.

1 Q. And is that another document that you would keep in
2 the course of your business working as a -- an investigator
3 doing phone downloads?

4 A. Yes.

5 Q. And extractions?

6 A. Yes.

7 Q. And do you have that document here in court with you
8 today?

9 A. I do.

10 Q. May I see it? I'm handing back to you what we've had
11 marked as State's 222. What you said is your chain of custody.
12 Based on this document, who did you receive the phone
13 (inaudible)?

14 A. Kevin Eisenhower (phonetic). Excuse me.

15 MS. DARKO: Your Honor, the State would move to admit
16 state's 222.

17 THE COURT: Any objection?

18 MS. ZMROCZEK: No objection.

19 THE COURT: State's 222 is admitted without objection.

20 (State's Exhibit 222 was admitted into evidence)

21 MS. DARKO: Request to publish. I'm sorry, Your Honor.

22 THE COURT: Yes, ma'am.

23 BY MS. DARKO:

24 Q. So and based on your file, can you just tell me when
25 you received that item? And if you need your chain of custody

1 back, I can certainly give it to you.

2 A. I received it on December 20th at 12:45.

3 Q. And were you able to do an extraction in -- in
4 connection with the item that you received?

5 A. I was.

6 Q. And if you could just describe what exactly was that
7 item based on the records that you have with you today?

8 A. I'm not sure -- sure I understand the question.

9 Q. What was the make of the phone?

10 A. It was a Samsung model S10 that was downloaded.

11 Q. And I believe you said that you were able to -- to
12 do a successful extraction?

13 A. I was.

14 Q. And what kind of an extraction was that?

15 A. It was an advanced logical extraction.

16 Q. And what does that mean?

17 A. So you have a logical extraction, which basically is
18 a download of things. If you pull up your phone and look at
19 call logs, pictures, videos emails, texts, things like that,
20 that's normally what you would get in a logical. And then you
21 have what's called a file system, which gets you a little bit
22 more, some of the deeper data, app data, things like that. So
23 in advanced, logical is a combination of file system and the
24 logical.

25 Q. And once you complete an extraction, how do you how

1 do you store it, if at all?

2 A. All right. So we download the data to our computer
3 and we save that on an external hard drive to have forever. The
4 raw data, that raw data is then uploaded to a program in
5 Cellebrite called the physical analyzer. So all that data is
6 transferred into physical analyzer, which puts it into a
7 readable report that you can then analyze, search, that type of
8 thing.

9 Q. With regard to the difference between the readable
10 report and the data, would anybody be able to read the data?

11 A. The raw data?

12 Q. Yes.

13 A. No.

14 Q. And what about the report that's generated?

15 A. It's -- so when we generate it, so once all the
16 data's loaded into the physical analyzer, we then hit something
17 called create a report, which combines all that data in a
18 readable report and something called Cellebrite reader. So when
19 we upload that for an investigator to view, we have a system
20 called evidence.com where all this data is uploaded with that
21 reader.

22 Q. And once you have uploaded all the -- the data with
23 regard to this phone extraction can it be altered in terms of
24 the underlying data or the -- the content of -- of the
25 extraction that's uploaded there?

1 A. No.

2 Q. And I'm showing you what's been pre-marked as state's
3 215 just for (inaudible) only. Do you recognize that item?

4 A. I do.

5 Q. And what is it?

6 A. This is the download of Ms. Ruffin's phone on this.
7 It's --

8 Q. And how do you know that it's the download that you
9 did?

10 A. I preview this report on this disc and after I
11 previewed it, I initialed it and dated it.

12 Q. And that disc contains the entirety of -- of the
13 extraction.

14 A. It does.

15 Q. In connection with completing the extraction. Is
16 there a -- a summary page I guess that sort of summarizes what
17 the device is and the phone number associated with it?

18 A. Yeah, it's like a cover page identifies
19 identification on the phone, the date, the time who did the
20 extraction, case number, that -- those type of things.

21 Q. And do you keep a copy of at least that phone screen
22 in connection with the file that you maintain as part of the
23 abstraction?

24 A. I did, yes.

25 Q. And can I see that document? And these are records

1 again, kept in accordance with your business practice and
2 maintaining the records of the extractions that you do in your
3 capacity as an investigator within the digital forensic that is
4 at Sweden; is that correct?

5 A. Yes.

6 MS. DARKO: I've marked what you've just handed me as the
7 phone screen with the identifying information on the device as
8 223, Your Honor, at this time, the state would move to admit
9 223.

10 THE COURT: Any objection.

11 MS. ZMROCZEK: Your Honor, I would just maintain my same
12 objection of hearsay throughout this entire hearing.

13 THE COURT: State's 223 is admitted over the defendant's
14 objection.

15 (State's Exhibit 223 was admitted into evidence)

16 BY MS. DARKO:

17 Q. And what was the phone number associated with this
18 device?

19 A. All right, I'm struggling a little bit seeing it, but
20 it's the MSISDN at the bottom, the second one up, it's (803)
21 262-1133.

22 Q. And was that also the phone number when memorialized
23 on the consent form or a --

24 A. I don't see it on the consent form. No, not the
25 phone number.

1 Q. How do you -- in the event somebody has their phone
2 password protected, how do you -- is there a way to access it
3 even -- even if there is a password?

4 A. Depending on the phone, yes. Some of the forensic
5 tools we have are able to bypass locks and personal
6 identification numbers.

7 Q. And in this case, how were you able to access the
8 phone?

9 A. Ms. Ruffin had provided a -- the -- the pattern for
10 her passcode.

11 Q. And that was memorialized on the consent form?

12 A. It was -- there was a picture drawn of it with arrows
13 pointing in which direction to go.

14 Q. Was the -- the phone is uploaded to evidence com. you
15 testified that it cannot be changed or altered?

16 A. No.

17 Q. And whose responsibility is it ultimately to review
18 that report?

19 A. So we provide that to the investigator to review, and
20 if they need further analyzation of the records or help with it,
21 then they would let us know and we try to assist further.

22 Q. And in terms of further assistance, what would be
23 some of the areas that you would need further assistance in?
24 In terms of an investigator coming back?

25 A. Depending on how familiar the investigator was with

1 cell phones and the technology and the reader report that they
2 received, if they're not able to navigate around it or search
3 on it for times, dates, things like that we would assist. A lot
4 of the requests we get are for nowadays location data, which is
5 extremely important on cases. So that would take advanced
6 training to kind of do what we call a deep dive into the report
7 to verify the location data.

8 Q. And who's a -- who's qualified to do what you refer
9 to as a deep dive?

10 A. In our department, it'd be captain Rickey Johnson.

11 Q. And so that's not something that you're able to do?

12 A. I have not had that advanced training.

13 Q. And you did not do that in this case?

14 A. I did not.

15 Q. And why do you -- when you're doing these phone
16 downloads, you're not giving any -- you're not going through the
17 phone, you're just passing it on to the investigator. Why is
18 that?

19 A. We have extremely steady stream of phones coming in
20 on a variety of cases and it's very easy to get backlogged. So
21 we try to do a -- a turnaround. You try to get the phone in
22 downloaded, provide the report to the investigator and go on to
23 the next one. If further assistance is needed or analysis is
24 needed, then we will do that. But we try to provide the
25 product, especially on this one. This was a consent phone they

1 wanted to give back to Ms. Ruffin that afternoon. So I came in,
2 I think it was on the weekend, downloaded the phone, provided
3 the report to them on evidence.com, and they were able -- we
4 were able to return the phone to Ms. Ruffin that afternoon.

5 Q. And is it safe to say you have no idea what they're
6 looking for, because you don't necessarily know what -- what a
7 case is about?

8 A. I don't know all the facts of the case. I -- I might
9 have a very broad overview of what happened, but I don't have
10 all the facts on the case.

11 Q. And so that would be left up to the investigator.

12 A. That would be crucial because that investigator's
13 going to know the details of the case and what might be
14 pertinent on this phone to be looking for

15 MS. DARKO: Stating the court's indulgence. No further
16 questions that (inaudible) answer any questions for Ms.
17 Zmroczek.

18 THE COURT: Cross-Examination.

19 MS. ZMROCZEK: Thank you, ma'am.

20 CROSS-EXAMINATION

21 BY MS. ZMROCZEK:

22 Q. Good morning, Mr. Scott McDonald.

23 A. Good -- good morning.

24 Q. You -- there were several phones turned in, correct?

25 A. There were.

1 Q. You had a phone, a Samsung phone, and a brown
2 envelope belonging to Cory Smith. And that would be just to
3 refresh your recollection, I'll read it in the case to you.
4 That would be item 54, is that correct?

5 A. I don't recognize it as that. I do know I did
6 another Samsung in this case, Samsung Galaxy Note nine.

7 Q. Okay. And what item number did you have that on?

8 A. I don't have -- I don't go by item numbers. I don't
9 have an evidence list.

10 Q. Okay. That's okay. So, but it was a Samsung phone,
11 correct?

12 A. It was.

13 Q. Okay. And then you had two more phones, an LG Stylo
14 6 cell phone and an iPhone 11 cell phone that came in from the
15 ER. And again, I don't have the property report, but I'm
16 referring to 152 and 153.

17 A. I do have an iPhone 11 and an LG Stylo 6, it's
18 actually going to be a five, not a six. That was the Scribner
19 error on that report. The machine did identify it properly.
20 I was giving information. It was a six, it was not.

21 Q. Okay. So you said it was a -- a five, not a six.

22 A. Yeah.

23 Q. But those are two more phones that -- that you
24 received?

25 A. That's correct.

1 Q. And downloaded.

2 A. Right.

3 Q. And those were from -- we don't know who they were,
4 they were given to you, right?

5 A. That's correct.

6 Q. And now, you said the reason that you're able to
7 download some phones was, and the legal authority would be, for
8 example, if they're deceased.

9 A. Correct.

10 Q. And -- and so you did that with these three phones
11 that you were providing information came from deceased people?

12 A. That is correct.

13 Q. And there was no problem with the chain in -- in
14 those as well, correct?

15 A. No.

16 Q. And you went through -- I'm not going to go through
17 the entire process again, but you went through that entire
18 process with these phones as well?

19 A. Right.

20 Q. And I just wanted to make sure, I heard you
21 correctly. You said you can bypass depending on the phone and
22 the -- and the information. Even password protection can be
23 bypass through these programs.

24 A. Depending on the phone, depending on the current
25 technology, it's kind of a cat and mouse game that make the

1 phones more secure. The tools try to up and it's -- it's a
2 constant thing. So yes.

3 Q. It's a constant battle, right?

4 A. Yes.

5 Q. So for example, if you tried to download these phones
6 in 2019 or 2020 or 2021 but then someone came along in 2023 when
7 there had been upgraded information or like you said, you know,
8 ways to bypass, then there could be an additional new download
9 from the exact same phone just because of the new information,
10 correct?

11 A. The data wouldn't change, but whether or not we're
12 able to get into the phone could possibly change, yes.

13 Q. Precisely, the data wouldn't change.

14 A. The data doesn't change.

15 Q. Right. That would always be there. It's just
16 whether or not you could access it.

17 A. Correct.

18 Q. And you said that the information, which I understand
19 is not your purview, but the information that is passed along
20 to different investigators, either experts or qualified persons
21 to read the data or investigators themselves, that can provide
22 a bunch of pertinent information to the case, right?

23 A. Yes it can.

24 Q. Including location?

25 A. Right.

1 Q. It -- it -- documents, text messages.

2 A. Right, with a timestamp date stamp. Yes.

3 Q. Timestamp, date stamp, photographs.

4 A. Yes.

5 Q. With also timestamp and date stamp.

6 A. Yes.

7 Q. And phone calls -- phone calls.

8 A. Yes.

9 Q. Missed calls.

10 A. Yes.

11 Q. Who were calling et cetera.

12 A. Yes.

13 Q. And additionally, and again, I understand it -- it
14 -- it provides -- it could be either provide a contact name and
15 or a phone number in that -- in that information as well, right?

16 A. Yes.

17 Q. And then law enforcement has tools to be able to --
18 not just law enforcement, law enforcement and investigators have
19 tools to be able to -- to seek other information, for example,
20 who those are connected to, et cetera. Who those numbers are
21 connected to.

22 A. Right. There's a number of databases and other
23 sources that can be utilized.

24 MS. ZMROCZEK: Thank you. I have any further questions.

25 THE COURT: Anything further from this witness?

1 jury service is for just a week. But sometimes circumstances
2 are outside of my control, your control, anyone's control
3 really. And -- and things last a little bit longer than a week,
4 so I just wanted to go ahead and drop that with you. So with
5 that said, we're going to turn back to the state. We're going
6 to call their next witness. Mr. Walton

7 MR. WALTON: State calls Bradley Marcus.

8 THE BAILIFF: (Inaudible). Place your left hand on the
9 Bible, raise your right, face the court?

10 BRADLEY J. MARCUS,

11 being first duly sworn, testifies as follows:

12 THE CLERK: Thank you, sir. Sit in the witness stand.
13 State your full name for the record.

14 THE WITNESS: Dr. Bradley J. Marcus, M-A-R-C-U-S.

15 THE COURT: Your witness?

16 MR. WALTON: Yes, Your Honor.

17 DIRECT EXAMINATION

18 BY MR. WALTON:

19 Q. Good afternoon, Dr. Marcus. How are you?

20 A. Very well.

21 Q. Where do you currently work?

22 A. I -- I work at professional Pathology services here
23 in Columbia, South Carolina. It's a private medical practice.

24

25 Q. And what is your position?

1 A. I'm president of the company. I also work as a
2 physician at the medical practice.

3 Q. Physician. And is a forensic pathologist a former
4 physician?

5 A. Yes.

6 Q. And are you a forensic pathologist?

7 A. Yes, I'm -- I'm also a forensic pathologist.

8 Q. Okay. And what exactly is that?

9 A. So a forensic pathologist studies disease and
10 injuries and how they cause death by doing autopsies. And
11 that's what I -- that's what forensic pathology is. I do an
12 autopsy and I come up with a cause of death based on any disease
13 I find or any injuries to the person who you do the autopsy on.

14 Q. And how long have you been a forensic pathologist?

15 A. Twenty years.

16 Q. What kind of education and training do you have?
17 What kind of education did you need to become a pathologist and
18 kind training?

19 A. Yes. I -- I went to college and then after college
20 I went to medical school. I got an MD degree. After that I
21 spent six years at the Medical University of South Carolina
22 doing my training in pathology. And then I did additional
23 training as for one year as a forensic pathology where I worked
24 as a under a -- a board certified forensic pathologist. So
25 after I finished all my training, I was able to take my boards

1 and I'd become a board certified forensic pathologist in 2007.

2 Q. And do you do ongoing training right now?

3 A. Yes.

4 Q. And what kind of ongoing training do you do?

5 A. I have to attend conferences and continue to do --
6 continuing medical education approximately 70 hours every two
7 years.

8 Q. Okay.

9 A. And I have to recertify in my boards every 10 years.

10 Q. And approximately how many autopsies have you
11 performed over your 20 years as pathology?

12 A. Over 3000.

13 Q. And Dr. Marcus, have you ever been qualified as an
14 expert (inaudible)?

15 A. Yes.

16 Q. In what field?

17 A. In forensic pathology?

18 Q. How many times?

19 A. Approximately 20 to 25.

20 MR. WALTON: Your Honor, at this time, the state request
21 that Dr. Marcus qualified as an expert in forensic pathology,

22 THE COURT: Any voir dire or objection?

23 MS. ZMROCZEK: No objection, Your Honor.

24 THE COURT: All right. Ladies and gentlemen of the jury,
25 normally a witness must testify to what they personally observed

1 or heard, saw, smell, touch, et cetera. However, when a person
2 by virtue of their education, training and experience becomes
3 an expert in some field, they are permitted to give opinion
4 testimony within their field of expertise and also the reasons
5 for those opinions. Dr. Marcus is qualified as an expert in the
6 field of forensic pathology. So he will be permitted to give
7 his opinion testimony within the field of forensic pathology.
8 However, like any other witness you give his testimony, the
9 weight and credibility you think it deserves, you may proceed.
10 Mr. Walton?

11 MR. WALTON: Yes, Your Honor.

12 BY MR. WALTON:

13 Q. Dr. Marcus, did you perform an autopsy on a man named
14 Curtis Dinkins on December 19, 2020?

15 A. Yes.

16 Q. And what time did you perform that autopsy?

17 A. 8:00 a.m.

18 Q. And how old was Curtis Dinkins at that time?

19 A. He was 37 years old.

20 Q. And before this -- after his autopsy, did you create
21 a report?

22 A. I did.

23 Q. And as a part of that report, did you also create a
24 diagram to go along and get that report?

25 A. Yes, I did.

1 Q. Dr. Marcus, I'm showing you what's been previously
2 marked as state's Exhibit 218. Do you recognize that?

3 A. Yes.

4 Q. What is that?

5 A. This is the -- the gunshot wound diagram I created
6 during the autopsy.

7 Q. And who is it for?

8 A. It's for Curtis Dinkins.

9 Q. Okay. And is this a true and accurate copy of the
10 diagram you created?

11 A. Yes.

12 MR. WALTON: Your Honor. At this time, the state moves
13 to have what has been previously marked as state's Exhibit 218
14 admitted into evidence.

15 MS. ZMROCZEK: No objection.

16 THE COURT: 218 is admitted without objection.

17 (State's Exhibit 218 was admitted into evidence)

18 MR. WALTON: Permission to publish?

19 THE COURT: Yes, sir.

20 BY MR. WALTON:

21 Q. Dr. Marcus, I see a bunch of letters. What are
22 those?

23 A. Those are -- those are gunshot wounds.

24 Q. Okay. And so what is B -- I see, B arrow, C arrow,
25 K. What does that mean?

1 A. Okay, so that represents a -- a single gunshot wound.
2 As when you do a -- an autopsy, particularly on ones with
3 gunshot wounds, you've got to try and connect the dots, I call
4 it. So what I do is I -- I look for entrance wounds and I look
5 for exit wounds, and then I also radiograph the body to look for
6 any bullets. So and then I -- I determined through my
7 dissection and my autopsy, what's an -- what's an entrance
8 wound, what's an exit wound, and how they correspond to each
9 other with the wound tracks. And I come up with the number of
10 times someone was shot.

11 Q. Okay. And so for BCK what kind of injuries did
12 Curtis Dinkins sustain as a result of that?

13 A. Okay, so on -- on gunshot wounds, so the gunshot
14 wounds are labeled for identification purposes only, not in an
15 order in which they were received. Okay. So I designated Mr.
16 Dinkins had a gunshot wound, an entrance gunshot wound to his
17 --his right -- right arm, which I designated B. This was an
18 entrance gunshot wound on his right arm designated entrance
19 wound B, and then he had an exit gunshot wound designated C on
20 the inside aspect of his right arm. Okay. Then I wrote -- it
21 goes to K, which the bullet then, you know, exited his body at
22 gunshot wound number C and then reentered the body at gunshot
23 wound designated number K in the right -- right axilla area,
24 right arm, pit area, chest area, right chest, right arm pit
25 area. And, and from that wound I was able to -- and I was able

1 to recover a projectile from that gunshot wound. That gunshot
2 wound went through the -- I'm just going to refer to my report.

3 Q. That's fine.

4 A. So that bullet -- that -- that bullet went through
5 the right arm, it went through the soft tissue of the right arm
6 it went through the bone, the humerus, the -- the bone, the
7 right arm bone here, and -- and exited that gunshot wound C.
8 So he had some skin and subcutaneous tissue hemorrhage. And he
9 also had a right humerus fracture, right arm fracture from that
10 gunshot wound. The bullet then continued on and entered the
11 body at gunshot wound labeled number K in the right axilla. So
12 right armpit and it went into the skin and just -- just went
13 under the skin mirror where I was able to recover the
14 projectile.

15 Q. And were you determined -- were you able to determine
16 the range that he was shot?

17 A. No. I -- I was not. I -- it was through clothing,
18 so I like to put stuff as indeterminate range unless, yes.

19 Q. Explain to the jury why -- you said clothing. Why
20 does that matter?

21 A. Well, if -- if the -- if the -- if the gun was very
22 -- very close to his body, potentially soot can come out of the
23 barrel of the weapon and could cause, you know, burning on the
24 clothing, burning on the skin. But because he had clothing on,
25 I -- I can't tell if there's soot on there or not. And I just

1 don't recall if -- what -- what color the clothing was in this
2 case. So I'd like to just say indeterminate range. If someone
3 came to me with extra evidence and said there's soot there, then
4 I could say, well, probably a close range contact gunshot wound
5 or something like that.

6 Q. And were you able to determine a trajectory?

7 A. Yes. On -- on that -- that gunshot wound. It was
8 going -- so again, the trajectory is when the body is in the
9 anatomic position, so that is laying -- laying flat on the
10 autopsy table with the palms out like this. So that's the way
11 I do the trajectory. Okay. So in that case, the bullet was
12 going forward slightly downward and going to the left. So kind
13 of like -- kind of like this.

14 Q. And in your opinion, is this a fatal gunshot wound?

15 A. No.

16 Q. All right, let's switch over to I to A tell the jury
17 about that one.

18 A. Okay. Gunshot wound I is to the posterior right back
19 and then exits at gunshot wound labeled A on the lower left
20 abdomen. That gunshot wound IA, correct. Yeah, IA. That that
21 gunshot wound, the bullet went through the left back, it went
22 through the liver, went through the small bowel and exited at
23 gunshot wound A on the left abdomen. Injuries include soft
24 tissue disruption, small bowel perforation, which is a hole in
25 your small bowel with hemorrhage and then liver laceration with

1 some abdominal hemorrhage.

2 Q. Seeing you reported, you listed that as indeterminate
3 except for the same reason?

4 A. Correct.

5 Q. Okay. And what was the trajectory for this gunshot?

6 A. This -- this bullet is going forward downward and to
7 the left. So --

8 Q. Now --

9 A. Can I stand up?

10 Q. Sure.

11 A. So it's going kind of like in this trajectory -- this
12 trajectory.

13 Q. Now seeing you report, you put perforating gunshot,
14 what does that mean?

15 A. So I -- a perforating gunshot wound means it exits
16 the body. Penetrating means generally that the bullet is -- is
17 collected -- is -- it goes into the body but doesn't perforate.
18 So you get a bullet out of the body.

19 Q. So perforating comes out the body penetrating stays
20 in the body?

21 A. Correct.

22 Q. You believe I to A is a fatal gunshot wound?

23 A. That wouldn't have been fatal. Well, it -- it
24 potentially could have been fatal if it was left untreated. But
25 I don't believe that's a fatal gunshot wound in this case.

1 Q. Could have been. Tell the jury about J to D.

2 A. Okay. J gunshot wound J is of the -- the right lower
3 back and then exits at gunshot wound designated D on the
4 anterior chest. This -- this gunshot goes through the soft
5 tissue of the back, goes through the liver, the small bowel it
6 goes through the diaphragm, then it goes through the right
7 atrium of the heart and exits that gunshot wound D on the left
8 chest. So the injuries include liver laceration with
9 hemorrhage, some peritoneal hemorrhage, which is a hemorrhage
10 in the abdominal cavity, small bowel perforation, right atrium
11 perforation with hemorrhage. So he's got a hole in his heart
12 and soft tissue disruption with associated hemorrhage.

13 Q. And you determine range for this one as well?

14 A. Yes.

15 Q. Same reason?

16 A. Yes.

17 Q. It seems like it goes without saying, but would a
18 hole in the heart from a fatal gunshot wound?

19 A. Yes -- yes, that's a fatal -- that -- that's a fatal
20 wound.

21 Q. How about E to F? Can you tell the jury about that
22 gunshot?

23 A. Yes, E to F. Okay. So E is to the posterior -- to
24 the posterior right back. And it then exits at gunshot wound
25 and designated F on the -- I called that -- on the posterior

1 right back, also just higher up an upper posterior right back.
2 So that bullet goes through the skin and subcutaneous tissue and
3 then exits the body.

4 Q. Dr. Marcus, I'm not -- I don't understand. Can you
5 explain what that actually means?

6 A. Sorry. So the -- the bullet goes into the skin in
7 the back and kind of just kind of goes very superficial under
8 the skin and then exits. So it actually didn't even enter the
9 -- the -- the -- the chest cavity at all. It went into the back
10 of his -- his skin here kind of went under the skin and then
11 exited again.

12 Q. And what was the trajectory on that?

13 A. Forward, it goes forward upward and to the left.

14 Q. Do you believe this was a fatal shot?

15 A. No.

16 Q. And then how about, please tell the jury about G to
17 H.

18 A. G is an entrance gunshot wound to the posterior neck.
19 It enters the body. And then the bullet then makes a hole in
20 the skin at gunshot wound designated H due to -- and I believe
21 this is due to the -- the skin folds when -- when your neck is
22 when your neck is -- is put up like this, you -- you have some
23 skin folds. It made, made a small hole in the skin and then the
24 bullet continued where it was recovered in the subcutaneous
25 tissue behind the left ear.

1 Q. And was that a fatal gunshot wound?

2 A. No.

3 Q. Dr. Marcus, I'm going to switch to on your report
4 Roman numeral (VII), what does that mean to you?

5 A. Seven. Okay. So on Mr. Dinkin's forehead, he had
6 a small bruise over his forehead right here. Just a small
7 abrasion, a scratch, a bruise, like a contusion, a black and
8 blue mark. But only in this it's not black and blue, it's red
9 because it's fresh.

10 Q. Okay. And is that fatal in any way?

11 A. No.

12 Q. How did that (inaudible) if someone took you to be
13 shot and falls to the ground, hit their hair down, could it
14 cause that bruise?

