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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from McCormick County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHAVIS LARANZO COX,

APPELLANT

APPELLATE CASE NO. 2024-000955

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 COUNTY OF McCORMICK * TRANSCRIPT OF RECORD

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 STATE OF SOUTH CAROLINA, *
 State, *
 vs. * Case No. 2022-GS-35-00184
 CHAVIS LARANZO COX, * 2022-GS-35-00185
 Defendant. * 2022-GS-35-00186
 -----X

Trial Dates:
 May 28-30, 2024

JURY TRIAL - VOLUME I
 Monday, May 28, 2024
 Pages 1-173

B E F O R E:

The Honorable Debra R. McCaslin, Presiding Judge; and
 a jury.

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

Suzanne Mayes, Esq.
 Douglas Fender, Esq.
 Assistant Solicitors for the State

Jason Scott Chehoski, Esq.
 Megan Gresham, Esq.
 Attorney for the Defendant

Recorded by: DCRP/Court Monitor Anna Foster

Transcribed by: Bobbi Fisher, RPR
 SC Official Court Reporter III

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID..	REC'D
1	Phone Extraction - ID ONLY	268	---
2	Video Surveillance	85	85
3	Footage of Different Angle	189	189
4	Body-Worn Camera Video	184	185
5	Video Surveillance	85	85
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7	Still Shot Photograph	101	101
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10	Blueprint	77	77
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13	Photograph of the Incident Night	216	216
14	Photograph Adjacent to Stairs	220	220
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16	Photograph Adjacent to Stairs	220	220
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18	Photograph	228	228
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1	22	Photograph of Radio	228	228
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8	29	Cell Phone	202	281
9	30	Homemade Ladder	229	229
10	31	*Omitted/Not Used*	--	--
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13	34	Front Screen of Phone Extraction	306	306
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1 Court's Exhibits

2 No.	Description	ID.	REC.
3 1	Defendant's Requested Voir Dire	20	20
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11

12 COURT REPORTER LEGEND

13 Dash (--)	Indicates an interruption in speech
14 Ellipses (...)	Indicates trailing off in speech
15 (ph)	Indicates phonetic word
16 [Verbatim]	Indicates the word is said as written
17 (Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

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P R O C E E D I N G S

(The jury was previously generally qualified.)

(The jury entered the courtroom at 11:09 a.m.)

THE COURT: All right. Ladies and gentlemen, I hope everybody returned. Did we do a head count? We get them all?

THE BAILIFF: We did.

THE COURT: Good. Thank you for coming back. Sometimes, believe it or not, some people don't. And I have to go send somebody to get them. So thank you.

All right. Ladies and gentlemen, we are about to begin the trial of the State of South Carolina versus Chavis Cox. I'm going to ask the State to please call their case.

MS. MAYES: Your Honor, may it please the Court?

THE COURT: Yes, ma'am.

MS. MAYES: Before you is Indictment No. 2022-GS-35-01848. This indictment is the State of South Carolina versus Chavis Laranzo Cox. The indictment is for taking of hostages by an inmate.

Indictment No. 2022-GS-35-01858, the State of South Carolina versus Chavis Laranzo Cox. This indictment is for escape or attempted escape.

Your Honor, the defendant is present in the courtroom and represented by counsel. The State is ready

1 for trial in this case.

2 THE COURT: All right. Mr. Chehoski, you heard the
3 State call their case. How does your client plead?

4 MR. CHEHOSKI: Your Honor, my client pleads not
5 guilty.

6 THE COURT: Are you ready for trial?

7 MR. CHEHOSKI: Yes, Your Honor, we are.

8 THE COURT: Okay. Thank you.

9 All right. Ladies and gentlemen, before we get
10 started, I'm going to ask the attorneys in the case to
11 introduce themselves to you. First, let me turn to the
12 solicitor's office, ask them to please introduce
13 themselves and anyone else assisting in the prosecution of
14 this case, please.

15 MS. MAYES: May it please the Court?

16 My name is Suzanne Mayes. I'm a deputy solicitor
17 here in the 11th Judicial Circuit. As a member of the
18 solicitor's office, we prosecute criminal cases on behalf
19 of the State of South Carolina and on behalf of law
20 enforcement. The 11th Judicial Circuit includes Lexington
21 County, Saluda County, Edgefield County, and here in
22 McCormick County.

23 Also present in the courtroom today is the Assistant
24 Solicitor Doug Fender, also of the 11th Judicial Circuit,
25 including McCormick County.

1 Also present in the courtroom is Investigator John
2 Bishops with the 11th Judicial Circuit. Also present in
3 the courtroom is SLED Agent Russ Padgett, an officer in
4 this case.

5 THE COURT: Thank you, Ms. Mayes.

6 All right. Now, let me turn to the defense. If you
7 would please introduce yourselves and your client and
8 anyone else assisting in the defense of this case.

9 MR. CHEHOSKI: My name is Jason Chehoski. I am the
10 deputy public defender and the chief public defender for
11 Edgefield, Saluda, and McCormick Counties, alongside Megan
12 Gresham, who is also with the 11th Judicial Public
13 Defender's Office. We represent Chavis Cox.

14 Also sitting with us is our summer intern, Ms. Cory
15 Little.

16 JURY VOIR DIRE

17 THE COURT: All right. Let me ask the jury panel:
18 Has any member of the jury panel ever been represented by
19 any of the attorneys involved in this case or by their law
20 firms? If so, please stand.

21 (No response given.)

22 THE COURT: Is any member of the jury panel related
23 by blood or marriage, know personally, or have any
24 religious, political, social, or business association with
25 any of the attorneys involved in this case or anyone in

1 their law firms? If so, please stand.

2 (No response given.)

3 THE COURT: Is any member of the jury panel related
4 by blood or marriage, know personally, or have any
5 religious, political, social, or business association with
6 the defendant, Chavis Cox, or anyone in his family? If
7 so, please stand.

8 (No response given.)

9 THE COURT: Is any member of the jury panel employed
10 by or related by blood or marriage to or a friend of a
11 member of any law enforcement agency? Law enforcement
12 includes any police or sheriff's departments in South
13 Carolina or any other states, SLED, any federal law
14 enforcement agencies or any military police agencies.
15 Anybody related to law enforcement by blood or marriage or
16 a friend, has somebody in law enforcement? If so, please
17 stand.

18 Now, we're going to go by juror numbers.

19 Juror No. 46?

20 JUROR NO 56: 56.

21 THE COURT: 56. I'm sorry. That's Mr. Grooms. I
22 had you as a retired police officer.

23 JUROR NO. 56: Well, I am, but your question is --

24 THE COURT: You probably know --

25 JUROR NO. 56: Any law enforcement friends? I mean,

1 I have got friends all over [indiscernible].

2 THE COURT: All right. That's right. Well, let me
3 ask you this: How about in McCormick County? Do you know
4 anybody or related to anybody here in McCormick County?

5 JUROR NO. 56: No, ma'am.

6 THE COURT: Okay. Thank you.

7 Well, let me ask you this -- stand back up. Even
8 just being retired law enforcement, if you were selected
9 as a juror in this case, could you be fair and impartial
10 to both the State and the defense?

11 JUROR NO. 56: Absolutely.

12 THE COURT: Thank you.

13 All right. Anybody else?

14 All right. Is there any member of the jury panel
15 employed by or related by blood or marriage to -- or a
16 friend of any prosecuting agency in South Carolina? This
17 would include the district attorney's office, solicitor's
18 office, the Attorney General's Office. Anybody related by
19 blood or marriage or a friend of any prosecuting agency?
20 If so, please stand.

21 (No response given.)

22 THE COURT: All right. The following is a list of
23 possible witnesses in this case: W. Russ Padgett from
24 SLED. April Sikes from SLED. Trisha Stoner from SLED.
25 Mike Wheeler from SLED. Monte Blackman, SLED. Todd -- is

1 it Shink?

2 MS. MAYES: Shank, Your Honor.

3 THE COURT: Shank. He's CSI with SLED, SLED being
4 our State Law Enforcement Division.

5 A Katlyn Poole from South Carolina Department of
6 Corrections. Daniel Cotter with the South Carolina
7 Department of Corrections. Travis Cox from the South
8 Carolina Department of Corrections. Tawanna Harden. A
9 Major Stanley Terry from the South Carolina Department of
10 Corrections. Thomas Robertson from the South Carolina
11 Department of Corrections. Jasmine Jacobs from the South
12 Carolina Department of Corrections. Lieutenant Verdea
13 Hall from the South Carolina Department of Social
14 Services. A Corporal Erin -- is it Cuey? -- from the
15 South Carolina Department of Corrections. A Sergeant
16 Jameelya -- I'm going to spell that: Jameelya Cunningham
17 from the South Carolina Department of Corrections.
18 Phillip Turner from SLED. Michael Gifford from SLED. A
19 Johnny Greg. Calvin Bryant. Thomas Robertson from the
20 South Carolina Department of Corrections. And a Larry
21 Watson.

22 Let me ask the jury panel, is there anybody related
23 by blood or marriage, know personally, or have any
24 religious, political, social, or business association with
25 any of the witnesses that I just called in this case? If

1 so, please stand.

2 Yes, ma'am, your juror number?

3 JUROR NO. 167: 167.

4 THE COURT: Juror No. 167. That's Ms. Wideman.

5 Ms. Wideman, can you tell me who you know on the
6 witness list?

7 JUROR NO. 167: Lieutenant Verdea Hall is my best
8 friend.

9 THE COURT: Okay. Let me ask you this: By knowing
10 Lieutenant Hall, if you were selected as a juror in this
11 case, could you be fair and impartial to both sides,
12 meaning the State and the defense?

13 JUROR NO. 167: Yes, ma'am.

14 THE COURT: I'll keep you.

15 Anybody else?

16 (No response given.)

17 THE COURT: Has any member of the jury panel,
18 immediate family member, or a close friend ever been the
19 victim of or a witness to or investigated for or charged
20 with a felony offense, including but not limited to
21 kidnapping, assault, or any offense against another
22 person? If so, please stand.

23 (No response given.)

24 THE COURT: Does any member of the jury panel have
25 an immediate family member who has been employed in a

1 jail, a prison, or any other detention center, including
2 the McCormick Correctional Institute located at
3 386 Redemption Way in McCormick, South Carolina? If so,
4 please stand.

5 JUROR NO. 126: Juror 126.

6 THE COURT: Okay. I'll call on each one. I don't
7 want anybody -- keep standing. I don't want anybody
8 answering right out. I'll ask you the questions. Okay?
9 All right.

10 Juror No. 126, Mr. Peterson. Can you tell me who in
11 your family -- or friend -- is employed at a detention
12 center or a prison?

13 JUROR NO. 126: My brother formerly worked in a jail
14 in Montana.

15 THE COURT: Okay. So let me ask you, Mr. Peterson,
16 if you were selected as a juror in this case, could you be
17 fair and impartial to both the State and the defense?

18 JUROR NO. 126: Yes, Your Honor.

19 THE COURT: Thank you.

20 Yes, sir. Your juror number?

21 JUROR NO. 143: I believe it's 134 but that might be
22 [indiscernible].

23 THE COURT: All right. Well, how about I call out
24 that name and you tell me? How about Mr. Ramsey?

25 JUROR NO. 143: [Indiscernible].

1 THE COURT: No? And what's your name?

2 JUROR NO. 143: Luke Seigler.

3 THE COURT: 144 [sic]. You were close. 143.

4 JUROR NO. 143: 143.

5 THE COURT: Luke Seigler. Mr. Seigler, who do you
6 know that works at a detention center or a prison?

7 JUROR NO. 143: My father works at McCormick County
8 Detention Center.

9 THE COURT: Is he currently working there now?

10 JUROR NO. 143: Currently employed there.

11 THE COURT: Do you know what's his position?

12 JUROR NO. 143: I think he's over property.

13 THE COURT: Over property? Okay.

14 JUROR NO. 143: [Indiscernible].

15 THE COURT: Okay. Thank you. Let me ask you this:
16 If you were selected as a juror in this case, could you be
17 fair and impartial to both the State and the defense?

18 JUROR NO. 143: Yes, ma'am.

19 THE COURT: I'm keeping you.

20 Yes, ma'am, your juror number?

21 JUROR NO. 146: 146.

22 THE COURT: Juror No. 126.

23 JUROR NO. 146: 146.

24 THE COURT: 146. Ms. Shelley.

25 JUROR NO. 146: Yes, ma'am.

1 THE COURT: Ms. Shelley, who do you know that works
2 at a detention center or a prison?

3 JUROR NO. 146: I myself have worked as a CO in
4 Hanover County, Maryland, and I have several friends that
5 still work there.

6 THE COURT: But that's in Maryland.

7 JUROR NO. 146: Yes, ma'am.

8 THE COURT: All right. Well, let me ask you: If
9 you were selected as a juror in this case, could you be
10 fair and impartial to both the State and the defense?

11 JUROR NO. 146: Yes.

12 THE COURT: I'm keeping you.

13 Yes, ma'am?

14 JUROR NO. 48: 48.

15 THE COURT: Juror No. 48. That's Ms. Gary.

16 Ms. Gary, who do you know?

17 JUROR NO. 48: My nephew passed [indiscernible].
18 He's not in [indiscernible].

19 THE COURT: But he used to. And where did he used
20 to work?

21 JUROR NO. 48: McCormick County.

22 THE COURT: At McCormick County. Let me ask you
23 this: If you were selected as a juror, could you be fair
24 and impartial to both the State and the defense if you
25 were chosen?

1 JUROR NO. 48: Yes, ma'am.

2 THE COURT: I'm keeping you.

3 Anybody else?

4 All right. Is any member of the jury panel had an
5 immediate family member or a close associate housed within
6 the South Carolina Department of Corrections within the
7 last ten years? If so, please stand.

8 (No response given.)

9 THE COURT: Is there any member of the jury panel
10 who is a member of or contributor to any group which has
11 as its primary concern the promotion of law enforcement or
12 victim's rights? These groups would include but certainly
13 not be limited to MADD, SADD, or CAVE, Citizens Against
14 Violent Crime? Do we have any member of the jury panel
15 who is a contributor to or a member? If so, please stand.

16 (No response given.)

17 THE COURT: Can I see the lawyers just for one
18 second?

19 BENCH CONFERENCE

20 (A bench conference was held off the record and
21 outside of the hearing of the jury.)

22 (Open court resumes as follows:)

23 THE COURT: All right. The next question: This
24 incident took place at the McCormick Correctional
25 Institution while Chavis Cox was an inmate there. Is

1 there any member of the jury panel who cannot put aside
2 any thoughts of prior crimes that Mr. Cox may or may not
3 have committed? If so, please stand.

4 (No response given.)

5 THE COURT: All right. During the course of this
6 trial, all of the jurors will be asked to listen carefully
7 to testimony from witnesses, review and consider various
8 exhibits that get admitted as evidence, and follow my
9 instructions on the law in this case. Is there any member
10 of the jury panel who feels that they will not be able to
11 listen carefully to testimony from the witnesses, review
12 and consider the various exhibits and follow my
13 instructions on the law in this case? If so, please
14 stand.

15 (No response given.)

16 THE COURT: Has any member of the jury panel formed
17 or expressed an opinion about any issue or matter involved
18 in this case? If so, please stand.

19 (No response given.)

20 THE COURT: Is there any member of the jury panel
21 aware of any bias or prejudice toward either the State or
22 the defendant in this case? If so, please stand.

23 (No response given.)

24 THE COURT: Does any member of the jury panel have
25 any religious or moral beliefs which would prevent them

1 from passing judgment on another person as a member of the
2 jury? If so, please stand.

3 (No response given.)

4 THE COURT: Does any member of the jury panel know
5 of any reason whatsoever why he or she should not serve as
6 a juror in this case with particular emphasis being placed
7 on your ability to be fair and impartial to both the State
8 and the defendant? If so, please stand.

9 (No response given.)

10 THE COURT: All right. At this time, let me ask the
11 State: Do you have any additional questions you would
12 like to have asked?

13 MS. MAYES: None from the State, Your Honor.

14 THE COURT: Let me ask the defendant: Any
15 additional questions you would like to have asked?

16 MR. CHEHOSKI: Your Honor, I would like to have my
17 [indiscernible] made a Court exhibit in light of any
18 questions the Court might ask.

19 THE COURT: On the -- sure.

20 MR. CHEHOSKI: I thought it was on my proposed
21 [indiscernible].

22 THE COURT: Do you have a copy of it that we can
23 give the court reporter? I'll have her mark it as a
24 Court's Exhibit No. 1.

25 (Court's Exhibit No. 1, Defendant's Requested Voir

JURY SELECTION

21

1 Dire, was marked for identification and received into the
2 record.)

3 THE COURT: All right. So let me ask you,
4 Mr. Chehoski, any additional questions?

5 MR. CHEHOSKI: I'm sorry, Your Honor?

6 THE COURT: Any additional questions?

7 MR. CHEHOSKI: No, Your Honor.

8 JURY SELECTION

9 THE COURT: Okay. All right. Let's pick the jury.
10 Looks like we're doing this the old-fashioned way, they
11 tell me.

12 Now, let me -- all right. We're doing this the
13 old-fashioned way. They have got your juror numbers in a
14 box and they're going to pull them out, you know. In
15 Lexington, we do it electronically, but this is pretty
16 cool. You don't get to see this very often. So y'all
17 enjoy that.

18 So when they call your juror number -- because, from
19 here on out, we're juror numbers. We are not -- we're not
20 using names. I don't do that. So juror numbers. When
21 they call your juror number, please stand, come around,
22 and I want you to stand right in front of Ms. Buffy here.

23 Will you walk around and show them where I want them
24 to stand?

25 And turn around and face the windows just like that.

1 And then the lawyers are going to say, "Please present the
2 juror" or "Please excuse the juror." If they excuse you,
3 you can return to your seats. That doesn't mean you get
4 to leave. You can return to your seat. If you're going
5 to be seated as a juror, you're coming over here to this
6 jury box and you're going to stay with us. Okay?

7 So let's try it. Let's see who's number one.

8 MS. MAYES: For the record, Your Honor, five and
9 five?

10 THE COURT: Five and five.

11 THE CLERK: Juror No. 62.

12 THE COURT: No names.

13 (Juror No. 62, a White female, presented.)

14 THE CLERK: What says the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. CHEHOSKI: Please seat Ms. Heidkamp.

18 THE CLERK: Juror No. 87.

19 (Juror No. 87, a White female, presented.)

20 THE CLERK: What says the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What says the defense?

23 MR. CHEHOSKI: Please excuse Ms. Lowery from service
24 in the case.

25 THE CLERK: Ms. Lowery, if you will return to your

JURY SELECTION

23

1 seat.

2 THE COURT: I'm sorry; I didn't mean to mess y'all
3 up.

4 THE CLERK: No. 164.

5 (Juror No. 164, a Black female, presented.)

6 THE CLERK: What says the State?

7 MS. MAYES: Please excuse the juror from this trial
8 of this case.

9 THE CLERK: If you will return to your seat.

10 Juror No. 104.

11 (Juror No. 104, a White male, presented.)

12 THE CLERK: What says the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. CHEHOSKI: Please seat Mr. Mears.

16 THE CLERK: Juror No. 95.

17 (Juror No. 95, a White male, presented.)

18 THE CLERK: What says the State?

19 MS. MAYES: Beg the Court's indulgence.

20 THE COURT: Take your time.

21 MS. MAYES: Please excuse the juror from the trial
22 of this case.

23 THE CLERK: Juror No. 124.

24 (Juror No. 124, a White male, presented.)

25 THE CLERK: What says the State?

1 MS. MAYES: Please present the juror.
2 THE CLERK: What says the defense?
3 MR. CHEHOSKI: Please seat Mr. Payne.
4 THE CLERK: Juror No. 65.
5 (Juror No. 65, a Black female, presented.)
6 THE CLERK: What says the State?
7 MS. MAYES: Please present the juror.
8 THE CLERK: What says the defense?
9 MR. CHEHOSKI: Please seat Ms. Holloway.
10 THE CLERK: Juror No. 121.
11 (Juror No. 121, a White male, presented.)
12 THE CLERK: What says the State?
13 MS. MAYES: Please present the juror.
14 THE CLERK: What says the defense?
15 MR. CHEHOSKI: Please seat Mr. Patrick.
16 THE CLERK: Juror No. 53.
17 (Juror No. 53, a White male, presented.)
18 THE CLERK: What says the State?
19 MS. MAYES: Please present the juror.
20 THE CLERK: What says the defense?
21 MR. CHEHOSKI: Please seat Mr. Goff.
22 THE CLERK: Juror No. 154.
23 (Juror No. 154, a White female, presented.)
24 THE CLERK: What says the State?
25 MS. MAYES: Please present the juror.