15 A. Yes.

16 Q. So Dr. Marcus you explained with gunshot wound of Mr.
17 Dinkins, what would you be able to demonstrate that to the jury?

18 A. Yes.

19 Q. You step down and (inaudible). Dr. Marcus, if you
20 could just narrate to the jury as you're putting stickers on and
21 just go the order to be the C, K.

22 A. Yep.

23 Q. Going to slow down the list.

24 A. Not a problem. So like I said before gunshot wound
25 B -- B was right here. That's an entrance gunshot wound. Right

1 about here on the inside all is an exit gunshot wound. And then
2 K, which is a -- is a re-entry gunshot wound right up -- right
3 about there. So, okay, so that's -- that takes care of B, C,
4 K with the bullet recovered right under the skin right here.
5 Next gunshot wound is I to A, which is -- right about here is
6 an entrance gunshot wound to the back, to the right lower back.
7 And that -- that corresponds to exit wound A, which is right
8 about here. Okay. Next gunshot wound is J to D. You know what
9 I skipped a -- a label on here you have a sharp, so -- so in the
10 back here got gunshot in J, so entrance, gunshot wound, and then
11 that -- the bullet goes in there, exits. Okay, sorry, don't
12 move. To these is the exit gun wound right about there. So
13 that gun shovel exit's right there. And that's -- that's the
14 one that went through the park. Okay, so now we're on a gunshot
15 wounds, E, F entrance wound E, right about here, which is
16 corresponding exit wound right about there. And then gunshot
17 wound G, right about here with that partial exit. And I talk
18 about skin folds. You have your neck here, but there it's not
19 really a true exit. And then the bullet continued and I
20 recovered the projectile right behind there. Right there I
21 pulled that projectile. So these were the gunshot wounds that
22 Mr. Dinkins sustained.

23 Q. Okay. And Dr. Marcus, in your expert opinion, what
24 was the cause of death for Curtis Dinkins?

25 A. I -- excuse me. I put the cause of death as multiple

1 gunshot wounds to the thorax and abdomen.

2 Q. But for sure, what is your opinion on gunshot wound
3 J to D?

4 A. Gunshot wound J to D by itself would be a fatal
5 wound.

6 Q. Dr. Marcus, did you perform -- did you also perform
7 an autopsy on a man named Corey Smith?

8 A. Yes.

9 Q. And when did you perform that autopsy?

10 A. I performed that autopsy on December 19, 2020 at 9:00
11 a.m.

12 Q. And how old was Cory at this time?

13 A. 42.

14 Q. And for this autopsy, did you also create a report
15 and diagram?

16 A. I did.

17 Q. Dr. Marcus, I'm showing you what has been previously
18 marked as state's exhibit 219. Do you recognize that?

19 A. Yes.

20 Q. What is that?

21 A. This is the diagram I created during the autopsy
22 representing the gunshot wounds sustained by Mr. Smith.

23 Q. Okay. Is it -- is this a true and accurate copy of
24 the diagram that you created?

25 A. Yes.

1 MR. WALTON: Your Honor, this time the state moves to have
2 what has been previously marked as state exhibit 219 admitted
3 into evidence.

4 THE COURT: Any objection?

5 MS. ZMROCZEK: Without objection, Your Honor.

6 MR. WALTON: Permission to publish Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. WALTON:

9 Q. So Dr. Marcus, just like the last one, just go down
10 the line with the letters that represent the gunshots or the
11 bullets. So what is A in regards to Mr. Smith?

12 A. I -- so A is an entrance gunshot wound to the
13 posterior neck. So that gunshot wound -- so that was an --
14 that's an entrance gunshot wound. Okay. So that gunshot wound
15 I -- with x-rays of the body and doing my dissection of the
16 autopsy, that gunshot wound went through the skin and the soft
17 tissue of the left neck, it went through the upper cervical
18 vertebral body. The -- the bone in your neck, that's the C2
19 level, so you're very high up in the -- in the neck area. It
20 went through the upper spinal cord. The bullet went right
21 through the spinal cord. And then the bullet continued on into
22 the soft tissue of the right shoulder and then into the right
23 arm where the wound track ended. And I was able to recover a
24 projectile. The injuries were, you know, of course skin and --
25 and tissue disruption with associate hemorrhage. The upper C2

1 vertebral body bone of your neck was -- was fractured. He had
2 a spinal cord transection on the upper cervical spinal cord and
3 he had subarachnoid hemorrhage, which is hemorrhage around the
4 brain stem. And he had soft tissue disruption and hemorrhage
5 in the right shoulder and the right upper arm.

6 Q. And what was the trajectory for the area?

7 A. Again, with the body in the anatomic position, the
8 trajectory is forward downward and to the right.

9 Q. And in your opinion, is that gunshot wound fatal?

10 A. That's a fatal gunshot wound, correct.

11 Q. Can you tell the jury about B to E?

12 A. All right, so B to E is another -- B is the entrance.
13 So there was another gunshot and entrance, gunshot wound B to
14 the posterior neck. And then it exited on the right face at
15 gunshot wound designated E that gunshot wound went through the
16 skin and subcutaneous tissue of the left neck again, went
17 through the C2 vertebral body bone transected the upper cervical
18 spinal cord and soft tissue hemorrhage in the maxillary sinus.
19 Because it went through the -- the -- the sinus, you know, your
20 face. So that's what happened with that bullet. The, the
21 trajectory of that bullet pathway is forward downward and to the
22 right.

23 Q. And do you believe that gunshot wound was fatal?

24 A. That -- that could also be a fatal gunshot wound,
25 correct.

1 Q. How about C?

2 A. A gunshot wound C is a gunshot wound to the right
3 abdomen that -- that bullet enters into the -- the right
4 anterior abdomen where the projectile is recovered in the soft
5 tissue of the abdomen. So it actually -- never actually entered
6 the abdominal cavity. It was kind of in the soft tissue of your
7 kind of your belly fat, let's just call it that.

8 Q. And what were the injuries from that gunshot wound?

9 A. Just skin and soft tissue disruption and associated
10 hemorrhage.

11 Q. And was that a fatal gunshot wound?

12 A. No.

13 Q. How about D?

14 A. D is -- had every characteristic of a graze wound.
15 And so what I believe was, I believe that gunshot wound -- I
16 believe the bullet struck Mr. Smith's, it grazed his forearm
17 first and then entered the abdominal -- the abdominal fat pad.
18 That's what I believe happened. It kind of lines up correctly.
19 And that would explain the bullet not penetrating into the
20 abdominal cavity.

21 Q. And when you say that, which bullet you believe
22 grazed his arm first? Which letter?

23 A. Pardon?

24 Q. Which letter grazed his arm before?

25 A. I believe -- I believe the bullet went -- went D two

1 C

2 Q. D to C. Okay. And that be a fatal gunshot wound?

3 A. No,

4 Q. Dr. Marcus, could you step down again and demonstrate
5 the jury on that (inaudible) these gunshot wounds? And just
6 narrate which letters you are using?

7 A. Sure. So when flip him over, I'll flip him up this
8 way, go through some entrance and then put it back.

9 Q. Okay.

10 A. So gunshot wound A to the posterior neck region right
11 about here. And so the bullet entered the body here and went
12 down, had a downward projectile and ended up in his arm here.
13 So I'll -- I'll show you. I've covered the projectile in the
14 soft skin, soft tissue in this right arm here. That's where the
15 moon track showed where it went. The next gunshot wound,
16 gunshot wound B to E. B was right about -- right about there.
17 So that's the entrance gunshot wound and exited right here on
18 the right face. The gunshot wound labeled E. The next gunshot,
19 I'm going to call on this one, you know, I never made a C shot
20 again. Gunshot wound D was right about -- right -- right here.
21 Like I said, I think the grazed wound, so his arm was like that
22 and the bullet came this way. I believe it grazed his arm and
23 then end up at gunshot wound number C which is right about here,
24 kind of lined -- lined up pretty good at the autopsy, but again,
25 he was laying flat, so, but those are the gunshot wounds that

1 Mr. Smith's sustained.

2 Q. And Dr. Marcus, in your opinion, what was the cause
3 of death for Corey Smith?

4 A. For Mr. Smith, I put his cause of death as multiple
5 gunshot wounds to the neck.

6 Q. And just for clarity, which letters were associated
7 with gunshot wounds?

8 A. Gunshot wounds A and B to E.

9 MR. WALTON: (Inaudible).

10 THE COURT: Yes, sir.

11 BY MR. WALTON:

12 Q. And just to summarize, what was the cause and manner of
13 death for both --

14 MS. ZMROCZEK: Your Honor, I was going to object that it's
15 been asked and answered, but now it seems like he's asking a
16 different question, so I'll let him get through the question
17 first.

18 THE COURT: Mr. Walton.

19 BY MR. WALTON:

20 Q. What was the cause and manner of death for both
21 individuals?

22 A. The cause of death for Mr. Dinkins was multiple
23 gunshot wounds to thorax and abdomen. Manner was a homicide.

24 Cause of death for Mr. Smith was multiple gunshot wounds to the
25 to the neck and the manner of death is a homicide.

1 MR. WALTON: Thank you. No further questions.

2 MS. ZMROCZEK: Your Honor, unless --

3 THE COURT: Cross-examination.

4 MS. ZMROCZEK: Yes -- yes, Your Honor. Unless they're
5 going to reuse these, I would ask that for my cross-examination
6 these demonstratives be removed.

7 THE COURT: Mr. Walton?

8 MR. WALTON: Yes, Your Honor.

9 MS. ZMROCZEK: Thank you. Your Honor, may I please the
10 court?

11 THE COURT: Yes, ma'am.

12 MR. WALTON: Thank you.

13 CROSS-EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Good afternoon, Dr. Marcus.

16 A. Hi.

17 Q. So I got a couple of questions to ask. You do
18 reports for these cases, correct?

19 A. Yes.

20 Q. And you -- so when you also do your autopsy, there
21 are officers or investigators from the respective agency
22 generally present, correct?

23 A. Correct.

24 Q. And they are there to take photographs

25 A. Correct.

1 Q. And collect evidence?

2 A. Correct.

3 Q. So I want to talk about that first. So and I want
4 to focus since I'll do it in the same order, Mr. Dinkins.

5 A. Okay.

6 Q. So when you received Mr. Dinkins of -- he had already
7 had some evidence of -- of treatment or triage, correct?

8 A. I -- I'll need to see my report there if I can.
9 Okay. I can let you know. Yes, ma'am. Mr. Dinkins was
10 transported to Prisma Health Richland Hospital where he was
11 attempted to be resuscitated and he had a -- an endotracheal
12 tube extending into his trachea. He had a blood pressure cuff
13 around his right forearm. He had a thoracotomy over the left
14 chest and a stapled laceration of the right atrium.

15 Q. Okay, so in English.

16 A. Sorry -- sorry.

17 Q. What were those things? So -- so an endotracheal
18 tube is the tube, you know, they go put down your throat and
19 help you breathe. Okay. They can hook you to a machine or
20 sometimes they can do it manually with a little like a pump they
21 have. So that helps you breathe. Blood pressure cuff just
22 measures your blood pressure. You could put it here or in your
23 forearm. A thoracotomy, that's an incision that a surgeon makes
24 over the -- over the -- over the -- through the -- through the
25 ribs here. And they go in there and they usually sometimes use

1 it to drain blood, to manipulate the heart with their hands
2 possibly to provide medical care. And then there -- there was
3 a stapled laceration in the right atrium, which -- which there
4 must have been a hole in the right atrium that someone stapled
5 up, a surgeon stapled up.

6 Q. So I'm putting up what's been previously entered into
7 evidence as states 218, which is the diagram of Mr. Dinkins.
8 Are is -- so is the thoracotomy reflected on this paper?

9 A. No, ma'am.

10 Q. Okay. So you just did the gunshot when --

11 A. There's another diagram out there with my -- I try
12 to keep it because there was, I like to keep them simple gunshot
13 wounds and then the other diagram with other stuff on it.

14 Q. And so the -- hold to the heart had a staple in it,
15 right?

16 A. Correct.

17 Q. So that had been manipulated before you were able to
18 do your autopsy?

19 A. That's correct.

20 Q. Okay. So you don't know if -- if there was any
21 curing or perforation done due to the extreme measures to try
22 to save his life? Did you testify to that?

23 A. No, I don't know that.

24 Q. Okay. In addition to -- so we talked about
25 collecting evidence, so you recovered -- you talked about

1 recovered some projectiles and bullets from Mr. Dinkins's body,
2 right?

3 A. Correct.

4 Q. And what did you do with those?

5 A. They get transferred. I don't recall exactly, but
6 they either got transferred to the coroner's office or they went
7 directly with the investigating agency, either Richland County
8 or Columbia. I don't remember which was there that -- that day.
9 I don't remember.

10 Q. But the point being that you take that evidence and
11 then you provide it to -- eventually get back to the arresting
12 agency?

13 A. Correct.

14 Q. Okay. And they can do whatever testing or -- or
15 whatever they want or comparisons once they get it from the
16 body, right?

17 A. Correct.

18 Q. Okay. You also in your report, oh, I wanted to ask
19 you, you talked about the bruise that was on Mr. Dinkins's head,
20 right?

21 A. Correct.

22 Q. And you said you opined that one way he could have
23 gotten that is if he would've either hit the ground or hit
24 something from bawling, right?

25 A. Correct.

1 Q. If he could also receive that, if he would've been
2 hit in the head fairly -- sometime fairly close around this
3 time, right?

4 A. Correct.

5 Q. Okay. So there's just no way to know?

6 A. There's no way to know. That's correct.

7 Q. You also note when you received a body not just the
8 medical conditions, but you identified tattoos and scars, et
9 cetera.

10 A. Correct.

11 Q. And you did that in this case?

12 A. I identified -- I'd have to look -- let me go through
13 my report. I wrote multiple tattoos over the external body.

14 Q. Okay. Thank you. And then the last thing that
15 wasn't discussed is you take toxicology, correct?

16 A. Correct.

17 Q. And tell the jury how do you do that?

18 A. So let's see what I took her input. What I do before
19 the autopsy is I -- I usually get -- I get a needle and I -- I
20 get blood from either the subclavian, the heart, or during the
21 dissection of the autopsy. I get blood from the iliac vessel.
22 So if I can stand up, I sometimes get blood from the subclavian
23 region just under the collarbone here, or sometimes I'll -- if
24 I can't get any from there, I'll then go to the heart and get
25 blood from the heart while I'm doing the autopsy before I remove

1 any organs. And then if I can't get blood there, I go sometimes
2 down in the iliac area in this area, the pelvic vessels, and get
3 blood there and I collect it and I put it in the tubes.

4 Q. And -- and then what do you do with that after you
5 collect that?

6 A. That -- that blood goes to the coroner's office and
7 then it goes to either the South Carolina law enforcement sled
8 for testing or the private lab that the coroner's office at that
9 time was using.

10 Q. Okay. And then is it returned to you and you put
11 those results in your report, correct?

12 A. Yeah, the -- I -- I'm giving a -- a report and then
13 I dictate an -- an amended report and I add the results into the
14 report. That's correct.

15 Q. And when you publish those results to the jury.

16 A. Yes.

17 Q. For the toxicology of Mr. Dinkins?

18 A. Yeah, Mr. Dinkins. So on -- on his subclavian blood,
19 he had a blood ethanol level of 0.137 percent. So for -- for
20 layman's, for -- for just general 0.08 is the legal limit for
21 driving. So he -- he had alcohol in his blood. He had
22 methamphetamine, he had amphetamines, he had some
23 tetrahydrocannabinol and 11 hydroxy tetrahydrocannabinol with,
24 and 11 carboxy tetrahydrocannabinol, which that is just pot
25 marijuana. And then he had and his vitreous, the fluid, I got

1 fluid from his eye also, and that showed that he had ethanol
2 level of 0.112.

3 Q. And why is there a difference between the blood
4 ethanol and the vitreous?

5 A. The -- the -- the vitreous. So you -- you can do --
6 you do -- you can get ethanol levels from both the vitreous
7 level of -- of ethanol it lags behind two hours.

8 MR. WALTON: I object. Mr. -- Dr. Marcus does not qualify
9 as toxicologist. I was trying to patient, he's testifying to
10 the specific blood, the contents of the victim's blood.

11 THE COURT: Overruled. You can answer that.

12 THE WITNESS: Want me to go again?

13 BY MS. ZMROCZEK:

14 Q. Yeah, please.

15 A. So the -- the vitreous -- vitreous is kind of a --
16 an area where you -- it lags behind two hours, the -- the
17 alcohol levels. Okay. So it lags behind two hours. So that
18 -- that gives me his blood alcohol content two hours previously
19 from the time he died. So I can -- I can tell what -- what --
20 what -- what was going on, what he was doing.

21 Q. And additionally, if there -- there are two, the
22 bullets and -- and other personal items. If there are personal
23 items, you turn those over as well. And for example, money or
24 jewelry, et cetera, correct?

25 A. Correct.

1 Q. Okay. And you fill out a form and -- and -- and --
2 and the officer fill out a form and they gets transferred where
3 needs to go, correct?

4 A. Correct.

5 Q. Okay. Thank you. I want to switch now to Corey
6 Smith.

7 A. Yes.

8 Q. Okay. So when you received Mr. -- Mr. Smith's body,
9 did it have any of indications of medical intervention?

10 A. No.

11 Q. And in fact, what were -- what did you describe as being
12 on his hands.

13 A. Okay. The hands were previously vague.

14 Q. Okay. What does that -- why did you put that in your
15 report? What does that mean?

16 A. So, at the scene law enforcement would've put paper
17 bags around his hands and then -- and usually taped them shut
18 to preserve any evidence on his hands before they do their
19 examination of the hands in a controlled environment, the
20 autopsy room. Okay. So that -- that's what -- that's what that
21 was.

22 Q. And that can include nail scrapings or -- or things
23 like that?

24 A. Nail scrapings, fingerprints.

25 Q. Gunshot residue?

1 A. Correct.

2 Q. And so I want to talk a little bit about his autopsy.
3 I know you went through it. The -- and -- and I just want to
4 clarify for the directionality. So you said that you were --
5 when you say that you described it from the anatomical position,
6 I hope I'm saying that correctly, that -- that they're laying
7 on their back.

8 A. Correct.

9 Q. Okay.

10 A. If I could stand down like the anatomical position
11 is laying on your back with your hands out and -- and like, just
12 like this. So just think of me laying on a table like this.
13 Okay. That's the anatomical position, and that's how I
14 determined the trajectory of the gunshot wound within the
15 anatomic position.

16 Q. So I want to clarify then, and I'm putting up state's
17 219, and again, this is just so we're clear.

18 A. Okay.

19 Q. So when you say the directionality of A to just A,
20 sorry.

21 A. Okay.

22 Q. Or B to e you -- you described that as forward?

23 A. Correct.

24 Q. Okay. But you mean forward, you mean from the back,
25 right?

1 A. Well, so I -- what I -- what I say with that is, you
2 know, moving forward, if you're moving forward, you're going
3 this way. So that's -- so I -- it's from the back, that's
4 correct.

5 Q. Back to front. Okay.

6 A. Yeah. Back to front. Yes. Right -- right. That
7 -- that makes it easier.

8 Q. Sorry. Just -- just trying to clarify.

9 A. Okay.

10 Q. So because when I think forward, I think front to
11 back, but that's why when you were describing anatomical, I --
12 I was getting confused, especially when you described it. But,
13 so it enters in the back and goes forward, the bullet trap
14 forward.

15 A. Correct.

16 Q. Okay. All right. Just making sure that, that was
17 clear. You also collected bullet projectiles from Mr. Smith's
18 body.

19 A. Correct.

20 Q. And you turned those over to Richland County?

21 A. Correct.

22 Q. And --

23 A. Or -- or whatever law enforcement was there.

24 Q. Sorry. Whichever law, I know you can't remember, but
25 yeah, so whichever law enforcement was there, and you also did

1 toxicology in -- in Mr. Smith's case as well, correct?

2 A. Yes I did.

3 Q. Okay. And can you publish those results?

4 A. Yes. So routine drug and alcohol testing was of the
5 aortic blood. So in this case, I was able to get blood from his
6 aorta, his chest, and it had some -- had cocaine 88 and it had
7 ecgonine methyl ester and benzoyl ecgonine, which are cocaine
8 breakdown products. And then the vitreous fluid was negative
9 for alcohols.

10 Q. And lastly, when you talk about manner of homicide
11 -- manner of death being homicide in these cases, those are
12 medical determinations, not legal determinations, correct?

13 A. They -- they're -- that's correct -- that's correct.
14 Yeah.

15 Q. So in -- in -- when you're determining manner of
16 death, homicide, suicide, accident?

17 A. Natural, undetermined.

18 Q. Natural, yes.

19 A. Yes.

20 Q. But those are simply medical determinations, correct?

21 A. Yes.

22 MS. ZMROCZEK: Thank you. I have no further questions.

23 THE COURT: Any redirect?

24 MR. WALTON: Yes, Your Honor.

25

REDIRECT EXAMINATION

1 BY MR. WALTON:

2 Q. Dr. Marcus, did Curtis Dinkins die from ethanol?

3 A. No.

4 Q. Did he die from drugs?

5 A. No.

6 Q. Did he die from a gunshot wound to the heart?

7 A. Yes.

8 Q. Cory Smith, did he die from cocaine?

9 A. No.

10 Q. Did he die from two gunshot wound to the back of his
11 neck?

12 A. Yes.

13 MR. WALTON: No further questions.

14 THE COURT: Anything further from this witness?

15 MS. ZMROCZEK: Nothing further.

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

17 THE WITNESS: Okay,

18 THE COURT: Call your next witnesses.

19 MS. DARKO: Thank you, Your Honor. The state calls Ricky
20 Johnson.

21 RICKY JOHNSON,

22 being first duly sworn, testifies as follows:

23 THE CLERK: Please have a seat at the witness stand, and
24 state your full name for the record.

25 THE WITNESS: Captain Ricky Johnson.

1 DIRECT EXAMINATION

2 BY MS. DARKO:

3 Q. Good afternoon, Investigator Johnson. Where are you
4 currently employed?

5 A. Good afternoon at the Richland County Sheriff
6 Department.

7 Q. And how long have you been working there?

8 A. I'm going on my 17th year.

9 Q. And what is your role there at the Richland County
10 Sheriff's Department currently?

11 A. Currently I'm the captain over two divisions within
12 the criminal investigation division, narcotics, as well as the
13 Technical Services Unit.

14 Q. And with regard to the technical services unit, how
15 long have you been within that division?

16 A. I have been over the division almost a year. I have
17 been in that -- doing that type of work since 2014.

18 Q. And when you say that type of work, what does it
19 entail?

20 A. So typically I mainly do mobile forensics. So that
21 is the collection, preservation collection analysis of mobile
22 devices, cell phones.

23 Q. And what specialized trainees have you had that
24 allows you to do the analysis of mobile devices?

25 A. Sure. So I got my first formal training in 2014

1 through the DEA through their crime lab. And then in 2016, I
2 went through Cellebrite's basically their top certification.
3 I became a Cellebrite certified Examiner. 2017 I -- I went
4 through TIL Technologies and I did what's called Mobile Advance
5 forensics, which is essentially tearing phones apart and
6 soldering them, taking the chips off. My most recent
7 certification is through the SANS Institute. I received my GX
8 certification in mobile analysis.

9 Q. Can you distinguish for us the difference between
10 extraction and forensic analysis of -- of mobile device?

11 A. Yeah. So the extraction is -- is essentially making
12 a copy of the data and then the analysis is interpreting that
13 data. So making a report of the data.

14 Q. And during your time with examining mobile devices
15 and analyzing them, can you give a rough -- rough estimate of
16 how many of these analyses you've completed?

17 A. Thousands.

18 Q. And have you taught others or instructed others in
19 how to do analyses and extractions of mobile devices?

20 A. Yes, I've taught how to, and then I've also presented
21 it several tech conferences on mobile forensics.

22 Q. And are you affiliated with any associations focused
23 in this particular area?

24 A. Yes, I'm -- I'm an advisory board member for the SANS
25 Institute. I -- I'm also part of the High Tech Crime

1 Investigations Association, as well as the South Carolina Cyber
2 Fraud Task Force.

3 Q. And what is the -- what is SANS?

4 A. SANS Institute is -- it's a technical college.

5 Q. And -- and do you have any other degrees relating to
6 criminal justice or forensic technology or and analysis?

7 A. I do have my bachelor's in criminal justice, but
8 everything with mobile is certifications through different
9 institutions.

10 MS. DARKO: At this time, Your Honor, I would tender Ricky
11 Johnson as an expert in mobile device analysis.

12 THE COURT: Any objection or voir dire?

13 MS. ZMROCZEK: None, Your Honor.

14 THE COURT: All right. Ladies and gentlemen of the jury
15 captain Johnson is an expert in the field of mobile devices and
16 analysis. Yes, Ms. Darko?

17 MS. DARKO: Yes.

18 THE COURT: As I told you with the previous witness, you
19 give his testimony the weight and credibility you think it
20 deserves. Proceed, Ms. Darko.

21 BY MS. DARKO:

22 Q. Ricky, were you asked to look at a cell phone in this
23 case?

24 A. Yes.

25 Q. And do you make a report of the -- your findings in

1 that case?

2 A. I did.

3 Q. And what was the phone number associated with the
4 cell phone that you were looking at?

5 A. Let me look at my notes. Telephone number for the
6 -- for the report I examined was (180) 326-21133.

7 Q. If you could tell me, did you record in your report
8 the particular mobile device that you're analyzing in terms of
9 the -- the brand or model?

10 A. Yes.

11 Q. And what was that?

12 A. It was a Samsung model, SM-G973U.

13 Q. And I'm showing you what's been pre-marked as state's
14 215 just for ID. Do you recognize that item?

15 A. I do.

16 Q. And what is it?

17 A. It is the cell phone extraction for the (inaudible)
18 and Samsung phone.

19 Q. And that's the device that you were just discussing
20 that's memorialized in your report?

21 A. It is.

22 Q. And how do you know that you -- that is the
23 extraction that you reviewed?

24 A. I have my initials as well as the date that I
25 reviewed it on the disc.

1 Q. And it's a fair and accurate copy of the extraction
2 that you reviewed?

3 A. It is.

4 Q. And with regard to your agency, where are those
5 extractions kept or stored?

6 A. So we -- we store them locally as well as in a cloud
7 server called evidence.com. So we store one locally in our lab
8 as well as in the cloud.

9 Q. I'm showing you what's been pre-marked as -- excuse
10 me, I'm just trying to find what previously identified as
11 state's 205. I'm showing you what's pre-marked as state's 205
12 and 197. Subject to any redaction, do you recognize those
13 items?

14 A. I do.

15 Q. And are those items found on the extraction that you
16 analyzed?

17 A. They were.

18 Q. And can you tell me with regard to item 205 when it
19 was created?

20 A. I can't tell you when 205 was created. I can tell
21 you where it was saved. I don't have a creation time.

22 MS. ZMROCZEK: Your Honor, I believe we have a -- a matter
23 of law that we were discussing prior.

24 THE COURT: Not as to that question. Is there an
25 objection as to this question?

1 MS. ZMROCZEK: Not -- not as to the question, but if --
2 if it -- if the descriptions continued, then we -- then I would
3 have an issue of it.

4 THE COURT: Okay.

5 MS. ZMROCZEK: Thank you.

6 THE COURT: Let's wait and see.

7 BY MS. DARKO:

8 Q. With regard to the creation time, why can't you
9 determine exactly when it was created?

10 A. I don't have enough data. There's no metadata
11 attached to that particular photo, so there's no data that tells
12 me exactly when it was created.

13 Q. And as it appears to the casual viewer looking at a
14 phone without your training and experience did it have a
15 published creation date?

16 A. Yes.

17 Q. And what was that?

18 A. I'd have to look at the examiner report. Wait one
19 second. I can, do that. I don't know that I have any.

20 Q. And Ricky, if you just want to explain why the -- why
21 you can't take the -- the base of creation date that's published
22 in the general base of the document, why you can't take that up?

23 A. Right. So it -- it -- when we do an exam, the
24 program may have a creation date because that's when it was
25 saved to the device. It doesn't mean that's when it was

1 actually created on the device. Right. So it could have been
2 saved, you know, from a certain application. And the time that
3 the phone logged it as being created was the time that it was
4 saved to the device versus when someone actually took the photo.

5 Q. And I'm showing you what's been pre-marked as state's
6 194 and 201. Are you able to recognize these items?

7 A. Yes.

8 Q. And what are those?

9 A. So this is part of the Cellebrite report that was
10 created and it's the metadata associated with the photos.

11 Q. Okay. And now that you have the -- the Cellebrite
12 report from just the regular extraction, the face of it, what
13 was the creation date associated with the item 205?

14 A. So 205, the creation date was 12/31/1969.

15 Q. And is there another creation date I believe on
16 state's --

17 A. Which one?

18 Q. Are there any other creation dates associated when
19 on that report for that item 205?

20 A. There is.

21 Q. And what -- what is that?

22 A. 12/19/2020.

23 Q. And does it have a -- a time associated with it?

24 A. It does 12:30:06 a.m.

25 Q. And again, you can't say that it was created at that

1 time or before that time. You can't say whether or not that's
2 accurate because you don't have the metadata associated with it.
3 Is that right?

4 A. That's correct.

5 Q. And can you tell me exactly what item or what
6 application or what area of the phone 205 is associated with?

7 A. Yeah, it was taken with a camera within the Snapchat
8 application.

9 Q. And if you can just explain that to someone like me
10 who doesn't have Snapchat.

11 A. Sure. So Snapchat is a -- it's a third party app.
12 We call it a third party app where you can take photos and send
13 them to people or you keep them for yourself. You can apply
14 filters. And once you take that, you can save those photos to
15 your device.

16 Q. And you mentioned sending the photos to people. Is
17 there anything within your forensic review of the phone and your
18 analysis that indicates that item 205 was sent?

19 A. No.

20 Q. So is it fair to say that the only information you
21 know is that it was taken through the camera associated with
22 Snapchat?

23 A. That's correct.

24 Q. And then with regard to the other items, dates 197,
25 is there a creation date or time associated with that?

1 A. Yes.

2 Q. And what is that?

3 A. August the 4, 2020 at 8:39:08 a.m.

4 Q. And can you say with regard to that time or that
5 item, whether or not it was part of a communication on the
6 phone, a -- a text message or instant message or anything like
7 that? Do you have that information?

8 A. No -- no --no -- no information to suggest it was
9 sent or received from any of those.

10 MS. DARKO: Ricky, that's all I have for you. Please
11 answer any questions for Ms. Zmroczek.

12 THE WITNESS: Yes ma'am.

13 THE COURT: Cross-Examination.

14 MS. ZMROCZEK: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ZMROCZEK:

17 Q. Investigator Johnson, good afternoon.

18 A. Good afternoon.

19 Q. So your job is to -- to analyze the information that
20 you received, right?

21 A. Yes.

22 Q. And that helps you -- people are use their cell
23 phones frequency, right?

24 A. That's correct.

25 Q. They become a part of everyday life.

1 A. Yes.

2 Q. They can provide information about location.

3 A. Sometimes.

4 Q. Pictures.

5 A. Sometimes.

6 Q. As we've heard.

7 A. Yes.

8 Q. Text messages.

9 A. Yes.

10 Q. Phone calls.

11 A. Yes.

12 Q. And you have training to you can also download these

13 phones too, right?

14 A. Yes, I do that as well.

15 Q. Okay. Bu --, but you have, I guess with the

16 frequency, investigator McDonald maybe downloads them and then

17 provides you the information. Is that how it happened in this

18 case?

19 A. It is how it happened in this case. Yes.

20 Q. Okay. And it wasn't just this phone right? That you

21 had information on?

22 A. Correct.

23 Q. You had information on a -- a Samsung from Mr. Smith?

24 A. I don't know them by names, I just know them by

25 devices.

1 Q. Okay. A Samsung that was provided to you from the
2 vehicle?

3 A. Again, I -- I'd have to -- you'd have to tell me the
4 device.

5 Q. Okay.

6 A. I know them by devices.

7 Q. It's all right. And so there were multiple devices
8 -- but the point being that there were multiple devices that you
9 were given to analyze, correct?

10 A. Yes.

11 Q. Okay. And those would be reflected in the property
12 report that after you received them, they are logged in in the
13 property report, correct?

14 A. No, so -- I -- no, because I received the report that
15 was already generated by Captain McDonald, I analyzed his report
16 to validate his findings.

17 Q. Okay. And so can you just tell me how many reports
18 you received in this case?

19 A. Two.

20 Q. Okay. And were you ever asked to go back and -- and
21 examine any of the phones that were in evidence?

22 A. No.

23 Q. And what allows you to do that interpretation is your
24 -- and your analysis is your training and experience, right?

25 A. Yes.

1 Q. And because of that, you can then explain to the jury
2 things that you find in your -- in people's phones.

3 A. Yes.

4 Q. And you also say you rely on metadata. So what's
5 metadata?

6 A. Metadata is essentially data about data. So any
7 camera, any phone. When you take a photo, it could potentially
8 tell you what camera took it, the location where it was taken
9 exposure rates, so forth. It's data about data.

10 Q. And then there are also third party apps, you said,
11 right?

12 A. Yes.

13 Q. And in your training do you receive -- what
14 information do you receive on how to interpret that data from
15 third party apps?

16 A. A lot of that is self-generated test devices. So my
17 lab, we create test devices, so if we want to understand
18 Instagram, we create test data, we then download that device and
19 we -- we understand the way it's being stored on the device.
20 That way we could then look at evidence and interpret it
21 correctly.

22 THE COURT: All right. Let me interrupt you here. We
23 need to take a short break. Ladies and gentlemen, please return
24 to your juror room. Do not discuss the case. We'll bring you
25 back in just a little bit. Let's take a 10 minute break. You

1 can step down from the witness stand and don't discuss your
2 testimony with anyone.

3 THE WITNESS: Yes, ma'am. Thank you.

4 (Off the record.)

5 THE COURT: All right. Bring the jury please.

6 THE BAILIFF: Jury is seated, Your Honor.

7 THE COURT: Thank you, sir. Ms. Zmroczek, you may resume
8 your cross-examination.

9 MS. ZMROCZEK: Thank you, Your Honor.

10 BY MS. ZMROCZEK:

11 Q. Investigator Johnson, I understand that -- that you
12 worked on that phone, right? But you're familiar with how to
13 read property reports generated through Richland County?

14 A. Yes.

15 Q. Okay. All right. So I'm -- I'm trying to clarify
16 this. I'm handing you just for identification purposes a
17 portion of the property report. Do you recognize that to be a
18 portion of the property report?

19 A. Yes.

20 Q. Okay. And what I've highlighted in blue which is
21 item number 54 on the Richland County Property Report, correct?

22 A. Yes.

23 Q. Okay.

24 MS. DARKO: Objection, Your Honor. I just want to
25 understand where this is going. He can -- he's familiar with

1 reading them, however, he's not the property custodian for
2 property reports.

3 MS. ZMROCZEK: Right. So the question I'm -- I'm asking,
4 Your Honor, is did he evaluate that though? That's all.

5 THE COURT: You may proceed.

6 MS. ZMROCZEK: Thank you.

7 BY MS. ZMROCZEK:

8 Q. Did you evaluate that though?

9 A. I didn't, again, I didn't evaluate a physical phone.

10 Q. Okay.

11 A. I -- I evaluated a report that was -- that was
12 generated by another examiner.

13 Q. Okay. And do you know if you -- if you evaluated a
14 report generated by that though?

15 A. I would have to have more information than that.
16 Because it's -- it that's vague. That's too vague for me to be
17 able to verify that.

18 MS. ZMROCZEK: Okay. All right. Those are all the
19 questions I have for you. Thank you.

20 THE COURT: Any redirect?

21 MS. DARKO: Nothing, Your Honor.

22 THE COURT: Okay. Thank you. You may step down. Okay.
23 Who would you be calling next?

24 MS. DARKO: Investigator Eisenhower.

25 THE COURT: Yeah, we'll do that on Monday. All right,

1 being first duly sworn, testifies as follows:

2 THE COURT: Thank you. Please have a seat in the witness
3 stand, and state your full name for the record.

4 THE WITNESS: My name's Kevin Eisenhower.

5 DIRECT EXAMINATION

6 BY MS. DARKO:

7 Q. Good morning, investigator Eisenhower. Where do you
8 currently work?

9 A. I currently work for myself. I'm a consultant with
10 the Lexington County Solicitor's Office. I've recently retired
11 from the Richland County Sheriff's Department.

12 Q. And how long have you worked with the Richland County
13 Sheriff's Department?

14 A. Twenty six years.

15 Q. And back in December of 2020, what was your role with
16 the Richland County Sheriff's Department?

17 A. I believe -- I believe at that time I was a captain
18 in the Major Crimes Unit.

19 Q. And what would've been the responsibilities
20 associated with being a captain in Major Crimes?

21 A. So my responsibility was to run a group of
22 investigators who investigated all violent crime in Richland
23 County. That included assaults, suicides, murders, armed
24 robberies, that sort of thing. So we had a core group of
25 investigators that would investigate those. I -- we would get

1 the cases in, determine who was the best suited to investigate
2 that case, assign it to them, and then help guide them, and --
3 and help -- help out at any way we could.

4 Q. And just before turning into this case, prior to
5 reaching that rank within your department, can you just go over
6 some of the other positions that you held within law enforcement
7 and your agency?

8 A. I started in 1997 at the Richland County Sheriff's
9 Department. I worked here as a court security officer. When
10 I started I moved into the Uniform Patrol Division as a patrol
11 officer answering calls for service. I went -- I then became
12 an investigator with the Richland County Sheriff's Department,
13 and spent the rest of my career in investigations. I've
14 investigated over that time everything from property offenses,
15 burglaries. I was a narcotics investigator for a period of
16 time, but the majority of my experience has been in violent
17 crime investigations about 17 years of it.

18 Q. And when did you become involved in this case?

19 A. The day -- well, the evening shift, as you -- you've
20 heard, the evening shift responded out that evening, and we were
21 there till the very early morning hours. I came in around eight
22 o'clock the next day on the 19th, and started working on it,
23 sort of getting the information from the on-call team, and what
24 was done, and -- and trying to help out this particular case.
25 At this time we had more -- more murders than we've ever had in

1 Richland County. We were actually investigating 10 different
2 murders at this point with -- with about seven investigators.
3 So this particular case I took myself to investigate.

4 Q. And when you began working on this investigation,
5 what information had been gathered up at that point?

6 A. When the officers and investigators responded out,
7 they -- they reported to me that they had a vehicle recovered
8 at the scene, the Black Crown Victoria. There was a in-store
9 and exterior video recording of the incident. They had taken
10 several statements, and provided me with copies of -- of
11 everything.

12 Q. And had suspect been developed by that time?

13 A. They had developed a name of James -- James Toatley.
14 And, like I said, they -- they reported to me that they got that
15 through a witness at the scene.

16 Q. And by the time that you became involved had a photo
17 lineup been returned?

18 A. Early that morning, we requested a photographic
19 lineup, and it had been delivered to us.

20 Q. And did you meet with any witnesses for purposes of
21 showing them the photo lineup early on?

22 A. Yeah, the first person I met with was a man named
23 Pope Hope, who had spoken to investigators that -- that evening
24 or that morning I should say. And I met with him and showed him
25 the photographic lineup.

1 Q. And I'm showing you what's previously been admitted
2 as states 191 and 190. Do you recognize those items as what was
3 shown to Mr. Hope that morning?

4 A. I do.

5 MS. DARKO: Your Honor, at this time I would request to
6 publish.

7 THE COURT: Yes, ma'am.

8 BY MS. DARKO:

9 Q. When you met with Mr. Hope for purposes of this
10 lineup, did he have any hesitation in making his selection?

11 A. Absolutely not.

12 Q. And are those his initials there next to I don't --
13 next to Image 3?

14 A. They are.

15 Q. Is that the defendant in this case?

16 A. It is.

17 Q. And did you show this lineup to anybody else in the
18 course of your investigation?

19 A. I did.

20 Q. And if -- did you show the same lineup to the next
21 witness?

22 A. I did. Obviously, it wasn't this particular lineup,
23 but it was a copy of that lineup, so.

24 Q. And who was that witness that you also showed the
25 lineup to?

1 A. That was -- I met with -- let's see the date here,
2 on the 31st, I met with Jamica Bethel and showed her lineup.

3 Q. And why -- just repeat for me again, the -- the date
4 that you showed that lineup to Ms. Bethel?

5 A. December 31st.

6 Q. And why was there a delay between that lineup that
7 Pope had viewed, and some of the other witnesses, and Ms.
8 Bethel?

9 A. She didn't have a cell phone. She had met with
10 investigators that night and was sent home. She didn't have a
11 cell phone, so it took me a while to get in touch with her to
12 get her back in. And I -- and again, and honestly, there were
13 -- there were a lot of things happening. So I made a couple
14 attempts to go out to where address I had for her. But
15 eventually we did get her in. It just took a little while.

16 Q. And she came in voluntarily?

17 A. She did.

18 Q. And did she have any hesitation in making her
19 selection?

20 A. Absolutely not.

21 Q. You mentioned the surveillance footage in this case
22 that was collected. How were you able to view that surveillance
23 footage?

24 A. So when the investigators collected it that evening,
25 it's uploaded to a system at the sheriff's department we refer

1 to as evidence.com. It's the same system you see across the
2 nation if people wear body cameras. All of our interviews are
3 done through this one centralized cloud-based storage system.
4 And so once it's loaded, as the case officer, I have -- and --
5 and in my position, I have access to anything that's in the
6 system, so I could watch it then.

7 Q. And did you review the surveillance footage with any
8 of the witnesses in this case?

9 A. I did after I showed them the lineups, primarily
10 because I wanted them to give me their perspective of what was
11 going on at that point in the video. So they didn't have an
12 opportunity to see it before they showed -- I showed them the
13 lineups, but immediately afterwards we sat down, and went over
14 the video because like I said, I wanted to see their perception
15 of what was going on, things they heard at that time because the
16 video as you've seen has no volume, so.

17 Q. And well, the time that you spent reviewing the
18 surveillance footage, and the time that you spent reviewing it,
19 and independently, about how much time did you spend reviewing
20 surveillance footage in this case?

21 A. Oh, at -- probably 15 to 28 hours. It's -- there are
22 multiple cameras, you've seen some of them, but it's my job to
23 review them all, to try and determine if anything shows anything
24 of -- of importance to the investigation. So it takes a while,
25 and it -- through my experience, you have to watch these videos

1 over and over again to get the little -- little bits and pieces
2 of what's going on. You know, you in your mind, you make a
3 determination of, Hey, I think this is what happened -- was
4 happening, which is why we go back to when I had the -- the
5 witnesses. They could tell me what they -- what was really
6 going on. And that helps me put the -- the picture together a
7 little bit better.

8 Q. And with regard to those sequences of the
9 surveillance footage that had the suspect in them, how much time
10 did you spend on those sequences in particular?

11 A. A lot. I don't know that I could tell you exact
12 number of hours, but, you know, to the novice, you just -- you
13 watch a video and you see what's happening and there may be a
14 shocking event on it. But from an investigator's point of view,
15 I'm in particular, not only looking at what's happening, but
16 what -- what's been touched, what's been -- what the person's
17 wearing, their demeanor, how they -- how they carry themselves,
18 all of that can aid me in -- in identifying the suspect.

19 Q. And what, if anything, physically stood out about the
20 suspect based upon the countless hours of viewing that video
21 surveillance and the time you spent reviewing these lineups with
22 the witnesses?

23 A. You know, his basic physical description. I noticed
24 in the -- in the video, some tattoos that are things we looked
25 for on both his hands, his face. He also was wearing a very

1 distinctive sweatshirt that you guys have seen that -- I thought
2 that was something that -- it's not just a black -- black
3 sweatshirt. It's -- it's got some detail to it. So it's
4 something I could look for.

5 THE COURT: Have a seat.

6 MR. WALTON: Thank you.

7 BY MS. DARKO:

8 Q. And I'm showing you what has been pre-marked as
9 State's 202. Do you recognize this item?

10 A. Yes. This is a still image of the -- the defendant
11 walking into the convenience store. Just a clip.

12 Q. And has that still image been modified or changed
13 since you reviewed it in connection with the surveillance
14 footage in this case?

15 A. No.

16 Q. And it's a fair and accurate representation of one
17 of the sequences that you reviewed at the time?

18 A. It is.

19 MS. DARKO: Your Honor, at this time, the state would move
20 to admit to 202 into evidence.

21 THE COURT: Any objection?

22 MS. ZMROCZEK: No objection, Your Honor.

23 THE COURT: State's 202 is admitted without objection.

24 (State's Exhibit 202 was Admitted into Evidence)

25 BY MS. DARKO:

1 Q. And I believe you testified earlier that you were
2 focusing on the -- the front of the sweatshirt?

3 A. Yes.

4 Q. And was there anything else about what the defendant
5 was wearing that stood out to you or that you were attempting
6 to examine?

7 A. Yeah. Yes, he -- he also had a skull cap that
8 appeared to be kind of full. So, obviously, he had a lot of
9 hair underneath it, like I said, some -- some what appeared to
10 be some tattoos, his -- his -- the boots that he was wearing,
11 his overall clothing description is something I would -- and the
12 way he moves, things I would pay attention to.

13 Q. With regard to the way he moves, did you feel -- did
14 you view video surveillance of the suspect outside of the store?

15 A. Yeah.

16 Q. And what, if anything, stood out to you with regard
17 to the way he moves?

18 A. He appeared to have a limp. I noticed he was -- he
19 was favoring them -- one of his legs as he moved away from the
20 store, you could notice it pretty -- pretty distinctively.

21 Q. And, again, taking you back to the days just after
22 the incident, did you speak with (inaudible)?

23 A. I did.

24 Q. And how did you arrange for her to come speak with
25 you?

1 A. A text -- to be honest with you, I just sent her a
2 text. Sometimes people won't answer unknown numbers, so in a
3 text I sent to her my name, and who I was, and we wanted to meet
4 at the Richland County -- I wanted to meet with her at the
5 Richland County Sheriff's Department.

6 Q. And did she respond to that text message?

7 A. She did.

8 Q. And do you recall about when she came up to speak
9 with you?

10 A. The 21st -- December the 21st.

11 Q. And what was her relationship with the defendant
12 based on the course of your investigation? Have you determined
13 that at that point?

14 A. It appeared based on some things we found in the
15 vehicle and -- and throughout the investigation that she had a
16 child in common with Mr. Toatley and me -- or I was a -- a
17 little unclear if they were legally married or not. But they
18 appeared to be in a -- a significant relationship and have a
19 child in common.

20 Q. And was she a suspect when you spoke with her?

21 A. No.

22 Q. And did she speak to you voluntarily?

23 A. Yes.

24 Q. And did you ask to download the contents of her cell
25 phone?

1 A. I did.

2 Q. And did she have that cell phone with her that day?

3 A. She did.

4 Q. And did she allow you to download the phone that day?

5 A. She did. She signed a written consent. It's a form
6 we use at the Sheriff's department that -- that allows me to go
7 -- to look into her phone, and also showed me in sort of a
8 diagram, the -- the swipe pattern to unlock the phone. That
9 makes it a little bit easier for our analysts to get into the
10 phone, makes it a little quicker so we can get phones back to
11 people.

12 Q. And with regard to the -- who did the download, do
13 you recall who did the download?

14 A. I believe it was Captain Scott McDonald.

15 Q. And after it was downloaded, did -- was it returned
16 to Ms. Ruffin?

17 A. Yes.

18 Q. And was that the same day?

19 A. Yes.

20 Q. And how was that phone download shared with you?

21 A. Captain McDonald would upload it into evidence.com,
22 the same system. It's pretty much what we use for any digital
23 evidence in the Sheriff's department. And then I have access
24 to -- or at the time, had access to a -- a reader program. I
25 -- I can't remember what the technical term is, but it just

1 allows me to -- in a more user friendly way to look at the --
2 look at the information.

3 Q. And in terms of the general procedure, when it comes
4 to the downloads, whose responsibility is it to review the
5 download?

6 A. It's the investigators in this case, my
7 responsibility to look in -- because we know what's going on in
8 the case. We know what we saw on the -- the video or the
9 surveillance videos. So I'm looking for things like that in the
10 phone, in the device, things that -- that match up to the crime
11 itself. So it's our responsibility. Sometimes it gets a little
12 over our heads and -- but we have someone that can help us, you
13 know, an expert. You've -- you've heard from Captain Johnson,
14 but he can help out when he gets a little bit complicated with
15 some of the apps and things.

16 Q. And I'm showing you what's been marked for -- as 215
17 -- states 215 for ID only. And do you recognize this item?

18 A. I do.

19 Q. And what is that item?

20 A. This is the download on an actual disc. It's got my
21 initials on it.

22 Q. And you reviewed it?

23 A. Yes.

24 Q. And that's how you recognize it, because it has your
25 initials on there?

1 A. Yes.

2 Q. And I'm showing you what's been admitted as states

3 223. Do you recognize this item?

4 A. Yes.

5 Q. And what is that?

6 A. It's -- for lack of a better term, it's the -- the
7 front page of the download, which tells you the device, you
8 know, when it's -- when this download occurred, you'll have some
9 case information who -- who did the download. But importantly
10 the phone number of the device itself.

11 MS. DARKO: Your Honor, at this time, the state would
12 request to publish for purposes of this witness's testimony 215
13 and 223?

14 THE COURT: Yes, ma'am.

15 BY MS. DARKO:

16 Q. And with regard to the phone number associated with
17 the download, is that the phone number that you were
18 communicating with Ms. Ruffin? Let the record reflect that the
19 state is pointing to the phone number delineation
20 1-803-262-1133. Is that where you were communicating with Ms.
21 Ruffin?

22 A. Yes.

23 Q. And I believe you testified before that she
24 responded?

25 A. She did.

1 Q. I'm showing you what's been pre-marked as states 224.
2 Do you recognize this item?

3 A. Yes. This is a -- a clip from that download, which
4 I had already communicated with her on the device. So -- so my
5 communication was also on the device. So this is -- this is the
6 actual text message where I gave her, it's got my phone -- my
7 -- my departmental cell phone number, my name, and a -- a time
8 to meet me, and a location to meet me, which is the Sheriff's
9 Department's headquarters on the 19th.

10 Q. And is that how you were able to verify that she had
11 given you her actual phone?

12 A. Yes.

13 MS. DARKO: Your Honor, at this time, the state would move
14 to admit states 224 into evidence.

15 THE COURT: Any objection.

16 MS. ZMROCZEK: Subject to my previous objection, Your
17 Honor.

18 THE COURT: State's 224 will be admitted over the
19 defendant's objection.

20 MS. DARKO: Request to publish, Your Honor?

21 THE COURT: Yes, ma'am.

22 BY MS. DARKO:

23 Q. And with regard to what appears in row 1 on this --
24 or excuse me, row 3 on this exhibit, is that the message that
25 you sent to Ms. Ruffin?