JURY SELECTION

25

1 THE CLERK: What says the defense?

2 MR. CHEHOSKI: Please seat Ms. Swann.

3 THE CLERK: Juror No. 108.

4 (Juror No. 108, a White male, presented.)

5 THE CLERK: What says the State?

6 MS. MAYES: Please excuse the juror from this trial
7 of this case.

8 THE CLERK: Juror No. 153.

9 (Juror No. 153, a White female, presented.)

10 THE CLERK: What says the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. CHEHOSKI: Please seat Ms. Storey.

14 THE CLERK: Juror No. 91.

15 (Juror No. 91, a Black female, presented.)

16 THE CLERK: What says the State?

17 MS. MAYES: Please excuse the juror from this trial
18 of this case.

19 THE CLERK: Juror No. No. 75.

20 (Juror No. 75, a Black male, presented.)

21 THE CLERK: What says the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What says the defense?

24 MR. CHEHOSKI: Please seat Mr. Kelly.

25 THE CLERK: Juror No. 134.

1 (Juror No. 134, a White female, presented.)

2 THE CLERK: What says the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. CHEHOSKI: Please excuse Ms. Ramsey from service
6 in this case.

7 THE CLERK: Juror No. 162.

8 (Juror No. 162, a White female, presented.)

9 MS. MAYES: 162, Madam Clerk?

10 THE CLERK: 162. Yes, ma'am.

11 What says the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What says the defense?

14 MR. CHEHOSKI: Please seat Ms. Watson.

15 THE CLERK: Juror No. 77.

16 (Juror No. 77, a White female, presented.)

17 THE CLERK: What says the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What says the defense?

20 MR. CHEHOSKI: Please excuse Ms. Johnson from
21 service in this case.

22 THE CLERK: Juror No. 48.

23 (Juror No. 48, a Black female, presented.)

24 MS. MAYES: 48?

25 THE CLERK: 48.

JURY SELECTION

27

1 What says the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. CHEHOSKI: Please excuse Ms. Gary from service
5 in this case.

6 THE CLERK: Juror No. 145.

7 THE COURT: Juror No. -- what number?

8 THE CLERK: 145.

9 THE COURT: 145. Do I have a Juror No. 145? Here
10 she comes.

11 (Juror No. 145, a Black female, presented.)

12 THE CLERK: What says the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What says the defense?

15 MR. CHEHOSKI: Please seat Ms. Settles.

16 THE CLERK: Juror No. 56.

17 (Juror No. 56, a White male, presented.)

18 THE CLERK: What says the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What says the defense?

21 MR. CHEHOSKI: Please excuse Mr. Grooms from service
22 in this case.

23 THE CLERK: Juror No. 172.

24 (Juror No. 172, a White female, presented.)

25 MS. MAYES: 172?

1 THE CLERK: 172.

2 What says the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. CHEHOSKI: Please seat Ms. Wood.

6 THE CLERK: 12 jurors.

7 THE COURT: All right. Everybody okay with two
8 alternates? Do I have enough for two alternates?

9 MS. MAYES: May we approach, Your Honor?

10 THE COURT: Sure.

11 BENCH CONFERENCE

12 (A bench conference was held off the record and
13 outside of the hearing of the jury.)

14 (Open court resumes as follows:)

15 THE COURT: All right. We're going to do three
16 alternates.

17 THE CLERK: Juror No. 158.

18 (Juror No. 158, a White female, presented.)

19 THE CLERK: What says the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What says the defense?

22 MR. CHEHOSKI: Please excuse Ms. Torres from service
23 in this case.

24 THE CLERK: Juror No. 102?

25 MR. CHEHOSKI: 102?

JURY SELECTION

29

1 THE CLERK: 102.

2 (Juror No. 102, a White male, presented.)

3 THE CLERK: What says the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What says the defense?

6 MR. CHEHOSKI: Please excuse Mr. McLasky from
7 service in this case.

8 THE CLERK: Juror No. 47.

9 (Juror No. 47, a Black male, presented.)

10 THE CLERK: What says the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What says the defense?

13 MR. CHEHOSKI: Please seat Mr. Garrett.

14 THE CLERK: Juror No. 70.

15 (Juror No. 70, a White female, presented.)

16 THE CLERK: What says the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What says the defense?

19 MR. CHEHOSKI: Please seat Ms. Jahnke.

20 MS. MAYES: May we approach?

21 THE COURT: You may.

22 BENCH CONFERENCE

23 (A bench conference was held off the record and
24 outside of the hearing of the jury.)

25 (Open court resumes as follows:)

1 THE COURT: All right. One more.

2 THE CLERK: Juror No. 146.

3 (Juror No. 146, a White female, presented.)

4 THE CLERK: What says the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What says the defense?

7 MR. CHEHOSKI: Please excuse Ms. Shelley.

8 THE COURT: On each one, did he have two strikes on
9 this one?

10 THE CLERK: This was his third strike.

11 THE COURT: Yeah, you don't get a third strike.

12 MR. CHEHOSKI: [Indiscernible] two per alternate?

13 THE COURT: Two per alternate.

14 MR. CHEHOSKI: That was my first for this alternate.

15 THE COURT: Okay. That's what I was asking them,
16 per --

17 THE CLERK: [Indiscernible].

18 MS. MAYES: Not yet.

19 THE COURT: It's per person. Okay? Yeah, y'all
20 keep going. I'll let you know when you have gone over.

21 THE CLERK: All right. Thank you.

22 Okay. Juror No. 2.

23 (Juror No. 2, a White female, presented.)

24 THE CLERK: What say the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What says the defense?

2 MR. CHEHOSKI: Please Ms. Arhelger.

3 THE COURT: Okay. All right. As far as jury
4 selection goes, anything from the State?

5 MS. MAYES: Nothing from the State, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. CHEHOSKI: No objection, Your Honor.

8 THE COURT: All right. Let me address those out in
9 the gallery. Again, thank y'all for coming. We're only
10 going to try one case this week, but I do appreciate you
11 taking the time to come. The good news is you get paid
12 for coming today. The bad news is probably the check's in
13 the mail. I don't think they give you your money until
14 the term of court is over with, which will be on Friday.
15 It won't be a whole lot of money, but you might can
16 squeeze some lunch out of it.

17 But thank y'all for coming. I'm going let you be
18 excused.

19 (The jury panel exited the courtroom at 12:00 p.m.)

20 THE COURT: All right. Welcome. Y'all are now the
21 jury in this case. Let me just give you a little bit of
22 housekeeping, because we are going to start this case
23 today.

24 No cell phones. You can -- the bailiffs will take
25 them up when you go into the jury room. I don't allow

1 cell phones in the jury room. Certainly not in the
2 courtroom either.

3 On breaks, you may step out in the hall. If you
4 have an emergency, you can use your cell phone.

5 There's no note-taking in this case. So it's
6 imperative that you pay attention to the witnesses who are
7 testifying and all the exhibits that are introduced,
8 because that's how you will make your decision.

9 You're going to be given a juror badge. Wear it
10 proudly. Everybody in this courthouse wants to know who
11 are the jurors, because I can tell you, I have ordered all
12 the lawyers, they're not allowed to talk to you at all.
13 If they see you, they're probably going to turn around and
14 run because that's what they're supposed to do. So if
15 they see you at lunch, they know not to talk about this
16 case. They're just not going to talk to you at all.
17 You're not allowed to talk to them, so please don't try
18 to.

19 Please don't try to talk to any witnesses who have
20 testified if you see them out. In fact, let me tell you,
21 you're not allowed to talk about this case at all even
22 amongst yourselves. So let me say that again, because
23 would not believe what I get to see sitting up here. You
24 are not allowed to talk about this case at all even
25 amongst yourselves in the jury room until I tell you to.

1 It's amazing because it's just so easy -- everybody
2 wants to pick up the phone and say, "Hey, you're not going
3 to believe this but I just got picked for jury duty,"
4 blah, blah, blah, blah, blah. You would not believe how
5 all that stuff gets back to me. It amazes me. And then
6 it jeopardizes the whole case. You cannot do that.

7 Do not go home and talk to your spouse about this
8 case at all. You're not allowed to do that. If you're
9 employed, please call your employer and tell them you're
10 on jury duty, you have been selected. You're more than
11 welcome to do that.

12 Other than that, do not discuss this case at all,
13 even amongst yourselves. In fact, I'm going to ask you
14 every single morning if you have talked to anybody or has
15 anybody tried to talk to you about this case. If so, you
16 need to let me know immediately.

17 I'm just trying to think. Is there anything else I
18 need to tell you? Oh, if -- when I tell you to come back
19 to court -- we're probably going to start -- lawyers okay
20 with 2:00?

21 MS. MAYES: Yes, Your Honor.

22 THE COURT: I'm going to let you go to lunch and
23 then we'll come back and swear the jury in and begin this
24 case. But when I say 2:00, be here about 15 minutes
25 earlier. Cannot start without everyone. One person is

1 missing, even an alternate, we have to wait for everybody.
2 So please be conscientious of everybody else's time. Try
3 to be prompt.

4 Again, no talking about this case. I'm going to let
5 you go with the bailiff. He's going to show you where the
6 jury room is.

7 Then they may go to lunch.

8 We're going to start this trial at 2:00 so please be
9 in the jury room at 1:45. Thank you.

10 Mr. Patrick? Will you do the honor of being my
11 foreman?

12 JUROR NO. 121: I will.

13 THE COURT: Thank you. We'll have a special seat
14 for you when you come back.

15 (The jury exited the courtroom at 12:05 p.m.)

16 MOTIONS/MATTERS OF LAW

17 THE COURT: All right. Let me start with the
18 State's motion. I got a motion in limine about character
19 evidence regarding any witnesses in this case; is that
20 right?

21 MS. MAYES: That's correct, Your Honor. And this is
22 just precautionary in nature. We do anticipate in this
23 case that Sergeant Tawanna Harden, one of the correctional
24 officers who was taken hostage on the night of December
25 27th, will be testifying in this case. We have materials

1 that were probably six inches deep and, in the course of
2 those materials from the State Law Enforcement Division,
3 there were numerous statements from various inmates in the
4 McCormick Correctional Institute.

5 There was, I believe, one report that referred to
6 some kind of informant was in the Department of
7 Corrections, not mentioned by name but it was all based on
8 hearsay, some type of validation about Ms. Harden having
9 been allegedly friendly with some other inmate in the past
10 who was not the defendant and not one of the defendants
11 who was also charged as one of the co-conspirators. We
12 believe there is absolutely no merit to that whatsoever.
13 There is no information or evidence to support any of
14 that, but I am putting all of this on the record to make
15 sure that we don't get into hearsay-on-top-of-hearsay-type
16 allegations that are character based. That would clearly
17 be inadmissible pursuant to the rules.

18 THE COURT: How about it, Mr. Chehoski?

19 MR. CHEHOSKI: Your Honor, if there's anything that
20 might impact the witness's credibility, I think I'm
21 allowed to get into it. Your Honor, whether or not she
22 had an involved relationship with one particular inmate, I
23 think that, due to the circumstances of this kind of a
24 case, we can go into whether or not she had friendlier
25 relationships not -- just on a more on -- friendlier on a

1 professional level, whether or not, you know, if she had
2 her particular inmates, whether or not they were -- they
3 helped make her job easier.

4 I think I can get into that because that, again,
5 goes into whether or not -- it goes into what -- you know,
6 what little he had for a defense. It goes into whether or
7 not, you know, that she was more helpful to some more than
8 others.

9 MS. MAYES: So if I'm tracking what --

10 THE COURT: This is -- let me just make sure I got
11 the charges right -- taking hostages by an inmate.

12 MS. MAYES: Yes.

13 THE COURT: And an escape.

14 MS. MAYES: Correct, Your Honor. And, again, there
15 is absolutely no basis whatsoever that Ms. Harden had any
16 kind of improper relationship with any inmate at that
17 correctional center, whether they were involved in this
18 case or not involved in this case. And so Mr. Chehoski
19 would be basing that line of inquiry on some allegations
20 that are all hearsay in nature from an inmate who is not
21 involved in this case, and we would move to limit, and
22 that is the basis of our motion in limine, any implication
23 of impropriety involving Ms. Harden's relationship with
24 any inmates.

25 MR. CHEHOSKI: Your Honor, again, I'm not going into

1 any improper relationship. I'm going into the fact that,
2 you know, whether or not she was doing her job well. And
3 I think that's -- and if there are -- if she had cordial
4 and friendly, professional relationships with people she's
5 in charge with, I think I'm allowed to go into it. I'm
6 not going to anything improper. I think when you're doing
7 a 12-hour shift with the same people every day, some
8 people you like better than others. And I think that's
9 completely fair game.

10 I'm not going to be going into any alleged, improper
11 relationship --

12 THE COURT: Yeah, I'm not going to allow that.

13 MR. CHEHOSKI: And I'm not going -- I have no plans
14 to go in that direction. It's anything that -- any kind
15 of -- it goes to -- goes to the quality of her work, then
16 I think that's fair game.

17 THE COURT: All right. We'll see where it goes, and
18 I'll rule on it as the objection happens.

19 All right. Then, Mr. Chehoski, I have got your
20 motion and memorandum in support to set aside the
21 mandatory life without parole.

22 MR. CHEHOSKI: Yes, Your Honor. As you can see from
23 my motion, first of all, we state out that, according to
24 Mr. Cox's record and according to what the statute
25 requires, the State has satisfied what's required.

1 Mr. Cox does have a prior qualifying conviction and they
2 served -- and the State did serve notice of their intent
3 to seek that.

4 What I am arguing, Your Honor, is that the entire
5 framework of the statute is an unconstitutional delegation
6 of sentencing authority. That is completely the purview
7 of the legislature in giving it to the State.

8 Your Honor, this is not a separation of powers
9 argument. The Court -- I believe it's State v.
10 Burdette -- let me make sure.

11 THE COURT: It is.

12 MR. CHEHOSKI: State v. Burdette has already held
13 that separation of powers. However, in State v. Burdette,
14 quoting U.S. v. Washington, a 7th Circuit opinion from
15 1977, it says choosing which crime to charge a defendant
16 is the essence -- choosing which crime to charge a
17 defendant with is the essence of prosecutory discretion.
18 But not -- but choosing which sentence this Court shall
19 impose upon a conviction is outside of that. And that's
20 what the State is doing here, Your Honor. The State is
21 choosing the sentence. This charge carries zero to 30
22 years. But because the State has chosen to exercise the
23 statute 17-45 -- under 17 -- I think 45-25 or -- under the
24 statute, subsection G, which gives them that discretion,
25 Your Honor, we're arguing that this statute cannot ever be

1 enforced constitutionally because the -- all it does --
2 all the statute does is create a class of eligible
3 defendants who may be subject to this sentence, and that's
4 it.

5 And then, out of that class, the -- no defendant
6 has -- can look through any law or go through any history
7 or tell from anyone -- anybody who might be similarly
8 situated whether or not they'll be facing a life without
9 parole sentence.

10 As I have laid out in the brief, Your Honor, under
11 the Moore framework -- under the Moore framework, the
12 legislative act must be complete in itself. The agency or
13 authors give it no power to add or take away from the laws
14 enacted. Nothing is left to the agency or offers
15 discretion of what should constitute the form and
16 substance of the sentence, and the act embodies a full and
17 complete expression of the legislative wealth.

18 Your Honor, we submit that this act fails prongs 1,
19 3, and 4 because the act is not complete in itself. It
20 just creates that class. And because it is not complete,
21 the -- the General Assembly has created a space in which
22 the solicitor may legislate, in this case, assign a
23 punishment for a crime and has given the executive branch
24 unfettered and unchecked discretion as to who will be
25 subject to that enhanced statute.

1 As for Moore, Your Honor, again, we -- that was
2 Moore. I'm sorry, Harvin. In Harvin, it says that the
3 act must have an expressed general purpose, a declared
4 legislative policy. The establishment of primary
5 standards for carrying out the law or an intelligible
6 principle in which the administrative officer must conform
7 with proper regard for the property and protection of
8 public interest and with such degree of certainty as
9 nature persists -- permits and the establishment of
10 procedure under which, by appeal or otherwise, the public
11 interest in private rights shall have due consideration.

12 Again, Your Honor, under Harvin, it's the same.
13 There is -- it just creates a mechanism for imposing life
14 without parole but no guidance. It does not state which
15 of those eligible should or must actually receive that
16 penalty upon conviction. The legislative has neither made
17 any requirements that the sentence [indiscernible] must be
18 sought in certain cases nor has it established a principle
19 by which such requirement can be deduced from the
20 solicitor. As such, there can be no primary standards or
21 intelligible principles for determining when the penalty
22 must apply.

23 And, Your Honor, the discretion is entirely in the
24 hands of the solicitor. They're able to cherry-pick who
25 among a group of defendants created by the statute and

1 raises stakes for that for any reason or no reason at all.
2 Within this class of defendants, Your Honor, the solicitor
3 is as free as the legislature to decide what penalty
4 should accompany a particular crime. And, moreover, Your
5 Honor, a solicitor's decision is as final as the
6 legislation that is passed by a majority vote and signed
7 by the governor.

8 So not only is there no intelligible principle,
9 which would give as much certainty with regard to the
10 operation of the law as the situation permits, there can
11 be no certainty when there are no principles to determine
12 the selection of the application. Lastly, Your Honor, the
13 statute fails because there's absolutely no mechanism for
14 judicial review.

15 If we go to trial in this case and Mr. Cox is dually
16 convicted, the statute says that the Court must give a --
17 must give a life sentence on a charge that carries zero to
18 30. There is no wavering from that discretion. This
19 isn't like a property crime where there's an enhancement
20 where now they can [indiscernible] ten years but still,
21 you know, even on a charge that would carry a maximum
22 penalty of 30 days, the judge will state -- the Court
23 would still have the discretion to sentence to 30 days or
24 up to ten years or anywhere in between because it's giving
25 the statutory framework.

1 In this case -- or it's not like a -- or a death
2 penalty trial, the most severe punishment that we have --
3 this being the second most severe -- where, again, there
4 would be a recommendation and they'd have to go through
5 the court -- go through the trial, in which case it would
6 be a bifurcated trial, and then, after presenting the
7 statutory aggravators, the Court -- the jury would give a
8 recommendation to which the Court can still deviate from
9 that recommendation and still give a life sentence.

10 Here, Your Honor, the Court's hands would be tied.
11 No discretion, no judicial review. In this case, Your
12 Honor, what our argument is, the way this law has been
13 enacted and has been written, there is no way that this
14 cannot be done in any way but an arbitrary way.

15 If this case falls in the hands of a different
16 solicitor or if a similar case is prosecuted by a
17 different solicitor in a different county under similar
18 circumstances, they're just as free to not seek life
19 without parole as they would be to seek life without
20 parole without any intelligible principle or guidance
21 given by the statute.

22 Your Honor, furthermore -- again, that's on our --
23 furthermore, on the -- that's for our nondelegation.
24 There's also -- we're also asking that this statute fails
25 on a due process and equal protection argument.

1 A similar due process challenge was given in
2 Strickland v. State, which is 276 S.C. 17. Your Honor,
3 even though a prosecutor may be influenced in the choice
4 it charges, by what penalties the charge may carry, each
5 statute, as given by the legislature, fail by the
6 different crime with a different penalty.

7 The mere fact that a prosecutor could choose which
8 crimes that say [indiscernible] constitution but by
9 allowing, Your Honor, a solicitor in a criminal case to
10 select what penalty applies to a particular crime, the
11 legislature has not only delegated its power to make the
12 law to the executive branch but also created a system that
13 can only allow the solicitor to selectively -- selectively
14 to legislate penalties for individual defendants.

15 Under 17-25-45, Defendant may know he's eligible but
16 he cannot know whether or not he'll be selected. That is,
17 again, we're saying both -- it violates equal protection
18 and due process in addition to being -- violating the
19 nondelegation doctrine.

20 And so, Your Honor, we're asking the Court to rule
21 that 17-24 at 45 as it is written is an unconstitutional
22 passage of law, and, therefore, we're asking the Court, as
23 a remedy, to set aside the mandatory life without parole
24 sentence in this case.

25 THE COURT: Thank you, Mr. Chehoski.

1 Ms. Mayes?

2 MS. MAYES: Yes, Your Honor. Of course this statute
3 was enacted years ago by our legislature. The appellate
4 courts have upheld the imposition of life without parole
5 pursuant to this statute. This would remain an issue for
6 appeal, I submit, not an issue for the trial court at this
7 time. It would remain an appellate issue.

8 The prior most serious offense regarding Mr. Cox is
9 a conviction for murder. As a result, the State did serve
10 notice of life without parole for the hostage-taking
11 event, which occurred involving a female correctional
12 officer at McCormick Correctional Institute.