1 A. Yes.

2 Q. And I'm not sure if you can see the date and time.

3 A. I got a little bit closer. I can pick it up. All
4 right. December the 19 of 2020, it says, when you see things
5 like this, it says 3:36, that's a uniform time for the entire
6 country, so we have to subtract hours for our time zone. So it
7 wasn't -- it wasn't 3:36 a.m..

8 Q. And the -- in row 4 is that her message responding
9 to you, subject to the -- the redaction with regard to the
10 content?

11 A. Yes.

12 Q. Once you reviewed the phone, did you review the
13 photos that were contained on the cell phone?

14 A. Yes.

15 Q. And did you -- based on your review the surveillance
16 footage and you're showing lineups and working with witnesses
17 in this case, did you recover or view any photos of the
18 defendant in this case?

19 A. Yes.

20 Q. And, again, just to clarify, what in terms of
21 physical traits you learned through your investigation, and
22 formed your opinion that you were looking at James Toatley on
23 the phone?

24 A. Well, I -- yeah, having reviewed the video, I had a
25 pretty clear image of him and his clothing, which in some of the

1 photographs appeared to be the same clothing worn in a separate
2 environment from the store, and also an image with Ms. Ruffin
3 and the defendant where he is obviously in a cast in -- on
4 crutches, which to me was interesting based on when I saw the
5 limp, it looked -- it looked like he had a pretty significant
6 injury to his leg at some point --at that point.

7 Q. And I'm showing you what's been pre-marked as states
8 205. And do you recognize this item?

9 A. Yes. This is a photograph from the device where the
10 defendant, one you can see the tattoos on his hand, the hat that
11 I described, and the -- the same sweatshirt that's seen in the
12 video.

13 Q. And subject to any redactions, is it the same as when
14 you viewed it on the phone?

15 A. It is -- t is.

16 Q. And has it been altered or changed in any way against
17 subject to those redactions?

18 A. No.

19 MS. DARKO: Your Honor, at this time the state would admit
20 205.

21 THE COURT: Any additional objection?

22 MS. ZMROCZEK: Nothing additional.

23 THE COURT: State's 205 will be admitted over the
24 defendant's objection.

25 (State's Exhibit 205 was admitted into evidence)

1 BY MS. DARKO:

2 Q. And you've commented on the distinctive clothing.
3 Is that what we're seeing here in state's 205?

4 A. Yes.

5 Q. And I'm showing you what's been pre-marked as state
6 225 for ID. Do you recognize this item?

7 A. Yes. This is the -- the actual portion from the
8 report where it tells you the file, and the date the file was
9 created, and the time.

10 Q. With regard to that item, is that how it would've
11 appeared to you, sort of on your computer screen?

12 A. Yes -- yes.

13 Q. And that matches the -- this exhibit that you
14 identified as the extraction? It came from that extraction?

15 A. Yes.

16 Q. And does it appear to have been modified or changed
17 in any way since you viewed it when you were reviewing the
18 extraction?

19 A. Not to me.

20 MS. DARKO: At this time, Your Honor, the state would move
21 to admit state's 225.

22 THE COURT: Any additional objection?

23 MS. ZMROCZEK: Subject to my previous.

24 THE COURT: State's 225 will be admitted over the
25 defendant's objection.

1 BY MS. DARKO:

2 Q. And this is the actual information, I guess, about
3 this item as far as the cell phone is concerned?

4 A. Yes. So when I have it -- when I'm looking at it,
5 this pops up and then I can click on a thumb -- the thumbnail
6 and, obviously, the picture blows up so I can look at it and it
7 has some -- some file data from the image.

8 Q. And, again, you've already explained that you can't
9 really testify as to what creation dates, or sources, or any of
10 that mean, but this was the creation date that was publicized
11 to you in the phone download?

12 A. Yeah, my -- I don't have any expertise. I can read
13 the -- the information in front of me, and that's the date and
14 time that this system provided me, which is December the 19 of
15 2020 at 12:20 and 52 -- 12:20 a.m., I should just say.

16 Q. And I'm showing you what's been pre-marked as states
17 197 for ID. Do you recognize this item?

18 A. Yes.

19 Q. And what is that?

20 A. This is the photograph of Ms. Ruffin and Mr. Toatley,
21 where he is got a pretty heavy cast and bandage on his right
22 leg, some crutches nearby, leaning against a car.

23 Q. And does it appear to have an altered or changed in
24 any way since you viewed it on Ms. Ruffin's extraction?

25 A. No.

1 MS. DARKO: Your Honor, at this time, state would admit
2 state's 197.

3 THE COURT: Any additional objection?

4 MS. ZMROCZEK: Nothing additional.

5 THE COURT: State's 197 is admitted over the defendant's
6 objection.

7 MS. DARKO: Request to publish, Your Honor.

8 THE COURT: Yes, ma'am.

9 BY MS. DARKO:

10 Q. And that's the leg injury there that you were
11 referring to earlier?

12 A. Yes.

13 Q. And that's the same foot that he was favoring in the
14 surveillance video that you reviewed?

15 A. It appeared to me as so.

16 Q. And, Investigator Eisenhower, in addition to
17 reviewing the surveillance footage and this phone download of
18 Ms. Ruffin, did you also review other reports in connection with
19 this case in terms of DNA, fingerprints, et cetera?

20 A. Yes. One of the tasks of the actual case
21 investigator is to submit things for testing that haven't
22 already -- other investigators who responded may have done some,
23 but my -- in my review, one of the first things I'll do is look
24 at the evidence that has been collected, and say whether or not
25 we need to make sure a firearms examiner looks at this, DNA is

1 processing this, latent prints are compared, whatever that is
2 sort of in the grand scheme of things. It's just to take a
3 look, submit things for testing, and then see what's returned,
4 and -- and package it together for the case, and -- and
5 obviously, if -- if there's something that's positive or -- or
6 helps guide my investigation to use that to direct it.

7 Q. And I think I jumped a little bit ahead of you. So
8 it -- it is your responsibility to make certain that some of
9 these items are getting tested and then you're reviewing the
10 reports?

11 A. Yes.

12 Q. And that's to permit you to follow up on leads, et
13 cetera?

14 A. Yes.

15 Q. And with regard to DNA in this case, did you follow
16 up in terms of any results on -- with regard to the DNA report
17 in this case?

18 A. I think it was testified to earlier that we did
19 collect a cigarette butt at the scene. So when I talked about
20 looking at the video, I watched the video over and over and over
21 again to see if the people involved in the incident discarded
22 a -- a cigarette. I didn't see that, but we did have that
23 cigarette collected, and we did get a DNA match on a person.
24 And so I was able to contact this man. His name is Albert Mack
25 (phonetic). He came in willingly to the Sheriff's department,

1 and spoke with me --

2 MS. ZMROCZEK: Your Honor, if he's testifying to DNA
3 reports, I would have an objection.

4 MS. DARKO: He stopped, Your Honor. He's not testifying
5 to the DNA report, he's just saying what he did as a result of
6 receiving it.

7 BY MS. DARKO:

8 Q. Did you --

9 THE COURT: Continue.

10 BY MS. DARKO:

11 Q. And did you speak with Mr. Mack?

12 A. I did.

13 Q. And did you determine based on your conversations
14 with him and reviewing the video surveillance that he had any
15 involvement in this case?

16 A. Yeah, zero. He -- he had -- he told me a bit -- he
17 frequented the store and he does smoke, and he -- he thought he
18 wasn't sure, he may have been there earlier that day, but he was
19 certainly not the person on camera.

20 Q. And were there any other evidentiary leads gained
21 based on the DNA results?

22 A. No.

23 Q. And with regard to fingerprints, were you able to
24 develop any leads based on those results?

25 A. No, we weren't. You know, when you have the -- the

1 benefit of a video of a crime, which I never really have, but
2 in this case I could see what -- what things people touched, and
3 so we focused on that. It doesn't always work out, so we didn't
4 get anything that was usable, and it didn't appear that he'd
5 touched the vehicle in any way during the -- during the
6 incident. So we -- in this case, fingerprints weren't of a real
7 value to us.

8 Q. And when you're saying the vehicle, are you referring
9 to the black Crown Vic or the -- or the victim's vehicle?

10 A. The -- the victim's vehicle.

11 Q. Okay. And then were any guns recovered from the
12 scene?

13 A. No.

14 Q. And did you -- did you review the video surveillance
15 for the time period both before the event and after the event?

16 A. Yes.

17 Q. And how many shooters were involved in this incident
18 --

19 MS. ZMROCZEK: Objection, Your Honor.

20 BY MS. DARKO:

21 Q. Based on your review of the footage?

22 MS. ZMROCZEK: Speculation. Objection, Your Honor.

23 THE COURT: Overruled.

24 THE WITNESS: One person fired in this situation.

25 BY MS. DARKO:

1 Q. And based on your review of the video surveillance,
2 how many shots were fired?

3 A. I believe it was eight.

4 Q. And you've explained that you received copies of the
5 reports for other people involved in this investigation. Does
6 that also include the CSI property reports?

7 A. Yes.

8 Q. And I'm showing you what's already been admitted as
9 defendant's 4. Subject to the items that Ms. Zmroczek added
10 from the property report. Do you recognize this item?

11 A. Yes.

12 Q. And is it a fair and accurate copy of the diagram
13 that was appended to CSI Carrie McClary report?

14 A. Yes.

15 Q. And, again, subject to what's been added from --

16 A. Uh-huh.

17 Q. -- the property description?

18 A. Uh-huh.

19 MS. DARKO: Your Honor, request to publish what was
20 previously admitted as 4 for purposes of this witness's
21 testimony?

22 THE COURT: Yes, ma'am.

23 BY MS. DARKO:

24 Q. And you have a copy of the property report in your
25 file?

1 A. I do, yes.

2 Q. Okay. And with regard to the portions that Ms.
3 Zmroczek has added from the file with regard to 73, 74, 72,
4 essentially these items delineated right next to the Crown Vic
5 and on the backside of the vehicle, what are those items based
6 on the property report?

7 A. They are listed on the report as nine millimeter
8 FCCs, fired cartridge casings that are damaged on the ground of
9 the side of the store, all of them.

10 Q. And in each case for the fired cartridge casings from
11 that area, are they all delineated as damaged on the property
12 report?

13 A. They are.

14 Q. And have you also reviewed the photos in connection
15 with CSI McClary's investigations --

16 A. Yes.

17 Q. -- report?

18 A. Yes.

19 Q. And I'm showing you what's previously been admitted
20 as states 59. Do you recognize this item as one of the photos
21 of pendency in that CSI report?

22 A. Yes.

23 MS. DARKO: Okay. Your Honor, the state would move to
24 publish for purposes of his testimony 59.

25 THE COURT: Yes, ma'am.

1 BY MS. DARKO:

2 Q. And I'm pointing to the area on defendant's Exhibit
3 4, delineating the fired cartridge casings near the Crown
4 Victoria. Do -- does this area -- is it reflected in this
5 photograph that we've just published states, I believe it was
6 59?

7 A. Yes.

8 Q. So that's the actual image of where these items were
9 recovered from?

10 A. It is.

11 Q. And based on your review of the surveillance footage,
12 were any shots recovered from -- or were any shots fired from
13 this area?

14 A. No, not during the time of the incident.

15 Q. And I'm showing you what's been pre-marked as states
16 58, 59, 50, 51, 53, and 63. Do you recognize these items?

17 A. Yes.

18 Q. And what are those items?

19 A. Those are the fired cartridge casings at the scene
20 on the side of the store.

21 Q. And are those the markers that are delineated as
22 damaged on the property report?

23 A. Yes.

24 MS. DARKO: Request to publish what I -- the items that
25 have previously been admitted, and I've just shown the witness

1 for review.

2 THE COURT: Yes, ma'am.

3 BY MS. DARKO:

4 Q. And this was one of the damaged casings?

5 A. Yes.

6 Q. And this one as well?

7 A. Yes. It's -- based on my experience. It's pretty
8 consistent with something that had been in the parking lot,
9 especially hard pave parking lots for a while. You've probably
10 seen them. Cars run over them, people step on them, and they're
11 -- they're actually pretty pliable, so they'll flatten out,
12 bend. And certainly on the video, we -- there were no vehicles
13 riding around after, because the police were there pretty
14 quickly. So this is clear to me that this is -- that -- that
15 these particular casings had been there a while.

16 Q. Based on your experience as an investigator, I guess
17 over 17 years, and your experience in law enforcement, is it
18 uncommon to collect fired cartridge casings that are not related
19 to the shooting?

20 A. Certainly not, in -- in certain -- certain areas that
21 are -- that are, you know, we respond to a lot. It's just the
22 fact.

23 Q. And again ---

24 A. Yes.

25 Q. With regard to item 15, that's on the -- the backside

1 of that building?

2 A. Yep -- yes. Excuse me.

3 Q. And, Investigator Eisenhower, did you make any
4 attempts to locate a gun used in this incident?

5 A. Yes.

6 Q. And what were your efforts with regard to the early
7 stages of your investigation with regard to the gun?

8 A. Based on information obtained during the
9 investigation, we received information that the -- that the
10 firearm had been thrown in a dumpster just down the road near
11 another store, commercial dumpster. And so I had the pleasure
12 of --

13 MS. ZMROCZEK: Again, Your Honor, I would object to
14 hearsay,

15 MS. DARKO: But, Your Honor, he's not testifying to what
16 anybody said, but that he followed up on a lead.

17 THE COURT: Overruled.

18 THE WITNESS: So myself and Captain Godfrey, I believe he
19 was a captain at the time as well, Godfrey, we actually went
20 inside the -- the dumpster removed everything out of the
21 dumpster. It was completely full as -- as well, but everything
22 came out, every bag was gone through. We spent a couple hours
23 going through this dumpster, but there was no firearm there.

24 BY MS. DARKO:

25 Q. And eventually did you obtain arrest warrants for Mr.

1 Toatley?

2 A. Yes.

3 Q. And what was the main basis for the course of your
4 investigation for those arrest warrants?

5 A. I mean, the video, the witnesses, identifying them,
6 everything being consistent with what the witnesses said. And
7 it was pretty clear information.

8 Q. No further questions for this witness. Please answer
9 any questions for Ms. Zmroczek, Investigator Eisenhower.

10 A. Yes.

11 THE COURT: Cross-examination?

12 MS. ZMROCZEK: Okay.

13 CROSS-EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Investigator Eisenhower, you just ended with
16 everything being consistent with what the witness says, right?

17 A. Correct.

18 Q. So you reviewed the body cams?

19 A. Most of them.

20 Q. Mostly?

21 A. Most of them.

22 Q. Okay.

23 A. Yeah. I -- there -- no, I didn't watch -- there's
24 no way I could watch every body camera at the ---

25 Q. How many body cams did you have to watch?

1 A. I couldn't tell you. I watched a -- a few.

2 Q. Okay. So did you watch the one with Ms. Bethel
3 saying that she didn't know those two people?

4 A. I recall a body camera with her very emotional and
5 speaking and screaming. I don't -- I don't recall that
6 specifically.

7 Q. So -- and you ---

8 A. Uh-huh.

9 Q. --- recall her being emotional and speaking and
10 saying ---

11 A. Uh-huh.

12 Q. --- they just picked us up off the side of the road.
13 We don't even know these people.

14 MS. DARKO: Objection, Your Honor. This -- this truly is
15 hearsay. I believe the proper procedure would've been asked Ms.
16 Bethel.

17 THE COURT: Overruled.

18 THE WITNESS: I -- it sounds familiar.

19 BY MS. ZMROCZEK:

20 Q. Okay. So then when you subsequently interviewed her
21 and showed her the photo lineup, did you ask her to clarify any
22 of those statements?

23 A. She provided us a statement earlier for the most
24 part, for the purposes of my meeting with her that day was to
25 show the lineup, and to review the video after the lineup to get

1 an idea of -- of what was -- was going on in her -- in her --
2 the way she proceeded.

3 Q. So you didn't ask her any clarifying questions then?

4 A. I -- I don't -- I had her statement. I -- I -- I'm
5 -- I -- I obviously spoke with her about it. I don't recall.
6 We didn't change her statement or anything.

7 Q. Okay. So you -- you said ---

8 A. Uh-huh.

9 Q. --- you had her statement in which she said she
10 didn't know those two people?

11 A. You can give -- you can -- if you want to give it to
12 me.

13 Q. I'll come back to that.

14 A. And you -- are you referring to the two people in the
15 car with them?

16 Q. Yes.

17 A. Yes, she did say that.

18 Q. Okay. Thanks.

19 A. I was confused. You were talking about the
20 defendant.

21 Q. Sir ---

22 A. Uh-huh.

23 Q. --- you said it's your responsibility as the lead
24 investigator to run, basically run the case, right?

25 A. Sure.

1 Q. You received information from investigators?

2 A. Yes.

3 Q. You reviewed their reports?

4 A. Yes.

5 Q. And in this case, you already talked about item
6 number 16 being a cigarette, but that came back to a -- a
7 different person who frequencities the store. That was your
8 testimony, right?

9 A. Correct.

10 Q. And the reason that was collected was why?

11 A. Because -- well, it was collected by crime scene
12 investigator, but I believe one of the investigators at the
13 scene specifically requested it.

14 Q. Because on that video -- they said ---

15 A. Uh-huh.

16 Q. --- on that video ---

17 A. Uh-huh.

18 Q. --- I saw the person in black (crosstalk).

19 MS. DARKO: Objection, Your Honor. Hearsay.

20 THE COURT: Sustained.

21 BY MS. ZMROCZEK:

22 Q. People viewed the video and asked -- or your
23 investigators for the course of your investigation ---

24 A. Uh-huh.

25 Q. --- reviewed the videos before you did, correct?

1 A. Yes.

2 Q. And so they were also directing people to collect
3 evidence, right?

4 A. Yes.

5 Q. Okay. It's fair to say that you said you watched
6 this video hours and hours and hours over and over and over
7 again, right?

8 A. Yes.

9 Q. And you can see things ---

10 A. Uh-huh.

11 Q. --- you can see different things almost every time,
12 right?

13 A. Yes.

14 Q. Okay. So you have to make up in your own mind what's
15 going on in that video, right?

16 A. Obviously, it's my percept what I'm perceiving going
17 on, and you try ---

18 Q. Right.

19 A. --- you watch it multiple times, and I'll focus on
20 different areas, and kind of dismiss a part of the video just
21 to see what's happening. It might -- it may be a -- looking at
22 a -- a shoe, or -- or whether or not the shoes were tied. It
23 could be something. It -- it just -- it just depends on the
24 case, but ---

25 Q. Right.

1 A. Uh-huh.

2 Q. And there's no audio you would agree with me in any
3 of the -- the videos provided by the convenience store?

4 A. No, there's no audio on the videos.

5 Q. Okay. So you can't hear what was being said inside
6 the store when Mr. Toatley hit Mr. Toby's hand?

7 A. No.

8 Q. Okay. You can't hear what's being said by any of the
9 parties when they come out in group fighting.

10 A. No.

11 Q. You can't hear what's being said when Mr. Toatley
12 walks away and gets into the car?

13 A. No.

14 Q. You can't hear what's being said when Mr. Dinkins is
15 confronting the two people outside of the car?

16 A. No.

17 Q. Okay. And that could make a difference in what was
18 happening, couldn't it?

19 A. I mean, it would change -- it would change what --
20 what's going on, but it's not changing what we see.

21 Q. Right -- right. But it could change the -- what's
22 going on as far as what's going on in the minds of the people
23 that are there.

24 A. Possible -- it's possible.

25 Q. It's possible, right?

1 A. Uh-huh.

2 Q. And you even put -- you did a report in this case ---

3 A. Yes.

4 Q. --- correct?

5 A. Yes.

6 Q. And in fact, in the fourth line of your report, you
7 -- you report that it was an altercation?

8 A. Yes.

9 Q. Okay. Meaning a fight.

10 A. I would -- an altercation in my definition is more
11 like an incident of physical nature.

12 Q. Okay.

13 A. That doesn't mean a fight, and the fights indicate
14 mutual.

15 Q. Okay. In your -- and sometimes you can fight with
16 words, right?

17 A. You can argue with the words.

18 Q. Right.

19 A. I don't know. I mean, I -- I guess that's to each
20 their own.

21 Q. Right. You -- you've been trained in your 26 years
22 of law enforcement experience, how to deal with people who have
23 been either intoxicated through alcohol, or methamphetamines,
24 or cocaine?

25 A. Yes.

1 Q. And the reason that you received that kind of
2 training is because methamphetamines and cocaine are stimulants,
3 right?

4 A. Yes.

5 Q. And they can make people aggressive, so you need to
6 know how to deal with them, correct?

7 A. Yes.

8 Q. Okay. Because that can change the way a -- a
9 situation goes down when you're in it?

10 A. Yes.

11 Q. Okay. Also, if someone's drunk.

12 A. Well, they can be more irritable. Some people are
13 -- are less likely to be violent when they're drunk.

14 Q. Right -- right.

15 A. Uh-huh.

16 Q. Some people are less, some people ---

17 A. Uh-huh.

18 Q. --- are -- are more, you ---

19 A. Uh-huh.

20 Q. --- just don't know.

21 A. Uh-huh. That's correct.

22 Q. Okay. You had the -- you said you had the copy of
23 the property report?

24 A. Yes.

25 Q. Okay. And when did you all return Ms. Bethel's phone

1 to her?

2 A. That day.

3 Q. Oh, I'm sorry, Ms. Bethel.

4 A. Oh, I'm sorry. I don't have -- the report I have
5 doesn't have the -- sort of the -- the chain of custody on it.
6 It's just the -- hold on. Let's see here.

7 Q. Okay. So I want to talk about phones for a minute.

8 A. Uh-huh.

9 Q. You collected a phone or -- not you, they collected
10 a phone in the vehicle belonging to Mr. Cory Smith?

11 A. The -- yes, I believe so, yes.

12 Q. Okay. And you said it is your responsibility to have
13 all of those -- all -- all the items that could be potentially
14 ---

15 A. Uh-huh.

16 Q. --- important evidentiary to ---

17 A. Uh-huh.

18 Q. --- to be reviewed, right?

19 A. Yes.

20 Q. And did you review that download?

21 A. No.

22 Q. You didn't review that download?

23 A. Nope.

24 Q. Okay. You had phones for Mr. Dinkins?

25 A. Right.

1 Q. Okay. They were also submitted for download?

2 A. Yes.

3 Q. Did you review that download?

4 A. I don't recall reviewing his, Mr. Smith never left
5 the car. And Mr. Dinkins, based on the -- the investigation and
6 what witnesses said, didn't have any contact with the persons
7 involved, so.

8 Q. Right.

9 A. Uh-huh.

10 Q. But you also said that all of their information was
11 corroborated.

12 A. I didn't say all. I said that a lot of it, but it
13 was accurate.

14 Q. Okay. All right. So it would -- would it surprise
15 you to learn that Mr. Hope Pope -- Pope Hope sent a picture of
16 a gun on December 12, 2020 to Mr. Dinkin's telephone?

17 MS. DARKO: Objection, Your Honor.

18 THE WITNESS: I don't know.

19 MS. DARKO: We're getting into hearsay. She's talking
20 about a message that was sent.

21 THE COURT: It's sustained.

22 BY MS. ZMROCZEK:

23 Q. Okay. So you didn't look at any of the pictures in
24 Mr. Dinkin's phone?

25 A. I -- I don't know that I did or didn't. I -- nothing

1 stands out.

2 Q. Okay. Did you ask Mr. Pope why he had over \$3,000
3 in his possession?

4 A. No. Did I ask who? Mr. Pope?

5 Q. Uh-huh.

6 A. Mr. Hope?

7 Q. Yeah. Sorry.

8 A. I didn't ask him that. No I -- I ---

9 Q. You didn't ask him that.

10 A. It doesn't matter how much money somebody has on the
11 person.

12 Q. Okay. Did you -- did you do any investigation into
13 finding out who the man in the red shorts was that walked into
14 the store with the gun that fell out of his pocket?

15 A. Well, there's a disagreement on -- on where the gun
16 came from in my observation of it, but yes, I did.

17 Q. All right.

18 A. Uh-huh.

19 Q. Let's stop there.

20 A. Uh-huh.

21 Q. Okay. So you see something different than ---

22 A. Uh-huh.

23 Q. --- what Mr. Heschel (phonetic) sees?

24 A. Yes -- yes.

25 Q. Okay. So it's possible to see different things on

1 the video?

2 A. Sure.

3 Q. Okay.

4 A. I -- I don't know how many times he watched it, but
5 I watched it a lot.

6 Q. All right. And so what investigation did you do into
7 locating the person in the red shorts?

8 A. Well, based on the -- the investigation, we received
9 a name of a person who was possibly involved or they were at the
10 store. And I made several attempts to locate him. Based on
11 what I saw it's not a situation where I could -- if someone's
12 avoiding me, and I -- they've committed a crime, I get a warrant
13 for their arrest and use some additional resources to track them
14 down. If somebody hasn't committed a crime and I don't believe
15 probable cause exists, I can only try and go to them and find
16 them. This person was actively avoiding me. He did have some
17 -- some mandatory reporting situations with law enforcement, but
18 never essentially didn't report to those after this. So I never
19 spoke with him.

20 Q. Do you know where he is today?

21 A. Yes.

22 Q. Have you spoken to him or tried to speak to him?

23 A. No.

24 Q. You talked about submitting items for testing; DNA,
25 latent prints. You also have ballistics ---

1 A. Yes.

2 Q. --- right?

3 A. Yes.

4 Q. And -- and why do you submit things to ballistics?

5 A. Well, there's a couple different reasons. Obviously,
6 there evidence at the scene can be tested. We can possibly
7 identify a firearm that fired it, but I will say that shell
8 casings and projectiles are two different things.

9 Q. Right.

10 A. And there -- there's two different markings made, but
11 -- so we -- we -- whatever we obtain, we'll submit it. There
12 is a system at the Sheriff's department that most larger law
13 enforcement agencies use called NIBIN, that -- it's a lot like
14 a fingerprint system, each shell casing can be entered into it,
15 and then if the Detroit Police Department recovers a gun one day
16 and submits it, then it could match, and it'll report back to
17 me that the -- that same gun was collected in Detroit Michigan.

18 Q. Okay. And so you've already testified that, for
19 example states 58, 59, 50 -- 50 in particular, was a damaged
20 shell casing you talked about, right?

21 A. Yes.

22 Q. And I think you even -- and, sorry, I'll keep going.
23 51 damaged shell casing?

24 A. Yes.

25 Q. Right. 53 damaged shell casing?

1 A. Yes.

2 Q. 63 damaged shell casing, right?

3 A. Yes.

4 Q. And you already testified that in your experience,
5 that they -- these looked like they were run over, that they
6 were there previously, that they had nothing to do with this
7 incident, right?

8 A. That's what it appears to me.

9 Q. Okay. Then why did you submit those into evidence
10 for testing?

11 A. Well, anything collected is going to be tested for
12 the most part.

13 Q. I'm sorry.

14 A. I said anything in -- in -- firearms related is going
15 to be automatically sent in and tested. So this just takes it,
16 we don't know what's going to be relevant initially in the
17 investigation. So we get all this -- and as -- as we get all
18 this information back, then we can start making sense of the
19 bits and pieces. So -- so after reviewing everything, it didn't
20 appear that those had anything to do with this incident.

21 Q. Okay. So after you reviewed everything, you didn't
22 feel like it had anything to do with this case?

23 A. That's correct.

24 Q. Okay. You also talked about -- or you submitted --
25 or some things -- items were collected for gunshot residue?

1 A. I didn't say that, but it was mainly from I guess the
2 deceased.

3 Q. From the deceased?

4 A. Uh-huh.

5 Q. Okay. And you did -- you elected not to run those?

6 A. I did not submit that.

7 Q. Okay. In your 26 years of experience and with
8 pictures of collected shell casing and projectiles, right?

9 A. Yes.

10 Q. Number 9, being a projectile.

11 A. Okay.

12 Q. Multiple shell casings or fired cartridge casings,
13 I should call them throughout the scene, right?

14 A. Yes.

15 Q. How did those get to -- how did those get in a crime
16 scene?

17 A. When a gun's fired, it ejects the -- the fired
18 casing. Casing comes out with -- in a semi-automatic pistol
19 with some velocity. And they will -- they can go anywhere.
20 There's no telling. I've seen some wild things, but -- so
21 anywhere within a reason, a -- a casing fired at a scene could
22 -- could be located anywhere in the scene.

23 Q. Okay. And you testified that there were eight shots
24 that you heard?

25 A. I believe so -- I believe so, yeah.

1 Q. How many -- how many shell casings did you collect
2 relevant to those eight shots?

3 A. I'd have to go back and look. I -- there were more
4 than that, I believe. Not the -- the -- you said relevant?

5 Q. Yes, sir.

6 A. Oh, I -- I'd have to break it down to -- to answer
7 that. I -- I don't -- I don't know.

8 Q. Okay. How many would you expect to have collected
9 right at the car?

10 A. Somewhere around eight.

11 Q. Okay.

12 A. You would expect, but it's not always the case.

13 Q. Right.

14 A. Uh-huh.

15 Q. So would you then want to go back and search for the
16 other ones? Did you all do a thorough search that night?

17 A. They did.

18 Q. Okay.

19 A. They did.

20 Q. So there weren't a -- would you go back and look or
21 try to find those, look in the vehicle? Look anywhere?

22 A. It -- it would -- oh, you would definitely look in
23 the vehicle. Now, going back to the scene, they do a pretty
24 good job. And we're talking about a store that opened right
25 back up afterwards. So I'm not sure I -- in this particular

1 case, we would go back unless we had some information that, you
2 know, there was something out there we could expect something
3 out there.

4 Q. And what were the timeframes, you said that you
5 reviewed all the video before and after that's what you
6 testified to on direct.

7 A. Uh-huh.

8 Q. What was the timeframe that you reviewed the video
9 from?

10 A. Well, just prior to the incident, you see the
11 defendant arrive, you know, there -- there's some other cameras,
12 like I said, that the Court hasn't seen, but I can't tell you
13 exactly, but it ---

14 Q. Qkay. And when you got ---

15 A. --- it was just before the car arrived, the
16 defendants arrived initially, which is sometime before the
17 victims arrived.

18 Q. Okay. So just immediate -- immediate time prior?

19 A. Yes. Within reason.

20 Q. So when you got the ballistics report back and ---

21 A. Uh-huh.

22 Q. --- noticed there was a problem with some of the
23 evidence matching and not matching ---

24 A. Uh-huh.

25 Q. --- did you go back and look at previous videos?

1 A. Oh, you mean like days before or something like that,
2 no.

3 Q. Hours before?

4 A. No, I didn't.

5 Q. Okay. It's important to establish a timeline when
6 you're doing these kinds of cases, isn't it?

7 A. Sure.

8 Q. Okay. And you can use that with cell phone evidence?

9 A. Yes.

10 Q. Okay. Try to find out who was with whom?

11 A. Yes.

12 Q. And where they were?

13 A. You can, if it's -- if it's pertinent.

14 Q. Okay. And did you use any of the cell phones to do
15 that in this case?

16 A. I didn't establish any kind of firm timeline. You
17 know, I -- in this case, with the value of the video, we were
18 looking mainly to see if anything included or excluded the
19 defendant.

20 Q. Okay. And did you look any further into the
21 altercation other than what you saw on the video?

22 A. I -- I don't know that I would be able to -- to
23 really -- I mean, I -- we've got statements from the -- the
24 people that I could talk to.

25 Q. Okay. And if those people left out some information,

1 or embellished some information, or just flat out changed the
2 information that could affect how your investigation goes,
3 right?

4 A. Again, it -- it is possible that in this situation,
5 I'm watching a video that is not changed, and regardless of what
6 the people said I -- I can see what's going on and it's pretty
7 evident what happened.

8 Q. Okay. So -- so you can see, but you can't hear

9 A. No, I couldn't, but ---

10 Q. So you couldn't hear, for example, hypothetically if
11 someone saying, I'm going to kill you.

12 A. No, I couldn't hear that.

13 Q. Okay. You couldn't hear if somebody said homeboy's
14 got a gun?

15 A. No.

16 Q. Okay. You couldn't hear any of that?

17 A. No.

18 Q. Okay. Do you the collection, and the understanding,
19 and the interpretation of all the evidence is important in --
20 in your cases, right?

21 A. Yes.

22 Q. Okay. Thank you first of all. The area that Mr.
23 Coco -- or sorry, I can't remember his name, that he ran into
24 you, right?

25 A. Tracking.

1 Q. Did the -- did crime scene -- do any sort of
2 investigation into that area?

3 A. It's my understanding that you -- are you talking
4 about down the street at the hotel?

5 Q. Correct.

6 A. It's -- I -- I believe that the responding officers
7 tracked back now crime scene, I don't -- I don't know if they
8 extended out, you know, a thousand feet down Fairfield Road, but
9 --

10 Q. Okay. So you would agree with me, there's no video
11 from the hotel?

12 A. No, there is not.

13 Q. Okay. You would agree with me that there was nothing
14 even searched or collected in that hotel area?

15 A. I wouldn't agree that it wasn't searched. I would
16 imagine that the responding officers would look and then report
17 if they found anything, but I ---

18 Q. Okay.

19 A. Not -- and there was no crime scene investigators
20 dispatched to that area.

21 Q. All right. So when you say -- so what you're saying
22 is the -- the body cam video from ---

23 A. Uh-huh.

24 Q. --- Investigator Gilbert that we saw ---

25 A. --- that would've been his responsibility to -- to

1 look at that area?

2 Q. All of the officers there. I mean, if -- depending
3 on if they -- depending on if they have the information that
4 this -- the direction he ran, I can't tell you that.

5 Q. Okay. But we know that he was at least at a hotel
6 banging on a door, right?

7 A. Yes.

8 Q. Any search of the bushes around that area?

9 A. Not to my knowledge.

10 Q. Okay. Any search of any dumpsters around that area?

11 A. No. I searched the dumpster, but it wasn't there.

12 MS. ZMROCZEK: Okay. Those are all the questions I have,
13 Your Honor.

14 THE COURT: Any redirect?

15 MS. DARKO: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. DARKO:

18 Q. On cross Ms. Zmroczek asked you about audio in this
19 case. Some audio was, in fact, recovered in this case, was it
20 not?

21 A. Yes.

22 Q. And what was that audio of?

23 A. So the -- the shot spotter system, it records audio
24 and -- and stores it.

25 Q. And that's what we heard earlier in the courtroom.

1 A. Yes.

2 Q. And certainly as Ms. Zmroczek stated on cross, having
3 that audio gives you more information about an incident than
4 simply looking at the -- the video.

5 A. Yes.

6 Q. And certainly if you had any other audio, would you
7 have attempted to look at that in context with the video?

8 A. Yes.

9 Q. Why -- with regard to gunshot residue on victims, why
10 is that typically not processed?

11 MS. ZMROCZEK: Objection, Your Honor. Unless he's a ---

12 THE COURT: Overruled.

13 MS. ZMROCZEK: --- gunshot residue expert.

14 THE COURT: Overruled.

15 THE WITNESS: Well, you know, in this situation, we know
16 that the -- the -- we can see the -- the incident and there was
17 no gunfire, you know, the -- the testing of gunshot residue has
18 to be sent off. In this case, we don't do it at the Richmond
19 County Sheriff's Department, but it -- it didn't seem relevant
20 to me in this particular case.

21 BY MS. DARKO:

22 Q. And Ms. Zmroczek was asking you about fired cartridge
23 casings, and -- and you were delineating the difference between
24 a fired cartridge casing and a projectile. What part of the gun
25 does a -- is a fired cartridge casing associated with?

1 A. Okay. The -- the cartridge casing, when you have a
2 whole bullet in a gun and the -- the firing pin strikes the
3 casing, then the bullet fires out down the barrel, it ejects the
4 casing. So the casing itself never touches the barrel of the
5 gun. The only thing it touches is the -- or at least it doesn't
6 go down the barrel of the gun. The only thing it touches is the
7 -- the firing pin, and then it's ejected. The bullet itself
8 goes down the grooves in the -- in the barrel, and that has
9 markings on it that can be identified if -- if we can recover
10 it.

11 Q. And how many years of experience do you have in law
12 enforcement?

13 A. Twenty six, almost.

14 Q. How much of the hours you have spent in training have
15 involved being trained on your firearm?

16 A. Oh, it -- we -- we were trained multiple times a
17 year.

18 Q. And not that I think you need to be an expert to know
19 this, but is the barrel of a gun attached to the gun frame or
20 is it removable?

21 A. It's removable. You can take it. Most modern
22 semi-auto weapons. You can -- you can remove the barrel. And
23 for instance, we carry Glock Pistols at the sheriff's
24 department. I could take two of our guns, pull the barrels out
25 and switch them around, and the gun would work perfectly.

1 MS. DARKO: Nothing further for this witness.

2 THE COURT: Ms. Zmroczek?

3 MS. ZMROCZEK: Just very briefly, Your Honor.

4 RE-CROSS-EXAMINATION

5 BY MS. ZMROCZEK:

6 Q. I am showing you what's been marked defendant's 5 for
7 ID only, just for ID only defendant's 5, do you know what that
8 depicts?

9 A. I know what it is, yes.

10 Q. Okay. In your 26 years of law enforcement ---

11 A. Uh-huh.

12 Q. --- experience, can you tell what caliber that is?

13 A. No, I can't tell you what caliber that is.

14 MS. ZMROCZEK: Okay. No further questions, Your Honor.

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

16 THE WITNESS: Thank you.

17 THE COURT: So let's take a short break. Ladies and
18 gentlemen, please return to your jury room. Do not discuss the
19 case.

20 Investigator Eisenhower will make sure you don't have any
21 exhibits. Court reporter is nervous that you might have taken
22 something from the stand. You just double check.

23 All right. Court will be in recess for 15 minutes.

24 (Off the record.)

25 THE COURT: We need to wait for Mr. Walton.

1 Okay. Bring the jury, please.

2 THE CLERK: (Inaudible) seat down.

3 THE COURT: Thank you. Second call state witness.

4 MS. DARKO: Thank you, Your Honor. The state calls John
5 Burckhard.

6 THE CLERK: (Inaudible) please. Put your left hand on the
7 Bible, raise your right hand, sir.

8 JOHN BURCKHARD,
9 being first duly sworn, testifies as follows:

10 THE COURT: Thank you. Please have a seat in the witness
11 stand and state your for the record.

12 THE WITNESS: John Burckhard.

13 THE COURT: Thank you.

14 DIRECT EXAMINATION

15 BY MS. DARKO:

16 Q. Good morning (crosstalk).

17 THE CLERK: Can you spell your last name.

18 BY MS. DARKO:

19 Q. Where are you currently employed?

20 A. Spell my names.

21 THE CLERK: Yeah.

22 THE WITNESS: It's -- last name spelling is
23 B-U-R-C-K-HA-R-D

24 BY MS. DARKO:

25 Q. I apologize.

1 A. Sorry.

2 Q. Where are you currently employed?

3 A. Richmond County Sheriff's Department.

4 Q. And what position do you hold there?

5 A. I'm an investigator with the Technical Services Unit.

6 Q. And how long have you been working in that unit?

7 A. I started a year ago, so about a year now, probably.

8 Q. And -- and what area specifically within the
9 technical services unit are you focused on?

10 A. Primarily focused for video evidence and processing
11 of video evidence as well as getting into mobile forensics.

12 Q. And is that a fairly new position within the
13 sheriff's office, or has somebody always held that role?

14 A. Someone's -- someone's always held that position.

15 Q. And in connection with that position as you found it
16 , how many -- let me just step back. What exactly does your
17 position entail with regard to video evidence?

18 A. So I can include up to simple as collecting it,
19 actually going to the place where the video's held and picking
20 it up, or forensically downloading it from the device's hard
21 drive. And then processing that evidence making it playable.
22 Sometimes video that's downloaded from DVR is not a playable
23 format, and the training that I've received allows me to be able
24 to make it playable format as well as maybe better interpret the
25 information that it collected.

1 Q. And are you also sometimes asked to pair audio with
2 video in connection with your physician?

3 A. Yes.

4 Q. Okay. And about how many cases have you had to do
5 that on?

6 A. Several different cases. My caseload for the last
7 year, about 110 video cases that I've dealt with.

8 Q. And if you can just describe the training and
9 experience that led you to be able to do these things within
10 your position.

11 A. Sure. I started off with a basic course in a video
12 analysis. It was provided by a company called Axon, and they
13 provide a process -- a tool that we use called Axon Investigate.
14 It's kind of a parsing tool for video. I went through four of
15 their classes and obtained their operator's certificate to use
16 Axon Investigate, their video forensics analysis certificate,
17 as well as their metrology certificate, which deals with
18 figuring out speed, and measurements of speed on video.

19 Q. And if you can just explain to the jury what is Axon?

20 A. Right. Axon is a -- globally, it's a company that
21 provides us -- the sheriff's department and all other agencies
22 with the ability to upload and store their video evidence, body
23 camera evidence. They're also the providers of Taser, they were
24 previously known as Taser. Now they're Axon, and they are also
25 the -- the manufacturer of Axon Investigate, which used to be

1 known as Input Ace prior to their acquisition in early 2021, I
2 believe it was.

3 Q. And just to be clear you've associated Axon, all the
4 body cams that your deputies wear, but you're able to use their
5 tools to look at video outside of that; is that right?

6 A. That's correct.

7 Q. And you mentioned a parsing tool. What is a parsing
8 tool?

9 A. So you get a batch of video, it could be any digital
10 type of evidence, but parsing effectively sorts out your
11 metadata, your data about the data, then your video data. So
12 you'll look at some video downloads, won't be like your
13 traditional MP3 or your DOT AVI, maybe you all are familiar with
14 those types of files. It may be something really strange that's
15 specific to that DVR. It'd be like a DOT DAT file.

16 Investigate allows me to pretty much rewrap that into a
17 playable format so it won't play unlike regular Windows media
18 player, or it's only limited to playing in the provided player
19 from the DVR. And that may be restricted to a much smaller view
20 than it was actually recorded, and it actually may skip frames
21 if it's played through the original player provided.

22 Q. And how did you come to be involved in this
23 particular case?

24 A. In this particular case, I was asked to pair
25 ShotSpotter audio with surveillance video from the -- the

1 incident that took place.

2 Q. And were you able to successfully pair the audio and
3 the video in this case?

4 A. I was.

5 Q. And if you can just explain the process of how you
6 were able to do that?

7 A. Using Input -- or, I keep wanting to call it Input,
8 Axon investigate is to make a clip using the original, again,
9 the original video created by the DVR. I made a clip of the
10 incident -- the shooting incident, just a few seconds before the
11 actual first shot fired. And then what would lead you beyond
12 where no more shots were assumably shot based off of the video.

13 On the video, I aligned the first shot fired with an
14 actual muzzle flash that I was able to view. Up to that point,
15 no one had leveled their arm in the manner of firing a weapon,
16 and there hadn't been any like cigarette lighter flashes or
17 anything like that, that would look like it. So once I found
18 that, that clip is what I used to take the audio from the first
19 six shots that were fired and recorded by the audio from --
20 well, the ShotSpotter audio report. I align the first gunshot
21 from the audio with that muscle flash.

22 Q. Okay. And when you say the first gun -- gunshot,
23 that's based on your view of the video?

24 A. Right. Based off my review of the video and the --
25 the situations leading up to that didn't appear that a -- a

1 weapon had been fired though at one point a window breaks.

2 Q. And how would you have known if you hadn't got the
3 audio, and the first shot heard correctly, whether you
4 identified the wrong shot, or wrong section of the video, or
5 wrong section of the audio, how do you know and how can you
6 confirm that you got it right?

7 A. With lining up the first shot of the audio. I did
8 nothing from the audio, which the audio came from the report
9 from ShotSpotter as it was delivered to me. The simple fact is
10 I lined up the first muzzle flash with the first gunshot sound
11 recorded, and every successive gunshot after that fell into
12 place. So as there was no more gunshots fired, it was at the
13 end of the audio track and that's how I lined up for reference
14 the video.

15 Q. So is it fair to say if you get one -- if you don't
16 get the first shot right, none of the shots are going to be
17 right?

18 A. Correct. You'll end up with like what you may have
19 seen, like, people talking on TV and their audio is -- is behind
20 or ahead of what they're saying. So in the video, the shots
21 match up, one shot was lined up and then every -- once there
22 were six shots fired, there was no more shots being fired on the
23 video.

24 Q. Now, you referred to six shots being fired. How many
25 audio sequences did you work with in connection with the video?

1 A. So there was two. One had six rounds fired, and then
2 the second one had two rounds fired.

3 Q. And did you apply the same process to the -- the next
4 sequence of shots? The two rounds fired?

5 A. I did. Same process to align with when the gunshot
6 was fired and then they fell into place.

7 Q. And same conclusion. If you didn't get the first one
8 right, the next one would not have followed.

9 A. Right. The sound that you hear wouldn't match the
10 story that -- the pictures that you're watching.

11 Q. And I'm showing you what's been previously admitted
12 as states 206. Do you recognize this item?

13 A. Yes. This is the disc with the ShotSpotter audio
14 that I used.

15 Q. And how do you recognize it?

16 A. I recognize it because I've initialed and dated it.

17 Q. And that's the audio that you relied on and -- and
18 hearing it with the video?

19 A. That's correct.

20 Q. And it had not been changed or altered since you
21 reviewed it?

22 A. No.

23 Q. And now I'm showing you what's been previously IDed
24 as state's 207; what is this?

25 A. This is the final output video that I created called

1 video with ShotSpotter audio.

2 Q. And how are you able to recognize it?

3 A. I -- this is the disc that I looked at, and I
4 initialed it as well and dated.

5 Q. And that copy of your work product, has it been
6 changed or altered since the time you completed it?

7 A. That's correct. It has not.

8 Q. And is it a fair and accurate representation of the
9 work product that you just testified to doing in court?

10 A. Yes, it is.

11 Q. And would it assist the jury in understanding the
12 sequence of the shots in this case?

13 A. Yes, it would.

14 MS. DARKO: Your Honor, at this time, state would move to
15 publish states 207, or move to admit states 207.

16 THE COURT: Any objection.

17 MS. ZMROCZEK: Your Honor, I object unless they qualify
18 him as an expert. I believe that this falls outside the lay
19 person's, all the things that he described falls outside of the
20 knowledge of lining things up. I would just ask that he be
21 qualified as an expert before I have any.

22 THE COURT: Objection is overruled. State's 207 will be
23 admitted over the defendant's objection.

24 (State's Exhibit 207 was Admitted into Evidence)

25 MS. DARKO: Request to publish, Your Honor.

1 THE COURT: Yes, ma'am.

2 BY MS. DARKO:

3 Q. And based on your work with the audio and reviewing
4 the surveillance footage in this case, connected with that
5 audio, where was the first shot fired?

6 A. The first shot was fired on the passenger side of the
7 -- of the vehicle. It was displayed. It was right there in the
8 parking area in front of the store at the -- in the direction
9 of the vehicle. And then the second one appears to be the one
10 that broke the window.

11 MS. DARKO: Thank you. Nothing further for this witness.

12 THE COURT: Cross-examination?

13 CROSS-EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Is it investigator?

16 A. Yes, ma'am.

17 Q. Investigator Burckhard. So you -- you go on
18 trainings to show you how to determine locations of where
19 gunshots (inaudible) come from?

20 A. Location of where gunshots come from, no.

21 Q. Right. Like you just testified to?

22 A. Training for specifically for gunshots, no, but
23 video, yes.

24 Q. Okay. And so they tell you to rely on what the
25 muzzle flash?

1 A. I'd say a good indicator of a gunshot and a video.

2 Q. Okay. Did you see eight muzzle flashes on that
3 video?

4 A. Six of them. One for sure, then the other ones are
5 either off of the angle from that video. Other video could from
6 a different angle show them. However, the -- also the last
7 final two were at a position inside the vehicle, so you wouldn't
8 see the muzzle flash.

9 Q. Okay. And so the first six, can you tell how many
10 of those came from inside the vehicle?

11 A. Well, the first six, none of them appeared to come
12 from inside the vehicle.

13 Q. Okay. And that's based on what?

14 A. The fact that the first gunshot was on the outside.

15 MS. ZMROCZEK: Okay. I have no further questions. Thank
16 you.

17 THE COURT: Anything further from this witness?

18 MS. DARKO: Nothing for this witness, Your Honor.

19 THE COURT: Okay. Thank you. You may step down.

20 MS. DARKO: And, Your Honor, with that the state's case
21 is concluded, the state rests at this point.

22 THE COURT: All right. Ladies and gentlemen, there are
23 certain matters of law that I need to discuss with you attorneys
24 outside your presence. So now's probably a good time for a
25 lunch break. Be back in your jury room at 2:15. Do not discuss

1 the case amongst yourself or with anyone else. Don't do any
2 research about the case. Enjoy your lunch. We'll see you at
3 2:15.

4 Any motions?

5 MS. ZMROCZEK: Your Honor, at this time, we would move for
6 a motion on directed verdict on one of the specific counts, Your
7 Honor. And that count is the attempted murder of Janika Bethel.
8 Your Honor, I know that you've been able to see the videos, but
9 -- so there are numerous pictures, and I pointed it out over and
10 over again about how all of the windows were rolled up in that
11 vehicle.

12 I understand that later on, at some point, doors come
13 open, people come out, but as you're aware, attempted murder
14 requires a specific intent to kill. So what they have to show
15 is that Mr. Toatley had a specific intent to kill Ms. Bethel.
16 It -- it is logically and reasonably confirmed that he didn't
17 even know she was in the vehicle because she doesn't even get
18 out of the vehicle until -- and run away until after shots are
19 already fired.

20 So the first six groups of six shots that they claim Mr.
21 Toatley fired, Your Honor, he -- he wouldn't have even known she
22 was in the vehicle, much less had a specific intent to kill her.
23 Additionally, when she does open the door and run out there's
24 no gun pointed at her. It's seen on the video over and over.
25 There's no looking at her. He's not even aware of her presence.

1 And just given the -- the state of the case law including Stacy
2 v. Thompson, and all the most recent cases in attempted murder,
3 and with that element of specific intent to kill, we would argue
4 that the state has not met its burden to go to the jury on that
5 one particular charge.

6 THE COURT: Ms. Darko?

7 MS. DARKO: Your Honor, with regards to relevant case law
8 on the attempted murder with regard to this particular issue,
9 the state would cite State v. Williams, 437 S.C. 100 is a 2022
10 case establishing the premise of zone of danger. Essentially,
11 in that case, you have a shooter shooting into a crowd of
12 people. And the -- the issue is really whether or not with the
13 balance of the people in that group of eight as it was in that
14 case, I believe whether an attempted murder charge could -- was
15 appropriate.

16 Certainly this is analogous to the case with Ms. Bethel.
17 She's in a vehicle where shots are fired. That's a very small
18 insular zone of dangerous space. She perceived those shots and
19 her reaction was to get away. Additionally, she testified
20 repeatedly that based on her perception that the defendant
21 wanted to kill her, and that she was running for her life.