13 Your Honor, these cases are extremely rare. I have
14 not seen one myself throughout my career, and given the
15 facts of this case, albeit the defense argument that it is
16 arbitrary, we certainly find that the prior record of
17 Mr. Cox in the current circumstances support the
18 application of the life without parole statute.

19 And as I stated, Your Honor, we believe this would
20 be an issue for an appeal, not necessarily a matter for
21 the trial court at this time.

22 THE COURT: Okay. Thank you, Ms. Mayes.

23 Well, I mean, even in the defendant's memorandum,
24 they can see that his prior record makes him eligible for
25 the enhanced sentence. He was notified in a timely

1 manner. I'm going to allow the case to go forward. You
2 can certainly take up any issue of it being
3 unconstitutional with our Supreme Court. I'll let them
4 decide. Thank you.

5 MR. CHEHOSKI: Your Honor, I did file -- I did file
6 this motion with the -- and did proffer with the Court. I
7 have a copy of the original. It's what's on file. I'd
8 ask that this motion memorandum be made a Court's exhibit.
9 This is the only --

10 THE COURT: Court's Exhibit No. 2 is going to be the
11 defendant's motion and memorandum in support to satisfy
12 the mandatory LWOP, which this Court has declined to do.

13 (Court's Exhibit No. 2, Defendant's Motion/Memo in
14 Support to Satisfy Mandatory LWOP, was marked for
15 identification and received into the record.)

16 THE COURT: Now, do I have any other motions?

17 MS. MAYES: Your Honor, at this time, the State will
18 also mark as a Court's exhibit their notice of evidence
19 pursuant to South Carolina Code Section 19-5-520, and this
20 was the notice of evidence regarding the business records
21 being the video surveillance recordings from within the
22 McCormick Correctional Institute. This is signed by
23 Jacqueline Jacobs and provided and served upon the
24 defense. I believe that was May 16th, 2024. We have
25 received no objection pursuant to the statute, so I'm

1 going to mark that as a Court's exhibit at this time.

2 MR. CHEHOSKI: That's correct, Your Honor.

3 THE COURT: Okay.

4 MR. CHEHOSKI: Notice was provided in a timely way.

5 THE COURT: All right. Notice provided. She wants
6 it as a Court's exhibit. That will be Court's Exhibit No.
7 3.

8 (Court's Exhibit No. 3, Notice of Evidence, was
9 marked for identification and received into the record.)

10 MR. CHEHOSKI: And, Your Honor, this is going to be
11 more of cursory motion. I'm also asking the Court to find
12 that the statute of 17 -- of 24-13-450, the taking
13 hostages statute, is, quote, "Unconstitutionally vague and
14 overbroad." Specifically the language here that says
15 that, "However, by threats, coercion, intimidation, or
16 physical force, takes hold, decoys, or carries away any
17 person as a hostage," specifically the language that I'm
18 highlighting, "or for any other reason." I am saying
19 that, again, as that -- I think that language is
20 unconstitutionally overbroad with the understanding that
21 State v. Newman, which is 384 S.C. 395 and 683 S.E.2d 268,
22 has addressed this specific issue and -- let's see if I
23 did, in fact, highlight what I meant to highlight.

24 I'm making this, again, statements for the record.
25 One moment, please, Your Honor.

1 THE COURT: Take your time.

2 MR. CHEHOSKI: State -- I don't like doing the
3 State's job for them, as much as they appreciate it
4 sometimes. But, Your Honor, in State v. Newman, an
5 officer was locked into a closet while there was -- while
6 an attempted escape went on. The Court found that Newman
7 in that case did not have standing to challenge the
8 statute based -- because, based on even the most
9 restrictive reading of the statute, it applied to Newman.

10 And, again, I feel like the case is sufficiently on
11 point that the Court's ruling would be the same on here.
12 However, with that, to make a motion and to make it on the
13 record, we'd move that or argue that the statute as
14 written is unconstitutionally broad -- overbroad and
15 vague.

16 THE COURT: Okay.

17 MS. MAYES: Your Honor, Newman is controlling case
18 law. It was a McCormick Correctional Institute case as
19 well, an 11th Judicial Circuit case, and upheld the
20 constitutionality of this particular statute.

21 THE COURT: Right.

22 MS. MAYES: The final matter, Your Honor, would be
23 that we anticipate both Major Stanley Terry and Sergeant
24 Tawanna Harden, making an in-court identification of the
25 defendant Chavis Cox. Both were staff members and

1 employees of the McCormick County Correctional Center. So
2 we anticipate that they will be making an identification.
3 They have both viewed video of the event following the
4 event, but, with that said, they have known him. They
5 were in a supervisory position there at the correctional
6 center for a long period of time while the defendant was
7 an inmate. We have received no challenge to a potential
8 in-court ID pursuant to Biggers, but I just wanted that to
9 be clear on the record as well.

10 MR. CHEHOSKI: My understanding of Neil v. Biggers,
11 Your Honor, is the focus on the law enforcement conduct in
12 the presenting of either an in-person ID or a -- like a
13 photograph -- or a photograph [indiscernible] of being
14 unduly suggestive.

15 Your Honor, obviously, I'm going to object to it
16 because it's highly prejudicial, Your Honor, and -- but,
17 in this case, I don't think there's any law enforcement
18 action that makes it unduly prejudicial. I'm going to --
19 I have to object to it because, you know, there's going to
20 be 15 -- 15 people sitting in that box looking at my
21 witness, pointing a finger at my client saying he's the
22 person who was involved in this. That's prejudicial.
23 Obviously, it's prejudicial, Your Honor.

24 And so, you know, we make the argument, but I don't
25 think there's any action under Neil v. Biggers here that

1 we can challenge.

2 THE COURT: Okay. He says he can't and he's not
3 challenging anything under Biggers. He's just --

4 MR. CHEHOSKI: I'll renew my objection --

5 THE COURT: He just thinks the in-court ID is
6 prejudicial and I'm going to deny that. Somebody's got to
7 ID him.

8 MR. CHEHOSKI: I'll renew my objection at the time
9 of the ID, Your Honor.

10 THE COURT: Absolutely. And on the other one, based
11 on the Newman case, I'm denying your motion.

12 Now, the other thing I wanted to bring up is --
13 because we made a Court's exhibit out of this voir dire.
14 Just to make sure that the record is clean, I believe that
15 you were objecting -- because I would not ask the
16 reasonable doubt. And there's other one I did not -- I
17 told you I wasn't --

18 MR. CHEHOSKI: Your Honor, it was put on my --

19 THE COURT: On yours, it's No. 8.

20 MR. CHEHOSKI: 10 and 11.

21 THE COURT: 8, 10, and 11.

22 MR. CHEHOSKI: That's correct, Your Honor.

23 THE COURT: And we had a bench conference on that.
24 As far as asking the jury pool about reasonable doubt, if
25 they felt like the defendant was hiding something if he

1 chose not to testify, all of it -- all of it is about his
2 testimony in court. I decline to ask those because I
3 charge the law on that, and I do think it's commenting on
4 the facts to the jury pool when we don't know what he's
5 going to do.

6 I give those instructions at the end of the trial.
7 I'm not going to give jury -- I feel like they're jury
8 instructions to the jury beforehand. I'll let you put
9 anything you'd like to, Ms. Mayes, on the record as to
10 those three.

11 MS. MAYES: We have -- Your Honor, we left that
12 completely in the discretion of the Court but we do
13 believe that the Court's instructions, at the close of the
14 case to jurors, would certainly suffice regarding this
15 matter.

16 THE COURT: Okay.

17 MR. CHEHOSKI: And, Your Honor, again, for the
18 record, the argument that I have for including this is the
19 old point of avoiding or asking these questions to
20 determine if there's any biases or, you know, any improper
21 leanings that would be in contravention to the Court's
22 instructions.

23 We would like to know if any of the members of the
24 jury have these before they get on the jury, which is the
25 whole point of asking these questions. But once they get

1 on the jury, you know, I think, you know, the ship has
2 already sailed. And if they had the biases -- even if
3 they take an oath to follow the judge -- the Court's
4 instructions, with those biases, it's how they frame those
5 instructions.

6 And so, for those reasons, that's why, again, I am
7 submitting my proposed voir dire as a Court's exhibit,
8 which has now been marked as Court's Exhibit 1.

9 THE COURT: And I understand. And, you know, the
10 Court always -- I always ask during voir dire whether they
11 can follow instructions, listen to witnesses, view
12 exhibits. I do that in every case, and I think that
13 covers it.

14 All right. So I deny -- I decline to ask those
15 three questions.

16 MS. MAYES: And, also, Your Honor, I don't think I
17 stated it on the record, but the State had concerns as
18 well that they would -- that the questions were posing
19 comments on the facts.

20 THE COURT: Yes. And so did the Court --

21 [No audio from 12:32 p.m. to 12:35 p.m.]

22 THE COURT: All right. We're adjourned until -- no,
23 I got a plea. Let me do this plea right quick.

24 (A recess was taken from 12:37 p.m. to 2:14 p.m.)

25 MR. CHEHOSKI: -- make a motion to sequester

1 witnesses outside of Tawanna Harden and Russ Padgett, who
2 would be statutorily exempt from that order.

3 MS. MAYES: I believe the only other witness --

4 THE COURT: Is that the case agent and the evidence?

5 MS. MAYES: [Indiscernible], Your Honor, Agent
6 Padgett and the victim, Tawanna Harden, are present in the
7 courtroom exempt by statute. I believe the only other
8 person present would be Major Stanley Terry,
9 [indiscernible].

10 THE COURT: Okay. Any objection to that?

11 MR. CHEHOSKI: Your Honor, again, outside of the
12 statutory [indiscernible]. We believe that Major Terry
13 would have to exit the courtroom.

14 MS. MAYES: I'm sorry; what?

15 THE COURT: He doesn't want Agent Terry in here.

16 MS. MAYES: Acoustics are problematic in this
17 courtroom for some reason, Judge.

18 THE COURT: I know.

19 MR. CHEHOSKI: Like the rest of us, this courthouse
20 is old.

21 THE COURT: Okay. Do we have everybody out who is
22 supposed to be out then? Okay. All right. Let 's bring
23 the jury in.

24 (The jury entered the courtroom at 2:14 p.m.)

25 THE COURT: All right. I have got to have the

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1 foreman on the front. Come on. Y'all know how this goes.
2 They don't.