22 We saw video testimony and presented stills where they are
23 -- she's looking at him as she's attempting to flee, essentially
24 trying to keep her attention fixed to him because she certainly
25 perceived that his intention was to kill her.

1 THE COURT: All right. Mr. James Toatley, at this time,
2 I'm going to explain to you certain of your rights. If you do
3 not understand anything I say, please let me know. And if you
4 want me to explain anything in more detail, please let me know.
5 Do you understand?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: We've now reached the stage of the trial where
8 you may present your defense. You have the right to claim the
9 protections given to you by the Fifth Amendment to the
10 Constitution of the United States.

11 This amendment states, in part, "No person shall be
12 compelled in any criminal case to be a witness against himself."
13 This means that you cannot be required to testify in this case.
14 You have the right to testify on your own behalf. However, no
15 one can make you testify. This is a personal right and no one
16 can waive this right except you. If you decide to testify,
17 you'll be subject to the same rules that govern other witnesses,
18 and you may be examined, and cross-examined on any relevant
19 issue in this case.

20 In addition, if you have any convictions involving
21 dishonesty, or false statement, or for crimes punishable by
22 imprisonment for more than one year, and the Court determines
23 that the probative value of admitting this evidence outweighs
24 its prejudicial effect to you, the solicitor will be able to
25 introduce your record to attack your credibility.

1 If you decide to testify, this decision on your part must
2 be freely, voluntarily, and intelligently made with knowledge
3 of the protections given to you by the Fifth Amendment, and the
4 consequences of your decision to testify.

5 If you decide not to testify, I'll instruct the jurors
6 that they cannot give the fact that you did not testify any
7 consideration whatsoever, and that there is to be absolutely no
8 prejudice to you because you did not testify. It is left
9 entirely up to you whether or not you testify. You may talk
10 with your attorney, your family and friends or anyone else, but
11 the final decision will be left entirely up to you.

12 Do you understand what I've explained to you?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: Do you have any questions about what I've
15 explained to you? Have you had sufficient time to discuss with
16 your lawyer whether or not you should testify?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Do you need some more time? I can give you
19 the lunch break to make that determination.

20 THE WITNESS: Yes, ma'am.

21 MS. DARKO: Okay. Then I'll ask you after lunch, whether
22 you intend to testify to give you more time to talk to your
23 lawyer or whoever else you need to talk to, okay?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Okay. You can have a seat.

1 being first duly sworn, testifies as follows:

2 THE COURT: Thank you. Please have a seat in the witness
3 stand. State your full name for the record, spell your last
4 name?

5 THE WITNESS: Yes. Jason Roach, R-O-A-C-H.

6 DIRECT EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. Is it -- is your title Investigator?

9 A. We can't assume -- I'm a deputy.

10 Q. A deputy?

11 A. Yes, ma'am.

12 Q. Okay. Thank you. Deputy Roach, can you tell the
13 jury where you're employed?

14 A. Currently I'm employed at the Richland County
15 Sheriff's Department, forensic science's lab, in the crime scene
16 section as a crime scene latent print processing analyst in
17 training.

18 Q. And prior to -- you said a latent print analyst in
19 training?

20 A. Yes, ma'am.

21 Q. And prior to that, where did you also work at
22 Richland County?

23 A. Yes, ma'am. Prior to February of this year, I was
24 also employed as a firearm and toolmark examiner for the same
25 laboratory.

1 Q. And how long have you been employed -- how long were
2 you employed as -- well, how long have you been employed with
3 Richland County Sheriff's Department?

4 A. Since July of 2018.

5 Q. And since 2018, have your duties up until February
6 been in the firearm and tool?

7 A. In the firearm and toolmark section, yes, ma'am.

8 Q. Thank you. Sorry. I'll try to not confuse that.
9 And tell the jury a little bit about your background. How far
10 did you go in school?

11 A. Yes ma'am. I graduated with a four year degree from
12 Erskine College in do West, South Carolina in 2006, I worked
13 various jobs because I was trying to get into the forensic
14 section -- sector -- sector and no one was really hiring at the
15 time. And then I had the opportunity to get hired by the
16 Georgia Bureau of Investigation, a -- a division of forensic
17 science at the GBI Crime lab in Atlanta, Georgia, January, 2010.

18 And then I worked there, went through their training
19 program, which consisted of a 12 month in-house training program
20 with academic as well as practical examinations to assess my
21 abilities. During that time, I traveled to the northeast to
22 several firearms manufacturers to see how a firearm was made
23 from a raw piece of metal to the finished product. I then spent
24 five months on a comparison microscope, which is two microscopes
25 connected to one optical bridge that allows me to see two things

1 at the same time with the same lighting and magnification.

2 I did approximately a thousand comparisons and 300 hours
3 on it. At the end of my 12 months, I went to a mock court where
4 I worked a case from start to finish. That was a mock case all
5 the way through to test to -- and all the way through to a mock
6 court and testimony in which I passed. I was then given a
7 letter of supervised casework, which means I'm allowed to work
8 the cases and sign the reports.

9 But another fully qualified firearms and toolmark examiner
10 would work behind me, and work the same case over again to make
11 sure I was following proper protocols and procedures. I worked
12 in supervised case work until approximately March of 2012, where
13 I got my letter of independent case work, where I'd work a case
14 from start to finish.

15 It would then go through the normal review processes from
16 a technical review to make sure all the things I did were
17 correct as well as administrative. All my I's were dotted and
18 T's were crossed before it was given to the customer or released
19 to the customer, whoever requested that. I then worked there
20 until June of 2018, and I had the opportunity to come back home
21 to South Carolina. So I was able -- I took the job, was offered
22 the job at Richland County Sheriff's Department, forensic
23 sciences lab in July of 2018 where I've been employed since.

24 Q. And while you are receiving all the education and the
25 training that we talked about, obviously since 2018, you've also

1 kept up that training; is that well?

2 A. Yes, ma'am.

3 Q. Is that true? Sorry.

4 A. Yes, ma'am.

5 Q. Okay. And you -- are you a member of any
6 professional affiliations?

7 A. Yes, ma'am. We have an international association
8 called the Association of Firearm and Toolmark Examiners. It's
9 a professional organization that puts together training
10 seminars. They have research, they produce a -- or combine and
11 produce a peer review journal for research articles. I've been
12 a member since 2011. I've also, in the past two years received
13 a personal certification of firearms evidence identification,
14 which I currently hold.

15 Q. And have you ever testified as an expert in firearms
16 and toolmarks?

17 A. Yes, ma'am, I have.

18 Q. And how many times in Georgia?

19 A. I -- in Georgia, I testified 70 times in Georgia.

20 Q. And then how many times in South Carolina?

21 A. Twice in South Carolina at Richland County thus far.
22 And one time in Greensboro, North Carolina in Rowan County.

23 MS. ZMROCZEK: Your Honor, at this time I would move
24 Deputy Roach as an -- to be qualified as an expert in firearms
25 and toolmarks.

1 THE COURT: Any objection or voir dire.

2 MR. WALTON: No, Your Honor. No objection.

3 THE COURT: All right. Ladies and gentlemen, I told you
4 with the prior witness, ordinarily witnesses must testify as to
5 their observations generally. However, a person by virtue of
6 their education, training and experience becomes an expert in
7 some field. They may give you their opinion testimony within
8 their field of expertise as well as the reasons for those
9 opinions. Deputy Roach is qualified as an expert in firearms
10 and toolmark examination, and will be permitted to give his
11 opinion testimony within that field of expertise. However, like
12 any other witness you give his testimony, the weight and
13 credibility that you think it deserves.

14 You may proceed, Ms. Zmroczek.

15 MS. ZMROCZEK: Thank you.

16 BY MS. ZMROCZEK:

17 Q. Deputy Roach, I want to turn your attention to
18 December of 2020, the incident that we're here for. Did you
19 have an opportunity to work on the case -- on the case that
20 involved Mr. Toatley?

21 A. Yes, ma'am.

22 Q. Okay. And tell the jury a little bit about how you
23 got involved.

24 A. There was a crime committed, and then there was
25 evidence submitted to a -- evidence submitted. That's all we

1 know. And then I was assigned the case by my manager technical
2 leader, and I then went to gather the evidence from the evidence
3 and property division, and then I proceeded to take that
4 evidence into my custody and then begin my examination.

5 Q. And so when we talk about evidence, so evidence is
6 collected by crime scene -- by different people -- you're not
7 there at the crime scene, right?

8 A. No ma'am, I'm not.

9 Q. Okay. You work in the lab?

10 A. Yes, ma'am.

11 Q. And so they -- so the evidence that they collected
12 eventually gets assigned to you to -- to review; is that
13 correct?

14 A. To work, yes, ma'am (crosstalk).

15 Q. To work. And how -- yeah, sorry, not to review.
16 After you do your work, somebody else then does review what you
17 do, correct?

18 A. Yes, ma'am. During the analysis, once I finish the
19 -- the comparison process of my analysis, I then take my
20 evidence, and give it to another fully qualified examiner, and
21 then they will -- they will also verify my comparison results
22 and -- and initial.

23 And then once that process is done, then I finish up
24 putting our case jacket together. We have a cover sheet and all
25 the other paperwork goes together. Then it goes to another

1 examiner for technical review, making sure I did everything by
2 -- by the book, all our -- all procedures and standard operating
3 procedures.

4 Then once that's finished, I would get the report back and
5 make any corrections that were necessary. And we keep all those
6 corrections in case, you know, I didn't dot an I or cross a T
7 or misspell a word. And then I will take it, and I will sign
8 it as well as my verifier.

9 I then post it to our records -- excuse me, our -- it was
10 either ASIS or our RMS, our records management system. And then
11 that would be for any of the investigators who were assigned to
12 view that report. And then it will then, once I post it to
13 that, our record management system, it then goes to another
14 review to make sure everything was posted properly, everything
15 scanned correctly, there were no pages missing. And then
16 finally it gets -- everything gets stored back inside our
17 forensic server.

18 Q. Okay. Thank you. You -- and as far as your
19 examination is concerned, can you explain all the techniques and
20 technical aspects used in determining what type of -- let's
21 start -- before that. What type -- what -- what is firearms and
22 toolmark, just in general layman's terms?

23 A. Firearm and toolmark analysis is the pattern
24 identification of the random imperfections that are left from
25 the working of a piece of metal onto items that come in contact.

1 And basically it's the theory that a harder object will leave
2 a mark on a softer object.

3 So what I do is I look at bullets and cartridge cases,
4 which are components of a single piece of ammunition, how it
5 interacts with the metallic surfaces of a firearm, and the
6 random imperfections from the machining process that are left
7 on the bullet and the cartridge cases.

8 I then use that comparison microscope of which I spoke of
9 earlier to compare the different patterns that are on the
10 bullets and/or cartridge cases. And once I find that pattern,
11 I will then compare it to the unknowns itself. And then if I
12 have a firearm, I will take -- make test fires of similar
13 ammunition, and then I will then compare it to the unknowns to
14 determine if the cartridge case or bullet had come from a
15 particular firearm.

16 Q. And so the -- the point of your analysis and
17 evaluation is to determine if a specific firearm fired a
18 specific shell casing?

19 A. Depending -- can you -- can you repeat that one more
20 time for me?

21 Q. Yes, sir. So what are you looking for? What are you
22 trying to -- what are you trying to line up or match or?

23 A. I look at the whole surface, and I'm looking for the
24 pattern that's either on the cartridge case, which tells me that
25 the -- the cartridge case interacts with the slide of a firearm,

1 the part that -- that actuates back and forth on a handgun, and
2 the bullet interacts with the barrel. So I'm determining if I
3 have a firearm, I can determine if a cartridge case was fired
4 inside a particular gun with that slide or barrel with the
5 bullet.

6 Q. And do you review any of the crime scene reports or
7 photos as part of your procedures?

8 A. No, ma'am. We are -- to try to keep any type of bias
9 or unwanted influence. I'm just given the evidence and told to
10 analyze it. I don't know any of the background except for the
11 case number, the date it happened, and -- and the possibly the
12 victims or subjects involved.

13 Q. And so -- and you are given the property items and
14 are they -- how are they identified?

15 A. They're identified once they're submitted to
16 evidence, evidence and property -- property catalogs them
17 underneath that particular case number in our records management
18 -- or ASIS our property management system, excuse me.

19 And then each individual piece or package is given a
20 unique item number along with a barcode. What that does is that
21 allows us to electronically transfer different custody. So each
22 employee has their own barcode on their ID. So they would scan
23 that ID -- scan my ID, I would then put in my password as well
24 as the person who was given it to me from evidence and
25 processing. And then it would transfer to me. So it would show

1 in the chain of custody where -- what items were given to me,
2 when I had them, and when I returned them back to evidence.

3 Q. And so when items are collected, they are typically
4 not given the same property number once you get them in ASIS,
5 right?

6 A. It -- yes. And it just depends on how many packages
7 are submitted, and what the evidence and property technician
8 grabs first, and then that will -- then that starts their
9 numbering process.

10 Q. Okay. And so I'm showing you what's been marked in
11 evidence as -- what's already been admitted as defendants 4.
12 Now you've never seen the crime scene drawing, have you?

13 A. The crime scene drawing?

14 Q. Right.

15 A. Not -- no ma'am. Not before I -- not before I work
16 the -- worked the process, no ma'am.

17 Q. Okay. And so FCCs we learned were fired cartridge
18 casings, they're given a number here, but then when they're
19 turned into property, they're given a -- a different
20 corresponding number?

21 A. Most likely depending on when, like I said, whatever
22 package the evidence tech grabs first.

23 Q. Okay. So did you do a firearm and toolmarks
24 examination in this case?

25 A. Yes ma'am, I did.

1 Q. All right. Before we get in, I want to talk about
2 that. But before we get there, can you tell the jury what NIBIN
3 is?

4 A. NIBIN is the National Integrated Ballistics
5 Information Network, long name NIBIN for short, N-I-B-I-N. It
6 is a program that is in -- in congruence with the Bureau of
7 Alcohol, Tobacco, Firearms and Explosive, also known as ATF and
8 also Ultra Forensics, which is the company who manages, and does
9 all of the computer work and upkeep, and actually has the
10 algorithms that compare different cartridge cases to other
11 cartridge cases collected at other scenes.

12 Basically what it will do, it will take the cartridge case
13 that's been fired, it goes into the instrument. That instrument
14 takes a 3D rendering or picture of that as it's doing. So is
15 taking measurements. It then correlates that at a server, our
16 particular server is located up in Maryland. It will then
17 correlate it to different points and it will send back results
18 saying, Hey, these could be possible connections or leads.

19 And then another firearms examiner, qualified NIBIN user
20 will compare them side by side on the screen and say, yes, this
21 is a lead and this is not. If there is a lead, we then send it
22 out to the investigators that are assigned that case. And then
23 we say, this is a lead, this has not been confirmed. To confirm
24 it, they would have to request a confirmation.

25 And then we will take the actual physical pieces of

1 evidence ourselves, put them on our comparison microscopes ,one
2 examiner come to a conclusion. We will then same process, give
3 it to another firearms examiner for them to come to their own
4 conclusion. And then they will -- and then if they agree with
5 all the conclusions, they'll initial on the report and then we
6 will sign the report once it goes through the -- the technical
7 and quality assurance steps that I explained earlier.

8 Q. And so in this case we're -- how do items -- how do
9 show -- is it the show casings that get uploaded to NIBIN?

10 A. Yes, ma'am. The 3D -- or 3D rendering, it takes its
11 own with this proprietary technology, it takes its own 3D
12 pictures, and rendering, and measurements and then sends it off
13 to be correlated on that server like a mathematical algorithm.
14 It's more proprietary. We don't have extensive knowledge of it
15 because it's run by Ultra Forensics along with ATF. And then,
16 like I said, it comes back with possible leads, and we go
17 through each one and determine, yes, is this a lead or if it is
18 not.

19 Q. And so did you upload any items to NIBIN?

20 A. I'd have to refer to my report. I don't have my
21 report in front of me at the moment. It fell out in the
22 solicitor's office, I think, I don't know. It was in my pocket
23 and now it's not. And I would have to look at that. But
24 usually in case work when I do, if I don't have a gun, anything
25 identified to, I then put the one that's not identified to into

1 NIBIN. Reviewing this case that you -- the copy you've given
2 me looks like Patty Hart was the one who entered it into NIBIN
3 or some of them into NIBIN.

4 Q. You as we're going through all that, do you have --
5 so you don't have any of your paperwork with you?

6 A. No ma'am. It fell out. I had it in the parking lot.
7 I walked to the solicitor's office and I -- somewhere it either
8 fell out in the solicitor's office. I was looking for it. Now
9 I cannot find it.

10 Q. Okay. (Inaudible), this may be a little bit more
11 organized for you. Do you want to gimme those back and then
12 I'll ---

13 A. Sure.

14 Q. Let me ask you this, did you do a report in this
15 scene?

16 A. I did do a report, yes, ma'am.

17 Q. Okay. And when was that? And was that court report
18 peer reviewed?

19 A. Yes, ma'am. Everything is peer reviewed through
20 another firearms examiner for technical, and then it goes
21 through another admin review once it's done to make sure
22 everything is spelled properly and all the other admin paperwork
23 is done.

24 Q. Okay. And did that -- and then when did you complete
25 that report?

1 A. The report date was completed on February 9 of 2021,
2 and then it was posted on February 12 of 2021.

3 Q. So -- and that -- that -- that's the process that you
4 explained once it's make sure that it's reviewed by other
5 people, then it gets uploaded, correct?

6 A. Yeah. Then it's reviewed by another qualified
7 firearms examiner and then of course our admin assistant who
8 does make sure all the I's are dotted and T's are crossed.

9 Q. Okay. Excuse me. I want to talk about the -- the
10 items that you received, and analyzed in this case.

11 A. Yes, ma'am.

12 Q. Okay. What's the first item? And did you -- and
13 I'll just refer to them numerically. Why -- why do you use
14 numeric numbers when you refer to items?

15 A. Refer to items, that's how it's in our ASIS system,
16 that's how it is. When items are entered into evidence, it
17 starts as the case number, then 0.1 and it just starts from
18 there.

19 Q. Okay.

20 A. That's how -- how they keep up with how many items
21 are in the case.

22 Q. All right. And so the first item, item two ---

23 A. Yes, ma'am.

24 Q. Let me ask you this. How many items did you analyze?

25 A. I'd have to look at the -- I'd have to look at the

1 cover sheet for a quicker thing, but approximately 28 items.

2 Q. How many?

3 A. Twenty eight, approximately.

4 Q. Twenty eight items.

5 A. The ones that -- the ones that aren't listed on here
6 are because they were from -- they were test fires from the gun
7 on a -- that was submitted at a later time.

8 Q. Okay. So -- and so that's why I want to ask you, so
9 you -- you were provided a gun, at a later time after a NIBIN
10 hit; is that correct?

11 A. Yes, ma'am.

12 Q. Okay. And so how -- when you analyze these, what
13 kind of methods do you do? What kind of examinations, did you
14 do visual?

15 A. Yes, ma'am.

16 Q. You can go through and tell me.

17 A. Oh, time exam. Well, first we start off with a
18 visual examination to see what everything may be to catalog
19 according to what the items might be. If it's a fragment, a
20 bullet, bullet jacket. We also, the caliber of the cartridge
21 cases, which is written on the -- what you consider the bottom,
22 it's called the head stamp to us. It would have the caliber in
23 the manufacturer.

24 Also, we look at the indentation of the firing pin to see
25 what shape it may be, circular, hemispherical, elliptical, other

1 shapes of that sort. And then we will sort them visually by
2 bullets, fragments, bullet jackets, and then by the cartridge
3 cases and by their caliber.

4 And then we will -- then we'll start classifying the
5 bullets by either -- by -- if they have a measurable base, we'll
6 measure the base, their weight to help determine the caliber of
7 the bullet. And if it's a fragment, sometimes we cannot tell
8 what it is based on this part. It's just a partial fragment.
9 We don't have all the information.

10 Then once we have that, we will then -- if we don't -- it
11 depends on if we do have -- do or do not have a gun. We will
12 then compare all of the evidence, the unknowns to one another
13 to see if they have the same pattern to say they either came
14 from a single firearm or single source or not. The same with
15 the cartridge cases. Then if we do have a firearm, I will then
16 make test fires into our water tank so that the bullets can
17 remain pristine and we have a netting on there that also catches
18 the cartridge cases.

19 And then I will then compare those together and find their
20 particular pattern. Then I will compare the unknowns to the
21 knowns that I made from a particular firearm. And then if the
22 patterns are IDed to one another, then I will say -- well, my
23 opinion will be yes or no that they were fired from this firearm
24 or not or inconclusive. Sometimes there's damage, sometimes
25 there's other things that weathering that doesn't give enough

1 information to say yes or no. So we have what's called
2 inconclusive, depending on damage or also different types of
3 metals that are used because sometimes there can be an
4 ammunition difference depending on their design.

5 Q. And so when you -- even when you have portions or
6 damaged -- let me ask it this way. When you have portions of
7 -- can you do projectiles as well as -- can you test projectiles
8 as well as cartridge casings?

9 A. We do separately, yes. We can't do them together,
10 like saying a bullet came from this particular cartridge case,
11 we can only look at bullets in one group and cartridge cases in
12 another group, and then we can compare them to any test, fires
13 or firearm that may have been submitted.

14 Q. Okay. And so in this case after you do all of that
15 examination, and -- and we'll come back to that in a little bit,
16 but after you do all that examination then what kind of
17 information do you put in your report?

18 A. The report as it says here are my opinions from the
19 conclusions, from the results of the testing. So I will then
20 say whether bullets, or fragments, or bullet jackets were all
21 fired from the same firearm, or if they were identified to a
22 particular firearm as well as the same for a cartridge case --
23 cartridge cases, excuse me, if they were all fired from the same
24 firearm or if they were fired from a particular firearm as well.

25 Q. Okay. And did you make conclusions in this case?

1 A. I did, yes, ma'am.

2 Q. Okay. And tell the jury about what your conclusions
3 were in this case.

4 A. We're referring to the -- you're referring to the
5 report. It says that the item two bullet jacket fragment
6 according to my numbering system. And then items 13, 14, 15,
7 38, 57, 58, and 65 bullets and bullet jacket were fired from the
8 firearm item 7 from the Richland County case number 2101027704.

9 Q. So all of those items were fired from the gun that
10 you received later on?

11 A. Yes, ma'am. They were -- they were fired from the
12 barrel of that firearm.

13 Q. Okay. And then -- and then what does it further go
14 on to say?

15 A. The next one that says item 7 and 69 through 73
16 cartridge cases, which is a car --which are the casings that are
17 left from ammunition after it's fired and been ejected from the
18 firearm, were fired from the same firearm as the previous
19 statement from RCSD 2101027704.

20 Q. Okay. And so, again, all of the items like 69, 73,
21 all of those numbers refer back to the property report, correct?

22 A. Yes, ma'am.

23 Q. Okay. And -- and then further, what did you find?

24 A. Then there were -- there's another set of cartridge
25 cases that did not go to the particular firearm that was

1 submitted that -- that interacted with the slide of this
2 particular firearm. Item 63, 64, 66 through 68, and item 74
3 were fired from -- in a second firearm. And these cartridge
4 cases (inaudible) be fired -- being fired in a nine millimeter
5 luger caliber pistol.

6 However, class characteristics are not specific enough to
7 provide a list of possible firearm manufacturing. What that
8 would mean is certain cartridge cases have a certain what we
9 call class characteristics or characteristics that are intended
10 by the manufacturer. Let's say I go to the parking garage and
11 there's a deck full of red Honda Accords and another deck full
12 of black F-150. I could tell -- you can tell, one's a car --
13 one's a Sedan, and you can tell by its shape, the four doors,
14 the color, and what size they are. In some situations,
15 depending on that -- depending on how we receive the evidence,
16 there's not enough to tell me if it's, like I said, a Ford F-150
17 or a Honda Accord. So we can't give a possible manufacturer.

18 Q. But you can say that it was a second -- a second
19 firearm from the one you had?

20 A. Yes, ma'am. From this -- it was a second firearm
21 from what we had. It was a -- the cartridge cases had enough
22 individual characteristics to say that they were all fired from
23 a second firearm altogether.

24 Q. And I -- I'm going to show you -- I'm going to show
25 you what's been marked as defendant's 23, and ask if you

1 recognize these?

2 A. Yes, ma'am. Yes, I recognize these. These are some
3 of the pictures from my report. The documentation --
4 documentation, photographs of bullets and cartridge cases.

5 Q. And do they fairly accurate -- accurately represent
6 the pictures that you took in making your determinations?

7 A. For these particular pictures? I didn't -- we don't
8 use our pictures to make determinations. Another firearms
9 examiner looks at them visually underneath the same -- under
10 another microscope. These are just for documentation purposes,
11 sewing the areas in which we looked.

12 Q. Okay.

13 A. But we use the entire surface available for all of
14 it.

15 Q. And do those fairly and accurately represent ---

16 A. From my documentation photos? Yes, ma'am.

17 MS. ZMROCZEK: Your Honor, at this time we would move
18 defense 23 into evidence.

19 THE COURT: Any objection?

20 MR. WALTON: No, Your Honor.

21 THE COURT: Defendant's 23 is admitted without objection.

22 (Defendant's Exhibit 23 was admitted into evidence)

23 BY MS. ZMROCZEK:

24 Q. And so I'm going to -- I know it's several pages
25 long, but what are some of the indications and notes that you're

1 looking for when you -- when you document these?

2 A. So on the bullet surface, we have what's called
3 rifling, which are grooves that are machined into a barrel. And
4 what those grooves do is, as the barrel -- as the bullet travels
5 down the barrel, it gives it a twist or a spin, that spin allows
6 it to stabilize in the air kind of like when a quarterback
7 throws a football. It allows it to stabilize in the air to hit
8 its target.

9 Well, those lands and grooves are designed by the
10 manufacturer to have a certain width. So what I first do, I can
11 measure them and determine what type of firearm could have
12 possibly fired them. And then I'm looking at the unique
13 characteristics or what we call random characteristics that are
14 produced from the metal onto the bullet as it passes down the
15 barrel. And I look for certain landmarks, certain striations,
16 nicks and burrs that create those randomized characteristics
17 into pattern into which I compare all the other bullets to and
18 using the whole surface that's available.

19 Q. And so at the -- turning the pages in defendant's 23,
20 what other -- so is that what you're looking, when you're trying
21 to see if there's a comparison match?

22 A. Looking for the ---

23 Q. Is that part of your determination?

24 A. The part where we're looking for the different -- the
25 random -- we're looking at the spatial relationship. We're

1 looking at different scratches, lines. It's almost like a
2 barcode. You'll see high points and low points, which are --
3 which are the shiny parts that are raised, the depressed parts,
4 which are the darkened valley, and of course their spatial
5 relationship from one another and how wide and thin they are.

6 Now for that particular one you just showed, that's -- the
7 first one was from a -- a barrel of a firearm and acting on a
8 bullet. These -- the second picture that was shown is from the
9 slide acting on the cartridge case. So the slide of a pistol,
10 it actuates back and forth as it retracts back, a new cartridge
11 comes up from the magazine and then is pushed into the barrel.

12 And then once it's locked into place safely, the firing
13 pin strikes it, after the firing process and the pressure has
14 been -- has gone down, it then unlocks -- the barrel unlocks and
15 tilts down. And that's what leaves a lot of those striations
16 there that you see in that picture. And the donut looking
17 shape, that almost is almost like a volcano, that is what we
18 call primer flow. And what happens is when in the firing
19 process there's a lot of heat and it makes the metal malleable.
20 And so it actually -- or primer flow back, it flows back into
21 the firing pin hole where the firing pin travels.

22 Q. And the next one?

23 A. I can't see the item numbers from here, but it's
24 still -- it's the -- it's the same areas I looked at before,
25 which is the shoulder and the slip. We call it the slip is when

1 the bullet starts to engage the rifling, you'll see it comes at
2 that acute angle, almost like an acute triangle as well as the
3 different striations and pattern in the land area, which is that
4 flattened area you see on the bottom picture.

5 Q. And I know you said you couldn't see it for there,
6 I'm just going to bring it up to you real quick. Do you -- do
7 you identify the item number on the picture that you're looking
8 at?

9 A. Yes, ma'am. The -- these are -- this is the same --
10 this is picture of two different areas of items 13 and 14.

11 Q. Okay, Thank you. So that's how you keep track of
12 what you're looking at, right?

13 A. That's how we document. We document it on our
14 worksheets as well as we document them in -- with -- with our
15 -- our photography software to show that this is a
16 representation or documentation of the area we looked at.

17 Q. Okay. And then towards the last page of this
18 documentation, you have indicated a red circle. Is that
19 something that you added while you were looking or is that
20 something that was there as it was in the microscope?

21 A. Well, as you can see, the blue writing with the
22 yellow background part of our -- our photography softwares
23 allows me to annotate. We keep the original photo and then for
24 our documentation purposes we have to label it because there's
25 no way to keep up with it without proper documentation and

1 noting of what it is. That red circle is the part of the area
2 I use with our annotation program to draw the reviewer when
3 they're looking at the technical review of the whole case
4 jacket. When I say I looked at this particular point, they can
5 flip to that page and I -- that will just draw their eye to that
6 area in which I looked at say that yes, I documented that area
7 in which I looked at.

8 Q. Okay. And also I'm going to hand you another portion
9 of your report and just so that I can ask questions that I'm not
10 trying to trip you up. Okay. When you were -- when you were
11 given these items, and you're keeping track of them by their
12 numbers, did you also indicate where -- from where they were
13 collected?

14 A. I only indicate what was written on the outer on the
15 packaging that I received.

16 Q. Okay. And so -- and describe that. What -- what do
17 you mean like our part of the packaging?

18 A. So you -- when items are collected, they're usually
19 smaller packages inside a larger package when they're submitting
20 a lot of things together like swabs, or bullets, or bullet
21 fragments inside a particular package. Instead of having tiny
22 little coin envelopes, a lot of them, they'll put them together
23 inside one larger envelope. And those smaller envelopes are
24 labeled from where they came from or whoever it came from. In
25 this particular case, most of these were from the medical

1 examiner, and then they were collected by whoever was at autopsy
2 or processed the autopsy and then turned into the evidence and
3 property section

4 Q. And the ones that were -- so the -- those were also
5 then put into evidence and then sent onto you, right? So that
6 you could make the comparisons?

7 A. Yes, ma'am.

8 Q. Okay. And the (inaudible). So in -- going back to
9 your report, you said that -- and again I was on the paragraph,
10 the item 63, 60 -- make sure I'm reading it correctly. Item 63,
11 64, 66, 67, 88, and 74 were fire from a second firearm; is that
12 ---

13 A. It's item 68, not 88.

14 Q. I'm sorry, 68, sorry.

15 A. Yes ma'am.

16 Q. Okay. And you said that you weren't able to tell
17 exactly what firearm, but you could narrow it down?

18 A. Yes, ma'am. We could narrow it down by its caliber.
19 So they were all 9 millimeter luger caliber. So they're
20 consisted of being fired inside a 9 millimeter luger caliber
21 firearm. But the class characteristics that were left over were
22 not enough to tell us a particular brand because they -- what
23 we do, those are investigative leads. We always tell them, even
24 if we don't, cannot give you a possible in manufacturer, if you
25 find a similar caliber, or excuse me, not similar, the same

1 caliber that you suspect, please send it to us so we can test
2 it. So we can either say, yes it is, or no it's not.

3 Q. Okay. And have there -- is there ever any follow up?
4 Does anybody ever come back and ask you to -- or did -- in this
5 case, let me rephrase the question. In this case, did you test
6 the items against each other as well?

7 A. In the -- yes ma'am. Like when I say they were all
8 fired from a -- so first when I worked it, I'd -- it was already
9 afterwards and we'd already received the gun from a second case
10 from a NIBIN lead. And so I was then asked to compare both
11 those cases together. The other case was just the firearm, and
12 then I was told to asked to compare it to this case.

13 Q. And that report again was uploaded to the Richland
14 County Sheriff's Department, correct?

15 A. Yes. And all reports are uploaded to the records
16 management system.

17 Q. I'm going to show you what's been marked as
18 defendant's 6 and ask you if you can identify that.

19 A. Yes, ma'am. Based on the case number and my name on
20 here, this is a copy of the inventory photo in which I take,
21 which is part of our process. When we get the items to us, we
22 put them on a -- either put them on a grid or some other way,
23 identify them, so I guess this is a condition in which we
24 received them as, and then put them on our inventory sheet as
25 well.

1 Q. And does that fairly and accurately represent that
2 documentation of your report?

3 A. Well, yes -- well some of the -- some things didn't
4 -- if this is a photocopy, some things didn't fully photocopy
5 over, but it's -- I can't see some of the item numbers at the
6 bottom, but it looks similar.

7 Q. (Crosstalk) item numbers at the bottom; is that ---

8 A. Yes, ma'am.

9 Q. Okay.

10 A. They look faint, but they look like they're the
11 correct ones.

12 MS. ZMROCZEK: Okay. All right. Your Honor, at this time
13 we would move defendant's 6 into evidence.

14 THE COURT: Any objection?

15 MR. WALTON: No, Your Honor.

16 THE COURT: Defendant's 6 is admitted without objection.

17 (Defendant's Exhibit 6 was admitted into evidence)

18 BY MS. ZMROCZEK:

19 Q. And just so the jury can see what we're talking about
20 I'm publishing defendant's 6. So this is part of the separation
21 of the different items that you had to test against?

22 A. Yes, ma'am. And for that, the ones that were just
23 under that case number, yes ma'am.

24 Q. Okay. All right. And I'm going to hand you back
25 this report so that we can go through some of the items. You

1 said some of them were medically provided to you. But let's
2 just go ahead and go through that property report or that
3 property list that you have. So what are the first -- what are
4 the items that you have identified?

5 A. On this particular -- on the inventory sheet?

6 Q. Yes.

7 A. Yes ma'am. Oh, well ---

8 Q. Sorry.

9 A. -- item 2 says there's one copper and color metal
10 jacket fragment.

11 Q. So item 2 would be -- I'm sorry, what?

12 A. One copper and color metal jacket fragment.

13 Q. Okay. The next?

14 A. Item 7 one fired 9 millimeter luger caliber cartridge
15 case.

16 Q. Okay. Keep going.

17 A. Item 13, one fired metal jacketed bullet, 14, the
18 same as before one fired metal jacketed bullet, 15, the same one
19 fired metal jacketed bullet, 38, one fired metal jacketed
20 bullet, 39, one gray in color metal fragment, 57, one fired
21 metal jacketed bullet -- jacket, 58, one fired metal jacketed
22 bullet, 59 one copper -- copper in color metal fragment, item
23 63, and 64 grouped together are two fired 9 millimeter -- 9
24 millimeter luger caliber cartridge cases. Item 65 is one fired
25 metal jacketed bullet, and then grouped together item 66 through

1 74 are 9 fired nine millimeter lugar caliber cartridge cases.

2 Q. And so those -- all of those items again that you
3 received and analyzed, you were able to link some of the items
4 to some of the items -- to the gun that was provided item number
5 7, correct?

6 A. Yes, ma'am.

7 Q. And the --

8 A. From the ---

9 Q. --- other shell casings and -- and the other things
10 that you identified, which we've been through the numbers
11 several times, were attributed to a second firearm; is that
12 correct?

13 A. A court -- yes ma'am, at the time.

14 MS. ZMROCZEK: Thank you for (inaudible). Thank you.
15 Please answer any questions from state.

16 THE COURT: Cross (inaudible)?

17 MR. WALTON: Yes, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. WALTON:

20 Q. Good morning, Deputy Roach?

21 A. Morning, sir.

22 Q. Brief to the jury, how does the firearm actually work
23 when you pull the trigger? What happens there?

24 A. Well, during the course of fire, first you tap -- in
25 particular case a semi-automatic firearm. It has actuating sly,

1 which I said before. You have to take a magazine. The magazine
2 is a tube with a spring and a follower that holds cartridges,
3 which is the unit of ammunition, has the bullet in the cartridge
4 case, the gunpowder, and the primer. You put it into the grip
5 or the handle, you then pull the slide back.

6 As the slide's pulled back, the follower pushes up one new
7 cartridge, and then the slide goes forward, it pushes it into
8 the chamber and chamber hood and then locks into place, so that
9 you're then allowed to fire. To fire. You would pull the
10 trigger, it releases the firing pin that's been cocked. When
11 you rack the slide back -- excuse me, actuate the slide back.
12 And then once it hits the primer, the primer shock sensitive
13 little explosive, it causes a spark.

14 It then goes and begins the burning process or ignites the
15 gun powder or propellant starts burning, it doesn't explode, it
16 just burns rapidly through chemical reaction. That pressure
17 then builds up, it then pushes the bullet into the barrel and
18 out. Once the barrel -- bullet has left the barrel, the
19 leftover force then slams that cartridge case back into the
20 slide, which is called the breach phase.

21 It slams it back and that's what causes the slide to go
22 back. And then the slide also has an extractor, which is like
23 a little claw that pulls the cartridge case out. And then it
24 has another item opposite called ejector. It's usually a rod
25 or other piece of shaped metal that then hits it. And as the

1 slide fully retracts back, it then throws or ejects as we call
2 it, that empty cartridge case. A new cartridge comes up if
3 there's one there and it begins to process again.

4 Q. Okay. Now on direct you testified that two more --
5 more or less needs the hard object hitting another object, hard
6 object and leaving a mark. So during that firearm firing
7 process where -- what tool mark is left on a projectile log
8 board.

9 A. On -- on the bullet, it is it's interaction with the
10 barrel.

11 Q. Okay. And so -- and the bullet comes out of the
12 barrel, shell casings come out of the slide; is that correct?

13 A. Yes, it -- it's in that area where the slide pulls
14 it out and ejects it, yes. So it interacts with the slide of
15 the firearm.

16 Q. And do -- so they have distinct toolmarks or is it
17 the same tool marks?

18 A. Be different ---

19 Q. Different ---

20 A. --- because the bullet and the cartridge case are two
21 different types of items. Ones that projectile that is launched
22 and the cartridge casing is just what holds everything together.
23 And then it is an empty shell or empty casing or empty cartridge
24 case as we call it. That is then ejected from the firearm.

25 Q. Okay. So the slide is different from the barrel,

1 it's not -- they're not one in the same; is that correct?

2 A. Correct. They're different parts of the firearm.

3 Q. All right. You mentioned on direct you're talking
4 about an Ivan gun, the gun that you reviewed in this case?
5 Deputy Roach, do you recognize this?

6 A. I recognize this evidence by my initials and the
7 date. I also recognize it by the Richland County Sheriff's
8 Department's item number -- excuse me, case number which is
9 2101027704. Item 7, 8, and 9. And this is in the same
10 condition which I turned it in because my seal's in intact. And
11 this was the firearm that I compared this particular case to.

12 Q. Okay. And you said you did sign this?

13 A. Yeah, it has my initials and seal on the bottom of
14 the tape.

15 Q. And Deputy Roach, is this the firearm that you
16 compared in this case?

17 A. Yes, sir, it is. It has the -- the Richland County
18 Sheriff's Department case number, the item number and my
19 initials. As you can see it's got a zip tie through the
20 magazine. Well, so it is inactive and cannot fire and is not
21 -- it cannot shoot.

22 THE COURT: Do we need a break?

23 Continue.

24 MR. WALTON: Yes, Your Honor. For the record I was
25 referring to state's exhibit 229, which is the gun that Deputy

1 Roach has identified. At this time the state moves to have
2 what's been previously marked as state's exhibit 229 admitted
3 into evidence.

4 THE COURT: Any objection?

5 MS. ZMROCZEK: No objection.

6 THE COURT: State's 229 is admitted without objection.

7 (State's Exhibit 229 was admitted into evidence)

8 BY MR. WALTON:

9 Q. Deputy Roach, I'm going to actually refer you to your
10 report.

11 A. Yes, sir.

12 Q. Refer you to -- we start speaking about item 63, 64.
13 Do you see that paragraph?

14 A. Yes, sir.

15 Q. All right. Just hold that place for a second. When
16 -- when a firearm is fired, which direction did the shell casing
17 go -- the fired -- fired cartridge casings go?

18 A. Depends -- generally depending on the firearm, it
19 will go slightly right into the rear of the shooter when held
20 in the normal firing position.

21 Q. So they're ejected outside of the ---

22 A. Yes, sir.

23 Q. -- out of the firearm and then ---

24 A. To the slightly right into the rear of the shooter
25 if it's held, like if I held the gun in the normal firing

1 position with it upright and barrel pointing this way right into
2 the rear slightly.

3 Q. Okay. Now in your report you listed items 63, 64,
4 66, 67, 68, and 74 as fired cartridge casings, correct?

5 A. Correct, yes, sir.

6 Q. Okay. And in your report you said that came from a
7 second firearm?

8 A. Correct. Yes, sir.

9 Q. And when you say second firearm mean a different
10 firearm from state's exhibit that we just discussed, correct?

11 A. Yes, sir -- yes sir.

12 Q. Okay. Now in your report you also state that item
13 number 2, which is a bullet fragment items 13, 14, 15, 38, 57,
14 58, 65 were fired from the state's Exhibit 226; is that correct?

15 A. Yes, sir.

16 Q. And of those items that I just listed, what are
17 those?

18 A. The ones you just mentioned were the bullet jacket
19 fragments, bullet jacket and bullets from the scene. Previously
20 the item 63 and 64 in that paragraph were the cartridge cases.

21 Q. Okay, So -- and the bullets come down the barrel,
22 correct?

23 A. Yes, sir.

24 Q. And what's the difference between a bullet jacket
25 fragment and a bullet?

1 A. Bullet jacket fragment usually -- when a bullet has
2 a metal -- most bullets have a metal jacket, which means they
3 have a lead core and they have a -- usually a copper jacket that
4 is wrapped around it to help hold it together due to the high
5 pressures because normal lead is so soft it would not hold
6 together with the high pressure of that particular cartridge.

7 So what happens during impact oftentimes the jacket is
8 broken, and when it hits an object the jacket will then peel
9 away and the lead core will still continue to travel. So
10 sometimes there's just the jacket left behind, and the jacket
11 is the portion that actually interacts with the rifling in the
12 barrel to give the whole bullet spin as I mentioned earlier.
13 And that's where we would find the random characteristics from
14 the barrel would be left on the bullet jacket.

15 Q. So focusing back on the initials, so third paragraph
16 on your report, were you speaking of the fired cartridge casings
17 -- cartridge casings? You mentioned that to be a second
18 firearm.

19 A. Uh-huh.

20 Q. You're not saying that you believe it was a second
21 firearm used in this case, right? That there was a second
22 firearm used at that time or are you saying that you just don't
23 have enough information at this point in time?

24 A. According to me comparing items 63, and 64, 66, 78,
25 and 74 to that particular firearm, at that case, those cartridge

1 cases were not fired in that particular firearm with this
2 interaction with the slide of that firearm, if that's what
3 you're asking.

4 Q. Okay. So question is you -- you've been qualified
5 as an expert. How could something -- how could this happen?
6 How could you have bullets matching within casings not matching

7 A. The most -- the -- the most thing that comes to my
8 mind usually is that someone had switched the barrels of the
9 firearms.

10 Q. Okay. And when you say switch the barrels of the
11 firearm, what do you mean by that?

12 A. Most firearms, they come from the manufacturer. They
13 have a manual that comes with them that teaches any person who
14 buys them how to clean their firearm. Part of that cleaning
15 process is called field stripping, which is breaking the firearm
16 down into usually four main parts. The slide, the barrel, the
17 recoil spring, which is what helps actuate the slide and the
18 frame itself. And during -- you can take those apart. And in
19 this particular case, what came to mind is that someone must
20 have switched the barrels in that particular firearm for it to
21 -- for just the barrel to ID to those bullets and bullet jackets
22 and bullet jacket fragment and the cartridge cases do not.

23 Q. And by switching the barrel, would that change the
24 tool marks that you found on the bullet potentially?

25 A. I mean, not in this case. What happens is in not in

1 any case, the bullet just interacts with the barrel. So just
2 that piece is the tool mark, the tool that left the markings on
3 that bullet. So that's not going to change if someone took a
4 barrel and put it in a different firearm, the bullet's markings
5 would not change. But the cartridge case would be different
6 because it's a different slide from a different firearm.

7 Q. So you're saying that if the firearm can is
8 compatible than these parts are interchangeable; is that
9 correct?

10 A. Yes, sir.

11 Q. Okay. Is that a complicated process?

12 A. Not -- not really. At first when you're learning,
13 going through the manual, it can be, but you can become very
14 proficient with it.

15 Q. Okay. So it's -- it's not a very complicated process
16 to take a barrel from one pistol put into another pistol?

17 A. Not if it's the same type of firearm and it's
18 compatible.

19 Q. Okay. Deputy Roach I'm showing you what's already
20 been admitted as state's Exhibit 229. Is this is the pistol you
21 were given to compare and do comparisons on?

22 A. Yes, sir.

23 Q. Any -- can you -- perfect. Which if you need to
24 stand up easier for you (inaudible).

25 A. Is that all?

1 Q. Yeah.

2 THE WITNESS: Fine. Your Honor, may I proceed to cut this
3 off with ---

4 THE COURT: Yes, sir. Just clear, make sure that you
5 clear it again. Point downward ---

6 THE COURT: Yes, ma'am.

7 THE COURT: --- as best you can make sure it's not pointed
8 at anyone of course.

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: A typical gun safety protocol.

11 THE WITNESS: Yes, Ma'am Yes, Your Honor. Thank you. So
12 right now I'm going to retract the slide. There's no magazine
13 in here for no ammunition to check. I'm going to lock it back
14 to its rear and remove the zip time. Now I'm still holding it
15 down but I'm going to look, there's nothing here. That means
16 there's nothing in the magazine. Well I'm going to also
17 physically check the chamber to make sure there's nothing there
18 because I won't be able to put my finger in here if there was
19 a cartridge. And I'm also -- just being a firearm examiner,
20 people don't normally do this.

21 I also can look down the barrel and check and I can see
22 light. So there is -- this firearm is completely safe and they
23 can't do anything to harm anyone at the moment. So this is the
24 firearm in which I receive it to analyze. And now one of the
25 ways to break this down, you will here me pull the trigger and

1 it will click as I showed you before, there is nothing in here
2 but that is part of the process to take this firearm apart. So
3 I'm going to hold it down similar like this to see if everyone
4 can see.

5 Your Honor, may I address the jury to make sure I can get
6 an affirmative head nod?

7 THE COURT: Yes, sir.

8 THE WITNESS: Can everyone see what I'm holding? Can they
9 see it or do I need to move my position any?

10 THE JURY: No.

11 THE WITNESS: Okay. Thank you, Your Honor. Thank you,
12 Jury.

13 So what I'm going to do here, I'm going to let this go
14 forward. You will hear click because the way this is designed,
15 there is a transfer -- excuse me, a trigger bar in here and
16 that's what holds the striker or the firing pin back. I need
17 to hold the trigger so it can disengage, but I'm able to break
18 it down for you. So double checking again because I don't like
19 it. Pull it again. As you can see, I completely took it apart
20 and that's the barrel and that's how quick it can come apart
21 into the four pieces..

22 Your Honor, may I approach the jury's bench to show -- to
23 lay the pieces down or do I -- or can I display them up?
24 because it's completely in four pieces now, so there's no way
25 this is completely safe.

1 THE COURT: I think it'd be better for you to hold them
2 up so that (crosstalk).

3 THE WITNESS: Yes, Your Honor. So this is the frame.
4 This is what the ATF can actually consider as a firearm because
5 this is the part that holds all the pieces together. Think it
6 like the chassis of a -- of a vehicle. Everything else is part
7 of the body. So you have a slide, the barrel, and the recoil
8 spring assembly. All firearms when you receive a firearm or buy
9 one from the firearm or F -- FFL dealer, when you are in town.

10 He's allowed to sell firearms. You'll get a manual and
11 the manual will teach you step by step of what I just showed you
12 of how to take this apart as part of the cleaning process. They
13 don't recommend going any further because you could possibly
14 damage or break the firearm. But this is how easy you can break
15 it apart and put it back together.

16 BY MR. WALTON:

17 Q. And, Deputy Roach, can you just put it back together
18 for the (inaudible)?

19 A. Sure. So I'm going to lay the frame down here. So
20 you take the slide, turn it upside down, put the barrel in, make
21 sure it's in the lock position down. You take the recoil spring
22 assembly, fit it in this channel, it then goes down into a
23 notch. Now we can flip it over. There are frame rails here.
24 It goes into the grooves here that are machined and intended by
25 the manufacturer.

1 I will then make sure it's lined up and then reassemble
2 it. And again I'm checking for safety. It's back in and just
3 to test it and we'll pull the trigger to click it so it is
4 working and now it's fully assembled and ready to go once you
5 put a magazine with ammunition in it. And it is okay if Your
6 Honor, I'm going to go ahead and partially put this zip tie back
7 in.

8 THE COURT: Yes.

9 THE WITNESS: So it can still be blocked. It's not fully
10 secure but it's not together but it is an operative.

11 THE COURT: Thank you.

12 THE WITNESS: Yes, Your Honor. May I please be seated
13 Your Honor?

14 THE COURT: Yes sir.

15 BY MR. WALTON:

16 Q. So, Deputy Roach, what effect would that have if I
17 was to say hypothetically someone use a gun in one shooting and
18 then take that same gun, switch the barrel, put it in another
19 gun and use that gun in shooting, what effect would it have on
20 the toolmarks from that?

21 A. If there were two separate cases and there were
22 bullets or bullet firearms were recovered in two different
23 cases. The bullets from each scene would ID up. However, the
24 cartridge cases, since the slide is different, if it was put
25 into a -- that barrel was put into a different firearm, the

1 cartridge cases would not ID up to that particular firearm.

2 Q. And when you're reviewing these firearms, are you
3 documenting serial number or any numbers associated with them?

4 A. Yes, so that's part of our process. We document the
5 serial number that's on the frame because that particular part
6 that is the only recognized serial number by the ATF, and that
7 is the one which we document.

8 MR. WALTON: Okay. (Inaudible).

9 THE COURT: (Inaudible).

10 BY MR. WALTON:

11 Q. So a second ago you just mentioned that the ATF only
12 recognizes serial numbers on the frame, correct?

13 A. Yes, sir.

14 Q. Okay. Where else are they on a firearm?

15 A. Usually with manufacturers they will also -- since
16 they want to keep all the pieces together for that same
17 particular one they manufacture, they will put the recognized
18 ATF serial number on the frame. And then for their purposes
19 they'll also repeat that serial number on the slide and on the
20 side of the barrel.

21 Q. Okay. And you just mentioned it a couple times,
22 firearms being interchangeable. Do you know if this particular
23 model is one that is interchangeable with barrels and slides
24 with another brand of Taurus?

25 A. I mean, if it's another Taurus model and the same

1 series, yes, you can interchange the parts because there's
2 manufactured the same.