3 All right. Do I have everybody?

4 All right. Mr. Foreman, jury ready?

5 JURY FOREMAN: Jury is ready.

6 THE COURT: Please be seated.

7 All right. At this time, I'm going to ask the clerk
8 to please swear in the jury.

9 (The jury was duly sworn.)

10 OPENING REMARKS

11 THE COURT: All right, ladies and gentlemen of the
12 jury. Before we begin the actual trial of this case, I
13 thought it might be helpful if I explain to you basically
14 how a trial proceeds.

15 First, the State will make an opening statement. An
16 opening statement is not evidence. It is simply an
17 outline to help you understand what that party expects the
18 evidence will show. The defendant may, if he wishes,
19 present an opening statement but he does not have to, for
20 reasons I will explain.

21 Following the opening statements, you will hear
22 testimony and evidence in the case. This will consist of
23 testimony from State's witnesses as well as any physical
24 exhibits which will be introduced into evidence.

25 Following the completion of the testimony, the

1 attorneys will, again, have an opportunity to call -- to
2 make what is called a closing statement or summarization
3 of the case from their respective points of view. Again,
4 these arguments are not evidence.

5 Following the closing statements by the attorneys, I
6 will instruct you on the law of South Carolina as it
7 pertains to the issues that have arisen in the case. When
8 I have completed my instructions to you, you will then be
9 permitted to begin your deliberations in order reach a
10 verdict.

11 I want to take a few minutes to tell you something
12 about your duty as jurors and to give you some
13 instruction. At the end of the trial, I will give you
14 more detailed instructions and those instructions will
15 control your deliberations. It will be your duty to
16 decide from the evidence what the facts are. You and you
17 alone are the judges of the facts. You will hear the
18 evidence, decide what the facts are, and then apply the
19 facts to the law which I will give to you. That is how
20 you will reach your verdict.

21 In doing so, you must follow the law, whether you
22 agree with it or not. The evidence will consist of the
23 testimony of witnesses, documents and other things
24 received into evidence as exhibits and any facts on which
25 the lawyers agree or which I may instruct you to accept.

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1 You should not take anything I may say or do during
2 the trial as indicating what I think of the evidence or
3 what your verdict should be.

4 This is a criminal case brought by the State of
5 South Carolina. The State charges the defendant with
6 taking of a hostage and escape -- escape or attempted
7 escape.

8 The defendant -- the charge against the defendant is
9 contained in the indictment. The indictment is not
10 evidence of anything. It is simply the description of the
11 charge made by the State against the defendant. The
12 defendant has pled not guilty to the charge and is
13 presumed innocent unless and until proven guilty beyond a
14 reasonable doubt.

15 Proven beyond a reasonable doubt is proof that
16 leaves you firmly convinced of the defendant's guilt. A
17 defendant has the right not to testify and never has to
18 prove his innocence or present any evidence. The burden
19 of proof is always upon the State of South Carolina.

20 The following things are not evidence and you must
21 not consider them as evidence in deciding the facts of
22 this case: statements and arguments of the attorneys are
23 not evidence; questions and objections of the attorneys,
24 not evidence; and testimony that I instruct you to
25 disregard.

1 Evidence may be direct or circumstantial. Direct
2 evidence is testimony by a witness about what that witness
3 personally saw, heard, or did. Circumstantial evidence is
4 indirect evidence; that is, proof of one or more facts
5 from which one can find another fact. You are to consider
6 both direct and circumstantial evidence. The law permits
7 you to give equal weight to both but it is for you to
8 decide how much weight to give any evidence.

9 There are Rules of Evidence which control what can
10 be received into evidence. When a lawyer asks a question
11 or offers an exhibit into evidence and the lawyer on the
12 other side thinks that it's not permitted by the law, that
13 lawyer may object. If I overrule the objection, the
14 questions may be answered or the exhibit may be received.

15 If I sustain the objection, the questions cannot be
16 answered or the exhibit cannot be received. Whenever I
17 sustain an objection to a question or deny a motion to
18 admit an exhibit, you must ignore the question or the
19 existence of the exhibit and you must not guess what the
20 answer would have been or what the exhibit would have
21 shown.

22 Sometimes it may be necessary for me to request that
23 you leave the courtroom while I discuss with the attorneys
24 legal questions. I can promise you this will happen. If
25 that occurs, you should not speculate about our

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1 discussions or the reason that you were asked to leave the
2 room. This is simply a procedure that the law requires
3 when certain legal issues arise.

4 There also may be occasions where I ask the
5 attorneys to approach the bench so that I can discuss a
6 legal issue with them in private. I'll do this as often
7 as possible so you will not be required to leave the
8 courtroom more than is absolutely necessary. But, again,
9 if I ask the lawyers to step up to the bench or if I ask
10 you to leave the courtroom, please don't think that
11 anybody is trying to hide anything from you or keep any
12 evidence from you. This is simply a procedure used by all
13 lawyers and all courts to determine and decide legal
14 questions.

15 In deciding the facts of this case, you may have to
16 decide which witness to believe and which witness not to
17 believe. You may believe everything a witness says, only
18 part of it, or none of it. In deciding what to believe,
19 you may consider a number of factors, including the
20 following: The witness's ability to see, hear, or know
21 the things testified to; the quality of the witness's
22 memory; the witness's manner while testifying; whether the
23 witness has an interest in the outcome of the case or any
24 motive, bias or prejudice, and whether the witness was
25 contradicted by anything the witness said or wrote before

1 the trial or by other evidence; how reasonable was the
2 witness's testimony when considered in the light of other
3 evidence which you believe.

4 Until I advise you to begin your deliberations, you
5 must not discuss this case with anyone including your
6 fellow jurors, friends, family members, and anyone
7 involved in the case. This includes discussions
8 face-to-face, those by telephone, email, texts, blogs,
9 Twitter, Facebook, LinkedIn, Google, or any other method
10 of communication. You may not use a computer, a cell
11 phone, or other electronic device with communication
12 capabilities at any time while in this courtroom or during
13 your deliberations.

14 During your breaks, you may use your cell phones to
15 get and send information but, however, you may not, at any
16 time, use these devices to get or send information about
17 this case. This includes information about a party, a
18 witness, an attorney, a court officer, news accounts about
19 the case, research on any topics raised, or any topics you
20 may think would be helpful in deciding the case, or any
21 testimony presented by any witness.

22 During the trial, do not read, listen to, or watch
23 any news reports about the case. This includes anything
24 that may be in the newspapers or on the internet, radio,
25 or television. You must not consider anything you may

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1 have read or heard about the case outside of this
2 courtroom, whether before or during the trial.

3 After the case is submitted to you, you must discuss
4 it only in the jury room with your fellow jurors. I told
5 you earlier that the attorneys and the parties in the case
6 have been advised not to talk to you at all. If you see
7 them and they run, please don't be insulted; they're just
8 following my instructions.

9 It is important that you keep an open mind and not
10 decide any issue in the case until all of the evidence has
11 been presented, the parties have made their closing
12 arguments, and I have instructed you on the law in this
13 case.

14 It is your sole responsibility to determine the
15 guilt or innocence of the defendant and your verdict must
16 be based solely on the evidence as it is presented to you
17 in this trial and on the law as I instruct you during and
18 at the close of this trial.

19 Mr. Foreman, it's your added duty to preside in the
20 jury room and be the jury spokesperson here in court. It
21 will also be your duty to write the verdict but I'll give
22 you further instructions about that at the conclusion of
23 the case.

24 In order to preserve everyone's rights, I will give
25 the parties an opportunity to object to anything I have

1 said.

2 Any exceptions to my opening statement by the State?

3 MS. MAYES: Nothing from the State, Your Honor.

4 THE COURT: Any from the defense?

5 MR. CHEHOSKI: No, Your Honor.

6 THE COURT: We will now begin this case.

7 Let me hear from the State.

8 MR. FENDER: Thank you, Judge.

9 THE COURT: Absolutely. Go ahead.

10 OPENING STATEMENT ON BEHALF OF THE STATE

11 MR. FENDER: Good afternoon. I want to thank you
12 y'all for being here today. I know that what we have gone
13 through so far, it's not fun and fast-paced and exciting
14 or what we get to see on TV and in the movies, but what
15 you-all are doing, coming here today and serving on this
16 jury, is very important. It's important for our
17 community, it's important for McCormick County, and it's
18 important for the rule of law.

19 The law, it applies everywhere in this county, even
20 in the prison. Even in the McCormick Correctional
21 Institute, our law applies there. And when that law is
22 broken, this is where we all come together, in this
23 courthouse for a trial.

24 This week, you're going to get to see evidence.
25 This week, you'll get to deliver a verdict. The case that

1 you're going to hear about this week is about a prisoner,
2 a prisoner who tried to escape the prison. A prison
3 break. A defendant that had a plan, who wanted out of his
4 cell to try to get over the fence. He caused chaos and
5 anarchy in the prison.

6 As you'll hear during this trial, he had a plan. He
7 had been preparing. He waited, he waited, he waited for
8 that right moment, and he acted on his plan. The right
9 moment, that was the evening of December 27th, 2022. It
10 was just days after Christmas.

11 Correctional officer Tawanna Harden, she was working
12 that day. She was a correctional officer working at the
13 prison. She was finishing up her workday. She was making
14 her rounds in the prison, checking on the inmates, making
15 sure that everybody was where they were supposed to be.
16 She was getting things locked down for the night, routine
17 and orderly.

18 At around 6 p.m. as she was making her rounds,
19 Chavis Cox and other inmates, they violently pushed her.
20 They pushed her into a cell. They locked her inside that
21 cell. As you'll learn from the witnesses in this trial,
22 this was not an impulsive act. It was a deliberate and
23 calculated move by the defendant as part of his escape
24 plan.

25 She was physically overpowered by these inmates.

1 She was locked in that cell.

2 You'll hear from witnesses who provide a
3 comprehensive account of the events that transpired.
4 Stanley Terry, who is now the associate warden at
5 McCormick Correctional Institute, he'll tell you about the
6 prison. He'll tell you about the duties of correctional
7 officers, what their days look like. He's worked at that
8 prison for over 20 years. He started as a correctional
9 officer, and he's worked his way up to associate warden.

10 As you hear from Stanley, pay close attention to
11 what he has to say. He'll talk about prison. It's a
12 place of routine, a place of order. And the defendant,
13 his actions broke that routine and caused chaos.

14 After Correctional Officer Harden's keys were taken,
15 dozens of other inmates were released from cells. Inmates
16 out of their cells, chaos in the prison because of his
17 actions. And that's what you'll hear about during this
18 case.

19 So I'm asking you to pay close attention to Stanley
20 Terry as he testifies. He's worked at that prison for
21 years. He knows the victim in this case, Correctional
22 Officer Tawanna Harden.

23 Although he was not working that night, Major Terry,
24 he was notified. He was notified that there was an
25 emergency at the prison, and he jumped into action. He

1 rushed to the prison. He went there to help. And he's
2 going to tell you about that. He will describe how he and
3 other officers worked with law enforcement and first
4 responders to rescue Officer Harden and restore order to
5 that prison.

6 You'll see a blueprint of the prison to understand
7 the exact layout, including the specific locations about
8 where these events occurred. Correctional Officer Tawanna
9 Harden was forcibly taken hostage by the inmates. She was
10 making her rounds that night, taken hostage, locked into
11 the cell. Keys were taken.

12 Other inmates were then let out of their cells.
13 Inmates tried to escape. As she was locked alone in that
14 cell, chaos was erupting all around her. She became a
15 lamb in the lion's den that night, a prison uprising.

16 The evidence in this case will detail the sequence
17 of events from the moment she was pushed into that cell to
18 the moment that she was dramatically rescued.

19 Mike Wheeler, a member of the South Carolina Law
20 Enforcement Division's SWAT team at SLED, he'll testify.
21 He'll detail about the response. His testimony will
22 highlight the severity of the situation and the swift
23 actions that were taken to ensure everyone's safety.

24 You'll hear about SWAT's training, what they do,
25 what they do in hostage situations, and the brave rescue

1 in this case.

2 Daniel Cotter is the chief of the Office of
3 Inspector General for the South Carolina Department of
4 Corrections. He'll describe his response, what he saw.
5 He'll recount how the defendant was taken into custody.
6 He was outside the cell. He was near the fence. He was
7 trying to escape.

8 What happened that night, December 27th, that was a
9 rescue operation. They wanted to save her. They wanted
10 to get her out of the cell. But it was also a crime
11 scene. A crime had been committed. A crime was
12 investigated, and we're here today for that crime.

13 During this trial, you'll get to hear about how that
14 crime scene was investigated. You'll get to see photos.
15 You'll see evidence of how the defendant made a plan and
16 how he acted on that plan.

17 There's also video in this case, too. During the
18 trial, you'll get to see video of the cell block. And if
19 you watch that video closely, as you listen to the
20 witnesses, it's going to help you understand; understand
21 some of the terror that happened that night. And we're
22 here this week for this case for what he did, this
23 deliberate plan and how he acted on it.

24 As you heard from the judge and our Clerk of Court,
25 you know, he's charged with the two offenses, and the

OPENING STATEMENT ON BEHALF OF THE STATE

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1 evidence will show that those are the laws that he broke.
2 Taking of a hostage by an inmate and escape or attempted
3 to escape.

4 The judge, she's the expert on the law, and she's
5 going to tell you about the law, but I just want to
6 briefly mention these statutes, you know, what the laws
7 that he broke so you can think about it during the trial.

8 South Carolina Code of Laws 24-13-450 provides that
9 it is unlawful for an inmate, whether acting alone or in
10 concert with others, to, by threats, coercion,
11 intimidation or physical force, to take, hold, decoy, or
12 carry away a person as a hostage or for any other reason.
13 That's what our law defines. In this case, it was an
14 escape.

15 In this case, the defendant, Chavis Cox, acting with
16 other inmates as part of a plan, took Correctional Officer
17 Tawanna Harden hostage by locking her into the cell. She
18 was locked in there. They used her keys to get her out.

19 He then tries to escape. So the evidence will show
20 that he is guilty of violating South Carolina Code of Law
21 24-13-450. And that code makes it unlawful for an inmate
22 to escape or attempt to escape. In this case, the
23 evidence is clear, you will learn that he was found
24 outside of his cell trying to get away from the prison,
25 and that he had a plan, a plan to escape.

1 Ladies and gentlemen, the evidence will show that
2 his actions on December 27th, 2020, they were planned and
3 they were executed with reckless disregard for the safety
4 of others. He attempted to escape and he put lives at
5 risk.

6 As you listen to the testimony and the video
7 evidence, consider the gravity of his actions. This was a
8 calculated plan. By the end of this trial, you will see
9 that the only just verdict is to find the defendant guilty
10 of taking of a hostage by an inmate and attempting to
11 escape.

12 I don't know if any of you have ever served on a
13 jury before, but there's really only one thing that you
14 need, and you-all brought it with you to court this
15 morning, and that's your common sense. All you're going
16 to need is your common sense to listen to the evidence in
17 this case, listen to these witnesses to see who's telling
18 you the truth. And all you're going to need is your
19 common sense to find the defendant guilty. Thank you.

20 THE COURT: Thank you, Mr. Fender.

21 Ms. Gresham?

22 MS. GRESHAM: May it please the Court, Your Honor?

23 THE COURT: Yes, ma'am.

24 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

25 MS. GRESHAM: Ladies and gentlemen of the jury --

1 Mr. Cox, if you can stand up.

2 This is Chavis Cox. He is 35 years old. He stands
3 before you accused of crimes to which he has pled not
4 guilty. It is Mr. Chehoski and my job to defend Mr. Cox
5 from the State's indictments.

6 Chavis is presumed innocent. Now, most of us have
7 heard that before, but it's incredibly important so I'm
8 going to repeat it. Chavis is presumed innocent until
9 proven guilty. It's not just a phrase. It's not just an
10 idea. It's a fundamental right Americans have given
11 blood, sweat, and tears to preserve.

12 Chavis sits before you an innocent man and remains
13 an innocent man throughout this trial. Now, when we say
14 this is a trial, it is the trial of the State versus
15 Chavis Cox. That means that the government is also on
16 trial, and you have a duty to scrutinize their case.

17 Now, the State has a lot of power. They have the
18 power to [indiscernible] all here and the power to charge
19 people with a crime. And because they have all of that
20 power, they also have the burden of proof. The State.
21 Not me, not Mr. Chehoski, not Mr. Cox. The State must
22 prove this case beyond a reasonable doubt.

23 Beyond a reasonable doubt is the highest burden
24 available in our system of justice. It's more than just a
25 more likely than not. The State must provide sufficient

1 evidence that leaves all of you -- all reasonable
2 people -- firmly convinced of guilt with no hesitations.
3 In other words, the Government must firmly convince of you
4 Chavis's guilt such that you wouldn't hesitate to act in
5 rendering that verdict.

6 We, the defense, do not have to prove a single thing
7 to you. We don't have to say a single word. We don't
8 have to call a single witness or ask a single question.

9 Mr. Cox has the absolute constitutional right not to
10 testify and to remain silent because the burden of proof
11 lies solely with the State.

12 Before you were sworn in in this case, you probably
13 did something that most people do. You may have seen a
14 story about someone who was arrested in the news and
15 thought, "How could someone do something like that?" You
16 presumed the worst. You believed the person was guilty
17 without having all the facts. It's a flaw in human
18 nature. We all do it. I do it. But that flaw has no
19 place in this courtroom.

20 Because you swore to give Mr. Cox a fair trial, you
21 swore to hold the Government to its burden. The power of
22 the State is the power that is [indiscernible] by the
23 power that resides with each and every one of you in this
24 box and outside the box. This is your opportunity to
25 serve your community and hold the State to its single

OPENING STATEMENT ON BEHALF OF THE DEFENDANT

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1 requirement. You-all have unique experiences, unique
2 backgrounds, and unique [indiscernible] that you bring to
3 this case.

4 When you came into the courthouse today, you did not
5 leave those experiences and common sense at the door. You
6 keep those with you all the way throughout this trial and
7 especially when you begin to discuss this case. We need
8 to take the unique life that you have lived and filter the
9 testimony, the evidence, and the arguments and make your
10 voice be heard. Your vote is just as important as
11 everyone else's. You are entitled to disagree, you are
12 entitled to speak your opinions, and you are entitled to
13 vote with your conscience. Don't be afraid to speak your
14 voice. It doesn't matter what anyone else believes; it
15 only matters what you believe and what you believe beyond
16 a reasonable doubt.

17 These are, without a doubt, going to be some of the
18 most important days in Chavis's life. Each and every one
19 of you hold his fate in your hands, and each and every one
20 of your opinions matter. Listen closely to the testimony
21 and pay attention to the lack of evidence against Chavis
22 in this case.

23 The State has the ability, with all its power and
24 resources, to tell you the good, the bad, and the ugly.
25 So we ask that you remember that as you look at the

1 evidence. Question why it's provided to you and recognize
2 the gaping holes.

3 After you have heard all the evidence, we will come
4 back before you and ask that you find Chavis Cox not
5 guilty. Thank you.

6 THE COURT: Thank you, Ms. Gresham.

7 The State ready to call their first witness?

8 MS. MAYES: Your Honor, at this time, may it please
9 the Court, the State calls Major Stanley Terry.

10 THE COURT: Okay. Have him come forward.

11 Are you going to swear him in? Good girl. You got
12 the Bible? Okay.

13 MAJOR STANLEY TERRY

14 after having been duly sworn, was examined and
15 testified to as follows:

16 THE COURT: And if you would state your full name
17 and spell your last name for the court reporter, please.

18 THE WITNESS: Stanley Keith Terry. T-e-r-r-y.

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q Good afternoon. And Major Terry, the first thing
23 we're going to ask you to do is take that microphone in
24 front of you and move it just a little bit closer to you.

25 A All right.

1 Q All right. Tell us a little bit about yourself,
2 sir. Where are you currently employed?

3 A McCormick Correctional Institution.

4 Q And how long have you been with the McCormick CI, or
5 Correctional Institute?

6 A Since 2002.

7 Q All right. 2002. It's now 2024. Roughly 22 years?

8 A Correct.

9 Q And have you been at that facility throughout your
10 career?

11 A I have.

12 Q And what is your current job description or job
13 title there at McCormick Correctional Institute?

14 A My current title now is associate warden of
15 operations.

16 Q Associate warden of operations.

17 Sir, if you could tell us a little bit about your
18 educational background and training and work training that
19 led you to become an associate warden within the South
20 Carolina Department of Corrections.

21 A Well, I only got a high school diploma, but I have
22 been in the Department since 2002. I managed to move
23 through all the ranks from officer all the way up to
24 associate warden. I train annually. I attended our basic
25 training academy, which is six weeks in Columbia, South

1 Carolina.

2 Q All right. And you indicated that, throughout your
3 career, you have been here in McCormick County at this
4 particular correctional institute?