3 Q. Okay. I have no further questions. Please answer
4 anything from Ms. Zmroczek.

5 A. Yes, sir.

6 THE COURT: Redirect.

7 MS. ZMROCZEK: Thank you (inaudible).

8 REDIRECT EXAMINATION

9 BY MS. ZMROCZEK:

10 Q. In order for the -- what you just demonstrated, how
11 long does that take to accomplish? Just as long as you -- as
12 long as you executed it?

13 A. About -- yes ma'am, but I mean usually someone, it's
14 like any skill, I do it more often than not. But the -- as I
15 said, the manual that the manufacturer provides or any manual
16 online that you can find from the manufacturer, they will also
17 show you step by step how to do that for basically it's part of
18 their cleaning process because they recommend you always clean
19 the firearm after use to keep it in good functioning condition.

20 Q. Okay. And then just very briefly, he showed you
21 states 229 the gun, right?

22 A. Yes, ma'am.

23 Q. And then we refer to item 7. Is item 7 actually the
24 gun or is that what you -- you you shot into the water barrel
25 and then used it to compare?

1 A. Item 7 is the firearm in which I test fired, yes,
2 ma'am.

3 Q. Okay. And so item 7, that's what you would use to
4 compare which ones matched and identify the ones that came from
5 a second firearm?

6 A. Yes ma'am. So I would test fire the firearm into our
7 water tank with the same similar type of ammunition. And then
8 I can't just look at the gun. I have to have exemplars. So I
9 would take the examples that I made and then compare them under
10 the microscope before I would compare them to the unknowns.

11 Q. Thank you. And all of the -- again, all of the
12 results of your report were verified by someone else in Richland
13 County, correct?

14 A. Yes, it was verified by another fully qualified
15 firearm and toolmark examiner and then technical -- then the
16 technical review was also done by fully qualified firearms
17 examiner. And then, like I said, we have an admin assistant to
18 check the -- all the I's are dotted and T's are across for our
19 third. Our third check once it's been uploaded to the records
20 management system.

21 MS. ZMROCZEK: Thank you. No further questions?

22 THE COURT: Anything further from this witness, Mr.
23 Walton?

24 MR. WALTON: No, Your Honor.

25 Okay. Thank you. You may step down.

1

2 CONTINUATION OF PROCEEDING - JUNE 27, 2023

3 THE BAILIFF: Court cover order. All rise, please.
4 You may be seated. Make sure all cell phones, electronic
5 devices are turned off except the one that's authorized to
6 have them on. Thank you.

7 THE COURT: Is the defense's next witness here?

8 MS. ZMROCZEK: Yes, Your Honor.

9 THE COURT: All right. Bring the jury, please.

10 (Inaudible).

11 THE BAILIFF: Juror is seated, Your Honor.

12 THE COURT: Thank you. Welcome back, folks. We're
13 going to try to finish up this trial, hopefully today. We're
14 still in the defense case, so they're going to call their
15 next witness. Ms. Zmroczek?

16 MS. ZMROCZEK: Thank you, Your Honor. We'll call
17 Jennifer Setree.

18 THE BAILIFF: Come forward (inaudible).

19

JENNIFER SETREE,

20 being first duly sworn, testifies as follows:

21 THE COURT: Thank you. (Inaudible) state your name for
22 the record please spelling your last name.

23 THE BAILIFF: State your full name for the record and
24 spell your last name, and please speak loud, so they jury got
25 to hear you (inaudible).

1 THE WITNESS: Okay. I'm Jennifer Setree. Last name's
2 spelled S-E-T-R-E-E.

3 DIRECT EXAMINATION

4 BY MS. ZMROCZEK:

5 Q. Ms. Setree, will you please tell the jury where
6 you're employed?

7 A. Data-Driven Investigations.

8 Q. And what kind of work do you do?

9 A. Digital forensics.

10 Q. What is digital forensics?

11 A. Digital forensics is the study analysis of mobile
12 electronic devices. Could be computers, cell phones,
13 watches, anything that's digital.

14 Q. And how long have you been doing that?

15 A. Since 2017.

16 Q. Do you have any certifications?

17 A. I do. I have a certification in cellebrite as a
18 Cell Certified Cellebrite Operator, also Cellebrite Certified
19 Physical Analyst. I received certifications through Magnet
20 Axiom certified as a cell tower analyst by Zeek Corporation.
21 And I've also received my certification as a certified social
22 media intelligence expert.

23 Q. Have you ever testified as expert in digital
24 forensics before?

25 A. Yes, ma'am. I have.

1 Q. And when was that?

2 A. That was in January of this year.

3 Q. How many times?

4 A. Just once.

5 Q. Okay. Have -- how long have you been a phone
6 expert?

7 A. Since 2017 or even before that.

8 Q. Let me ask you this way, approximately how many
9 phones have you examined?

10 A. Hundreds. Hundreds of phones.

11 Q. Okay. And you said that you -- you listed off all
12 of your certifications. Do you have any other special
13 education?

14 A. I graduated with a bachelor's degree in psychology
15 and a bachelor's degree in criminal justice as well.

16 Q. Okay. Do you have any other licenses?

17 A. I'm licensed through SLED, South Carolina Law
18 Enforcement Division with my PI license.

19 MS. ZMROCZEK: Your Honor, at this time we would move
20 Ms. Setree in as an expert in digital forensics examination.

21 THE COURT: Any objection; voir dire?

22 MS. DARKO: Yes, voir dire, Your Honor.

23 THE COURT: Ms. Zmroczek, you step aside. Go ahead, Ms.
24 Darko.

25

VOIR DIRE OF EXPERT WITNESS

1 BY MS. DARKO:

2 Q. Good morning, Ms. Setree. In order to become a
3 Certified Cellebrite Operator -- I guess, in order to take
4 that training course, do you have to have any provisional
5 licenses or can anybody take that -- that course?

6 A. No, you have to have -- first you have to have
7 some kind of a license like PI license. And also, you do
8 have to have a bachelor's degree, some kind of education.
9 And I have a four year criminal justice degree.

10 Q. So you have to have a license, or I guess, be a
11 member of law enforcement?

12 A. Or experience. Yes, ma'am.

13 Q. And with regard to the four-year degree, that
14 doesn't have to be related to self, right? Or phones or
15 anything like that, just has to be a degree?

16 A. Correct.

17 Q. And ---

18 A. So a degree in the field.

19 Q. I see under -- on your CV, under your training
20 that you do have the certifications that you just listed with
21 Ms. Zmroczek, but then you also have some virtual summits.

22 A. Yes. Through -- through Magnet.

23 Q. Did you receive any certificates?

24 A. I did, yes, ma'am.

25 Q. Okay. And what are the certificates associated

1 with completing those summits?

2 A. Those -- those courses are of the course of like
3 two weeks. So those could be anything that deals with the
4 magnet program, and the analysis of cell phones, how to
5 recover digital artifacts, and also understanding how
6 computers and the cell phones extract that data.

7 Q. With regard to the cell phones trainings and the
8 certifications you've received through them, is -- so does
9 that only qualify you to do extractions for -- through their
10 program or are there other sorters that you're qualified on?

11 A. Can you ask that? Sorry.

12 Q. So is -- are you only trained through Cellebrite
13 or are there other software companies that do digital
14 forensics or do phone extractions that you're also certified
15 with or that you also use? Other than Cellebrite.

16 A. I do use Magnet Axiom. I mainly do that for
17 computers. So cell phones, I do Cellebrite. And that is the
18 standard software.

19 Q. Like an industry standard software?

20 A. Correct.

21 Q. And once you have an extraction from the phone, is
22 it fair to say that you -- are you looking at the raw data?
23 Are you looking at what has been placed into the Cellebrite
24 sorter?

25 A. Both.

1 Q. And with regard to the raw data, how many
2 opportunities have you had to testify only as to the raw data
3 and creation dates and times, locations, looking only at the
4 raw data, not in any way interpreted through Cellebrite?

5 A. Just once.

6 Q. And you testified in which court?

7 A. South Carolina General Sessions in Lexington.

8 Q. And what jurisdiction was that?

9 A. 11th Judicial Circuit.

10 Q. In addition to your training for member of which
11 professional associations for doing phone extractions?

12 A. ASDFED, which is the American Digital Forensic
13 Society. And also I -- I -- it's I-C-A-C-A it's -- I can't
14 pronounce it. Icaca.

15 Q. And your memberships in those associations are
16 current?

17 A. Yes.

18 Q. Do you do any teaching or training of other folks?
19 Have you given any classes in the subject area?

20 A. No, ma'am.

21 Q. And have you written any articles or published any
22 materials in connection with your subject area?

23 A. No, ma'am.

24 MS. DARKO: Your Honor, I have no objection to her being
25 declared as an expert in phone extraction. I -- I don't

1 know that she's necessarily qualified as a forensic analyst.

2 THE COURT: Ms. Zmroczek?

3 MS. ZMROCZEK: Your Honor, I don't know the
4 distinction. Obviously, she's -- what we're tendering her is
5 in qualifying in extractions and interpreting that the data
6 that comes along with the extraction.

7 THE COURT: All right. Over the State's objection, the
8 State will find Ms. Setree qualified as an expert in the
9 field of digital forensics. Ladies and gentlemen of the
10 jury, same rules that I've told you with respect to other
11 experts apply to this expert witness, give her testimony the
12 weight and credibility you think it deserves. You may
13 proceed, Ms. Zmroczek.

14 MS. ZIMROCKZEK: Thank you, Your Honor.

15 BY MS. ZMROCZEK:

16 Q. Ms. Setree, you said you own your business?

17 A. Yes, ma'am.

18 Q. Okay. And primarily what does that business do?

19 A. Cell phone examinations and analysis and computers
20 when asked to do computers as well, or any -- any type of
21 electronic device.

22 Q. Okay. And you -- do you have special equipment
23 that does that?

24 A. Yes, ma'am. I do.

25 Q. Talk to me a little bit about that equipment.

1 A. For cell phones, I use a program of software, it's
2 called Cellebrite. Cellebrite UFED 4PC that allows for me to
3 say, plug in a device to my computer and extract that
4 information that is from a phone as raw data. And then, from
5 there, I actually take that raw data put into another program
6 called Cellebrite Physical Analyzer. And that raw data is
7 actually transposed into a readable format that we can
8 actually see and read. And that is the Cellebrite Physical
9 -- Physical Analyzer.

10 Q. So when you are asked to assist in a case, do you
11 do your own downloads or do you sometimes rely on the
12 information that's provided to you from the agency?

13 A. Both. I can be asked to do an extraction on the
14 phone to verify the information, or if say, it wasn't able to
15 be accessed, I can see if I can access it or also analyze the
16 information that is -- that is extracted from law
17 enforcement.

18 Q. All right. And I want to turn to the case that
19 we're here for today. Were you asked to review cell phone
20 extractions in this case?

21 A. Yes, ma'am.

22 Q. And how many cell phones did you review?

23 A. I did three -- three cell phones.

24 Q. All right. And so I want to kind of talk to you
25 about them one by one.

1 A. Okay.

2 Q. I'm showing you what's already been admitted into
3 evidence. Page 34. Do you recognize that phone?

4 A. Yes, ma'am.

5 Q. How do you recognize that phone?

6 A. That is an Apple iPhone device.

7 Q. And it was found at the scene?

8 A. Correct.

9 Q. What information did you receive about that Apple
10 iPhone?

11 A. I received the extraction data and I was --
12 received that in the raw data format and as the Cellebrite
13 reader, the reader is where we can provide another agency
14 that data that's retrieved off of that phone and they can
15 actually pull that data up and not have like, say, the
16 Cellebrite Physical Analyzer. It just allows another agency
17 or another entity to read that data as well.

18 Q. So in this case, specifically referring to that
19 Apple iPhone, from where did you receive that information?

20 A. That was in the discovery that was given to me to
21 analyze.

22 Q. Okay. In addition to State's 54, which you
23 already saw the actual phone, did you receive the property
24 report?

25 A. Yes -- yes, ma'am. I did.

1 Q. Okay. And what proper -- what item was this
2 identified in the property report as?

3 A. An iPhone 11.

4 Q. What number? What -- what item number, sorry.

5 A. Oh number 153.

6 Q. 153. Okay. And that was on the Richland County
7 Sheriff's property report?

8 A. Property report. Yes, ma'am.

9 Q. Okay. And I'm showing you what's been marked for
10 identification only as Defendant's Exhibit 8.

11 Q. Okay. Do you recognize that?

12 A. Yes, ma'am.

13 Q. What is that?

14 A. That is the iPhone report that I -- that I -- I
15 analyzed.

16 Q. Okay. So that's the report that you received. Is
17 that the complete report that you received from Richland
18 County?

19 A. Yes, ma'am. Yes, ma'am.

20 Q. And that was for the Apple iPhone 11?

21 A. Yes, ma'am.

22 Q. Okay. And that's for ID purposes only. How did
23 you know -- how do you know that this is the Apple extraction
24 you received from the Richland County Sheriff's Department?

25 A. It's initialed and dated by myself.

1 Q. Now, again, this is an extraction that you did not
2 physically do. You received a physical copy for Richland
3 County; is that correct?

4 A. Correct.

5 Q. I'm show you what's been marked as Defendant's 9.
6 You recognize this?

7 A. Yes, ma'am.

8 Q. And what is that?

9 A. That is the first page, the cover of the
10 extraction and -- of the iPhone 11 that was done by Captain
11 Scott McDonald and I did the analysis of this physical
12 extraction.

13 Q. And is -- is that fairly and accurately represent
14 the identification on what's been marked for IDs Defense8?

15 A. Yes. Yes, ma'am.

16 MS. ZMROCZEK: Your Honor, at this time, we would move
17 Defendants 9 into evidence.

18 THE COURT: Any objection?

19 MS. DARKO: No objection, Your Honor.

20 THE COURT: Defendant's 9 is admitted without objection.

21 (Defendant's Exhibit 9 was admitted into evidence.)

22 BY MS. ZMROCZEK:

23 Q. When you get that information, obviously there's
24 more than just the first page; is that correct?

25 A. Correct.

1 Q. How many pages are there?

2 A. I believe in this case there might have been
3 50,000 pages. It -- it has everything, the call logs, text
4 messages, everything that the phone has.

5 Q. Okay. And does it have emails on it?

6 A. Yes, it does.

7 Q. Does it have photographs on it?

8 A. It does.

9 Q. And by looking at the emails and photographs and
10 identifying the property number as number eight. Whose phone
11 were you able to determine this was?

12 A. That belonged to a Jamaica Bethel?

13 MS. DARKO: Objection, your Honor. 901 authentication.
14 This is not the proper mode of authentication.

15 THE COURT: What are we talking -- this is the -- the
16 flash drive that we're discussing? The information on it?

17 MS. ZMROCZEK: The information on it, yes. Yes. She
18 can certainly, I believe, testify to who ---

19 THE COURT: Hold on. Hold on, you all. The objection
20 was sustained. Ms. Setree, they're going to grab you some
21 water.

22 THE WITNESS: Okay, thank you.

23 THE COURT: Mr. Bowen? Right here. Mr. Bowen or Ms.
24 Zmrokzek? Someone? There we go.

25 THE WITNESS: Thank you.

1 BY MS. ZMROCZEK:

2 Q. Let me ask a question this way, Ms. Setree.
3 Phones -- when you're looking to identify a phone, what sort
4 of information did you find on this phone? Was there a phone
5 number associated with it?

6 A. There's a phone number, also a Apple ID that's
7 associated with a Apple device, that could be an email such
8 as your user ID. And also the contact and the -- who it was
9 registered to as well shows up on the Cellebrite report.

10 Q. Okay. And so what was the Apple ID or the email
11 associated with discover?

12 A. I believe that was at jamica@gmail -- I can't
13 remember the full email.

14 Q. But it was a gmail account?

15 A. It was.

16 Q. Jamaica?

17 A. Correct.

18 Q. Okay. Were you also able to view photos of -- on
19 that phone?

20 A. I was, yes.

21 Q. And was the same person identified in that phone
22 throughout those photos?

23 A. It was, correct.

24 Q. Okay. And was that associated with ---

25 MS. DARKO: Objection your Honor. Again, I -- I have an

1 authentication objection under 901, under the same grounds
2 that we addressed at sidebar.

3 THE COURT: Objection sustained. Rephrase, or ask a
4 different question, Ms. Zmroczek.

5 BY MS. ZMROCZEK:

6 Q. Thank you. Did you -- let just ask you this,
7 after you were provided with this Richland County Sheriff's
8 Department, item number 153, did you review all the contents
9 in?

10 A. I did, yes, ma'am.

11 Q. Okay. I want to move on. Were you asked to
12 identify or to review another phone?

13 A. I was, yes, ma'am.

14 Q. Okay. And what -- did that phone have a property
15 identification associated with it?

16 A. That was 152.

17 Q. 352?

18 A. 1 -- 153, sorry.

19 Q. Sorry, 153, you said. Okay. And what was the --
20 what was the type of phone that -- that that analyzation
21 (inaudible)?

22 A. That was an LG Stylo, it said 6, but I believe it
23 was supposed to be a 5. But the report said LG Stylo 6.

24 Q. All right. And is that -- I'm showing you what's
25 been marked as Defendant's 11 for ID only. Do you recognize

1 that?

2 A. I do, yes, ma'am.

3 Q. And what is that?

4 A. That would be the report that would be associated
5 with the -- the download of the extraction that I received.
6 And I can identify that because it has my initials and the
7 date on it as well that I reviewed it.

8 Q. Again, that's for ID purposes only. I'm now
9 showing you what's been marked as Defendant's 12 and ask if
10 you recognize that.

11 A. I do.

12 Q. And what is that?

13 A. This would be the first page of the report as
14 well, like the cover of the extraction that was done by
15 Captain Scott McDonald, and I did the analysis of it, and it
16 says the LG Stylo 5. And the phone number is (803) 977-2285.

17 Q. (803) 977-2285?

18 A. Yes, ma'am.

19 Q. And does that fairly and accurately reflect the
20 first page of what's been entered or what's marked for ID
21 Defendant's 11?

22 A. Yes -- yes, ma'am. It does.

23 MS. ZMROCZEK: Your Honor, at this time, I would move
24 Defendants 12 in.

25 THE COURT: Any objection? Defendant's 12 is admitted

1 without objections.

2 (Defendant's Exhibit 12 was admitted into evidence.)

3 BY MS. ZIMROCZEK:

4 Q. So when you received Defendant,s 12, or when you
5 received the cell phone extraction report, were you asked to
6 -- what were you asked to do?

7 A. Do the analysis of the cell phone.

8 Q. And when you do an analysis, explain to the jury
9 what that means.

10 A. When I do an analysis, I'm looking at the data to
11 see if there's anything that could be of evidentiary value.
12 Any contact, emails, locations. Basically, anything and
13 everything that the cell phone will provide. I -- I do the
14 analysis part of that. See if there's any linking factors
15 that can link two phones together or locations, things of
16 that nature.

17 Q. And so when you say you can link two phones
18 together, how do you do that?

19 A. I look at -- say I'll look at one phone and then
20 I'll look at another phone and see if they have anything in
21 common such as people, emails, text messages between each
22 other, phone calls between each other. Basically, any
23 information that can put two individuals knowing -- or three
24 or four individuals knowing each other.

25 Q. And when you say individuals, you mean the

1 individual phones?

2 A. Correct.

3 Q. Okay. And so in this extraction of defendant's --
4 well, what's been marked for ID as Defendant's 11, what kind
5 of extraction was -- was done in this?

6 A. I believe it said a logical extraction was done in
7 this one.

8 Q. And so what are the types of extractions that
9 there are?

10 A. You have a file system extraction, a physical
11 extraction, and an advanced logical or logical extraction.
12 The file system is your file folders that's in kind of the
13 root directory. Your physical analyze -- your physical
14 extraction takes all that information from the file system
15 and from a logical and provides all the information that you
16 can't actually see that say your operating apps system,
17 things of that nature. Also the deleted data.

18 A logical extraction provides you that information that
19 you actually see on your phone, such as your call log, your
20 text messages as you're scrolling through that information on
21 your phone. So that's your actual -- when you look at your
22 phone, the logic is what you actually see that's provided.

23 Q. And the information that's provided in there, are
24 there other telephone numbers that are provided in there?

25 A. Yes, yes ma'am. There's telephone, user IDs,

1 names that would be attached to the phone numbers that would
2 be manually entered by the user of that phone.

3 Q. Okay. So explain -- explain how that works.

4 A. Whenever the phone is extracted via the means of
5 an advanced logical or physical or file system, what's
6 recovered is the contact information, and that contact
7 information and that user information would be mainly
8 entered, just how you would put in from your favorites or you
9 would put into, say, your contact list, a phone number
10 associated with a person, you would name that person. Or if
11 it's an iPhone, sometimes it can actually link a person's
12 email address to a phone number as well.

13 Q. All right. And so when you went through the
14 extraction of this phone number -- and again, what was the
15 phone number associated with the LG?

16 A. That was (803) 800-8861. Was that the LG?

17 Q. Was that a contact that you found?

18 A. Yes, that was the contact.

19 Q. That you found within the -- the phone.

20 A. In the phone itself, yes.

21 Q. Okay. And so how was that number identified?

22 A. That number was identified by the name of Pope.

23 Q. In reviewing the information provided to you by
24 the State in this case, what stood out or what was remarkable
25 about that phone number and that the number identified as

1 Pope?

2 A. That would be the phone calls and the text
3 messages between Pope and the user of the LG phone and also
4 the user of another phone.

5 Q. Okay. Well, let's talk about that so that ---

6 A. okay.

7 Q. --- So that we're a little more clear. I'm
8 showing you what's been marked, for ID only, as Defendant's
9 15.

10 A. Yes, ma'am.

11 Q. Recognize that?

12 A. Yes, ma'am.

13 Q. And how do you recognize that?

14 A. That is the report that was done on the Samsung
15 device that I actually did the extraction on.

16 Q. Okay. And how -- how do you know that that's the
17 extraction report?

18 A. That was identified by -- by myself. I dated and
19 signed it as well or initialed it.

20 Q. And again, that's Defendant 15 for ID only. I'm
21 showing you State's, regarding evidence, State's 119. Do you
22 recognize that?

23 A. Yes, ma'am.

24 Q. Okay. And what is Defendant's, or excuse me,
25 State's 119?

1 A. That would be a Samsung device.

2 Q. The same -- the Samsung Galaxy 9?

3 MS. DARKO: Objection, Your Honor. Leading

4 THE COURT: Sustained.

5 BY MS. ZMROCZEK:

6 Q. I'll -- I'll rephrase the question. What would
7 that be?

8 A. The Samsung Galaxy Note 9. You can actually see
9 what it says on the photo.

10 Q. And so you said you actually completed the
11 extraction of that phone?

12 A. Yes, ma'am.

13 Q. Okay. Tell the jury how that came to.

14 A. I was requested to do the extraction on that
15 device. Actually did it here in Richland County to maintain
16 -- to maintain the chain of custody. And what I used is the
17 Cellebrite software UFED 4PC to be able to do the extraction.
18 There was a user lock passcode that I was able to remove to
19 be able to do the extraction via the UFED 4PC.

20 Q. So let me, if I understand it, so was this phone
21 ever extracted by Richland County?

22 A. Not that I'm aware of. I'm -- never received a
23 report from them regarding the Samsung.

24 Q. Okay. When you extracted the Samsung Galaxy 9,
25 did you provide a copy to the State in return?

1 A. I did, yes, ma'am.

2 Q. Of the complete download?

3 A. Of the complete raw data and the readable data
4 format as well from the physical analyzer.

5 Q. Okay. So explain what the raw data means.

6 A. The raw data is the information that's actually
7 retrieved during the extraction process. It's just a -- it's
8 a kind of a binary form of numbers, zeroes and ones. That's
9 all you're going to see. It's not even readable until you
10 actually put it into the other software, which is the
11 physical analyzer. It takes the physical analyzer, takes
12 that raw data, those zeroes and those ones and those -- in
13 those digital format. And actually, it transposes that into
14 a readable format. So therefore, you can read the apps and
15 you can read the text messages and things that you would
16 actually see on the phone.

17 Q. Okay. And I'm going to show you now what's been
18 marked as Defendant's 16. And ask if you recognize
19 Defendant's 16?

20 A. I do.

21 Q. How do you recognize that?

22 A. That is the extraction -- that is the first page
23 or the cover of the extraction. And that was done by myself,
24 JCG, and it says Samsung and the phone number associated,
25 (803) 549-0066, and it says Samsung Galaxy Note 9.

1 Q. And does that fairly and accurately represent what
2 was previously marked, for ID only, Defendant's 15?

3 A. Yes.

4 MS. ZMROCZEK: Your Honor, at this time we would move
5 Defendant 16 into evidence.

6 THE COURT: Any objection?

7 MS. DARKO: No objection.

8 THE COURT: Defendant 16 is admitted without objection.

9 (Defendant's Exhibit 16 was admitted into evidence.)

10 BY MS. ZMROCZEK:

11 Q. So now you have -- you have the LG phone with a
12 phone number identified with the LG phone, right?

13 A. Correct.

14 Q. You just read that you have the Samsung Galaxy 9
15 with a phone number identified to that?

16 A. Correct.

17 Q. And then you also said that you found a contact in
18 the LG phone associated with a phone number and a name,
19 correct?

20 A. Correct.

21 MS. DARKO: Objection, Your Honor. Leading.

22 THE COURT: Sustained.

23 BY MS. ZMROCZEK:

24 Q. Thank you. What is it that you -- let me ask the
25 question this way. When you read the Samsung 9 Galaxy