5 A Yes.

6 Q Now, I want to go back in time, sir, to 2020,
7 specifically December of 2020. What was your job
8 description or title at that time?

9 A I was a major chief of security.

10 Q All right. Major chief of security?

11 A Mm-hmm.

12 Q So when we talk about security within a prison,
13 within a correctional institute, how widespread are your
14 operational duties?

15 A Well, I'm -- I'm in charge of the everyday
16 operations of the institution, you know, and the safety
17 and security of the officers and the public.

18 Q Okay. I'm going to show you a photograph and ask
19 you whether or not you recognize this as an aerial
20 photograph, which will be State's 12.

21 MS. MAYES: I believe without objection, Your Honor,
22 State's 12.

23 THE COURT: Any objection?

24 MR. CHEHOSKI: No, Your Honor.

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

1 (State's Exhibit No. 12, Aerial Photograph, having
2 been premarked for identification, was received into
3 evidence.)

4 BY MS. MAYES:

5 Q So within the McCormick Correctional Institute, what
6 is meant by the term "CO" or "correctional officer"? What
7 is that staff member?

8 A It's just a basic line correctional officer that
9 runs our units and do all the groundwork for the
10 institution.

11 Q All right. And when you say they do all the
12 groundwork, I'm going to have to ask you a few more
13 questions about that. What are the everyday ordinary
14 duties of a CO or a correctional officer?

15 A They work inside the units. They're responsible for
16 inmates' movement to and from the cafeteria, educational
17 service, chapel services. They have to count and keep
18 up -- keep up with the count for the institution for the
19 day. They lock and secure the inmates in their cells at
20 lockdown time.

21 Q Okay. And within the Department of Corrections,
22 including McCormick, do you have COs or correctional
23 officers that are female?

24 A Yes.

25 Q So that is a job that is open to male or females

1 regardless of what gender?

2 A Correct.

3 Q And what is the basic training that a CO, or a
4 correctional officer, must undergo in order to work within
5 your prison?

6 A Well, now it's eight weeks in the academy, but at
7 the time, I think it was six weeks in. They train on
8 everything. They learn how to count inmates, how to
9 identify if an inmate is holding contraband, all the way
10 down how to fire a weapon.

11 Q Okay. Now, about that, I'm going to ask you a few
12 more questions. Your baseline COs, your correctional
13 officers that are working the floors within the dorms
14 here, do they -- are they allowed to carry weapons?

15 A No, ma'am.

16 Q And why or why not? Why does a correctional officer
17 not be permitted to carry a weapon?

18 A Because, if they're overpowered by inmates, they
19 could be seriously injured or killed.

20 Q Okay. And is this policy that correctional officers
21 do not carry weapons such as firearms, is that
22 institutional-wide across the South Carolina Department of
23 Corrections?

24 A It is.

25 Q So, among all the prison facilities inside South

1 Carolina, the COs do not carry firearms; is that accurate?

2 A Correct.

3 Q And what about a Taser? Are they allowed to carry
4 Tasers?

5 A No, ma'am.

6 Q And why or why not?

7 A It's for the same reason. If they're overpowered by
8 an inmate, they could be seriously injured or killed.

9 Q So it's for their own protection so that that weapon
10 can't be taken or used against them?

11 A Correct.

12 Q Now, looking here -- if you need to turn it around a
13 different way, I can do so, but are you familiar with what
14 this building is right here?

15 A I am.

16 Q And what is that building?

17 A It's called a PI building, Prison Industries.

18 Q Prison Industries.

19 And what is the purpose of the Prison Industries
20 building?

21 A It's a furniture plant. We build furniture for
22 State agencies.

23 Q So does that allow inmates to work within that
24 facility to gain trade and job skills?

25 A Yes.

1 Q And then what are these two buildings here?

2 A The first building is F-4 and the second building is
3 F-3. Just a general population living area for inmates.

4 Q Okay. And you said living area, but if I called
5 that a dorm, would that be an accurate term?

6 A Yes, ma'am.

7 Q All right. So this is F-4?

8 A Mm-hmm.

9 Q And this is F-3?

10 A Yes.

11 Q Is that accurate?

12 A Yes.

13 Q Now, is there a fence around McCormick Correctional
14 Institute?

15 A It is.

16 Q How many fences, if you know? Is it more than one?

17 A Yes.

18 MS. MAYES: All right. I'm going to ask, Your
19 Honor, with your permission and the witness, if he may
20 step down.

21 THE COURT: Absolutely.

22 BY MS. MAYES:

23 Q And show us where fences are located here, looking
24 at State's 12.

25 A We got two fences in this area. One is here and one

1 of them is outside. You have got inner fences
2 [indiscernible]. Got one right here and got one right
3 there in between your normal.

4 Q All right. And if you can stay where you are, I'm
5 going to ask you next specifically about this building
6 here, which is F-3.

7 A Mm-hmm.

8 Q I'm going to show you what is State's Exhibit 10 and
9 ask you whether or not you recognize this blueprint.

10 A I do.

11 Q And what dorm or unit is affiliated with this
12 blueprint?

13 A It's F-3.

14 Q That would be this one here?

15 A Yes.

16 Q Give me one moment.

17 MS. MAYES: Your Honor, State's 10 for evidence
18 being the blueprint.

19 THE COURT: Any objection?

20 MR. CHEHOSKI: No objection, Your Honor.

21 THE COURT: It's admitted.

22 (State's Exhibit No. 10, Blueprint, having been
23 premarked for identification, was received into evidence.)

24 BY MS. MAYES:

25 Q So looking here at Building F-3, I'm next going to

1 show you what is S-10, State's 10 into evidence, this
2 blueprint. I'm going to refer you specifically to this
3 area 144. What are we looking at and why is it marked
4 144?

5 A Those are inmate cells, and that's Cell No. 144.

6 Q Okay. And so each one of these represents an
7 individual cell within this dorm?

8 A It does.

9 Q And can you tell us whether or not you have a camera
10 within this dorm that would show activities around this
11 area, including Cell 144?

12 A I do.

13 Q Okay. Thank you. You may return.

14 And, Warden Terry, I want to take you back to that
15 time period of December 27th, 2020. Are you familiar with
16 an event that occurred there at Building F-3?

17 A I am.

18 Q All right. How did you become aware of this
19 incident?

20 A I received a call from the control room.

21 Q And you said "control room." Tell us, please, in
22 layperson's terms what's a control room.

23 A A control room is an office where we have officers
24 assigned, and they can see the whole layout of the
25 institution. The control room is notified by any staff of

1 any emergency or anything happening within the prison.

2 Q Okay. Now, did you have an officer -- a
3 correctional officer who was working Building F-3 in
4 B Wing on the evening of December 27th?

5 A I did.

6 Q Who was your correctional officer that evening?

7 A Officer Harden.

8 Q All right. And do you know whether or not Harden
9 had a ranking at that point in time? Do you recall if she
10 was a sergeant?

11 A Yes. She was Sergeant Harden, correct.

12 Q And is Sergeant Harden a male officer or a female
13 officer?

14 A She's a female.

15 Q All right. Now, you indicated that she would not
16 have had a weapon?

17 A Correct.

18 Q She would not have had a Taser?

19 A Correct.

20 Q Would she have a radio on her person ordinarily?

21 A Yes, ma'am.

22 Q And when we say "radio," it's an old school
23 walkie-talkie? Would that be the same sort of thing?

24 A Yes.

25 Q Okay. And in addition to that, what type of keys

1 would she have had on her person?

2 A She would have had keys to the inmate cells and to
3 her sally port door.

4 Q All right. So each one of these cells has an
5 individual key?

6 A It's the same key.

7 Q The same key works on all of these cells?

8 A Yes.

9 Q And which officer within your division would have
10 had those keys that night?

11 A Excuse me?

12 Q Which officer within your correctional institute
13 would have had the keys to the F-3 dorm that night?

14 A Sergeant Harden.

15 Q All right. And you said you became aware of an
16 incident?

17 A Mm-hmm.

18 Q And I'm going to refer you back to around the time
19 period of 6 p.m. Where were you at 6 p.m. on December
20 27th?

21 A I was home.

22 Q And when you were at home, are you still on call?

23 A I'm on call 24 hours, seven days a week.

24 Q All right. You mentioned that you were notified by
25 the control room.

1 **A** Yes.

2 **Q** Based upon your role, at that time, major over
3 security operations, what did you do once you received
4 notice by control room of an incident?

5 **A** I immediately got in my truck and I headed towards
6 the prison. On my way to the prison, I started calling
7 other staff members to meet me at the institution.

8 **Q** Okay. About how long of a drive is it from your
9 residence to the correctional institute?

10 **A** About 20 minutes.

11 **Q** Okay. So, on that 20-minute drive, you're making
12 calls to notify other staff members?

13 **A** Yes.

14 **Q** Warden, did you become aware that one of your
15 correctional officers had been taken hostage?

16 **A** I did. It was actually four of them unaccounted
17 for.

18 **Q** All right. So four correctional officers
19 unaccounted for?

20 **A** Yes, ma'am.

21 **Q** And specifically within Building F-3, who was that
22 officer?

23 **A** Sergeant Harden.

24 **Q** All right. And did you ultimately learn which of
25 your COs was first taken hostage?

1 A I did. Sergeant Harden was taken hostage first, and
2 the guys moved from that dorm to another dorm and took
3 other people hostage as well.

4 Q All right. So I want to kind of go through that
5 step-by-step. So the first hostage was in Building F-3?

6 A Correct.

7 Q And you identified that as Sergeant Harden?

8 A Correct.

9 Q And then, ultimately, you indicated some other
10 locations. Looking here at the aerial photo, what were
11 the other locations in which correctional officers were
12 taken hostage?

13 A F-4 and inside the supervisor's office.

14 Q And would that be this area here?

15 A Yes.

16 Q All right. So three different buildings affected?

17 A Yes, ma'am.

18 Q But a total of four staff members were taken
19 hostage?

20 A Yes.

21 Q All right. So going back to this first incident
22 involving Sergeant Harden -- and looking here at 144 --
23 you mentioned that there is video surveillance. Is that
24 routine to have video surveillance operating 24/7 within
25 this dorm?

1 A Yes.

2 Q Have you had a chance to review those videos
3 yourself, Major Terry?

4 A I have.

5 Q Were you able to observe Sergeant Harden on that
6 video?

7 A I did.

8 Q Tell us what you recall observing during that time
9 period following 6 p.m. on the evening of December 27th.

10 A I observed Sergeant Harden making her rounds and
11 making sure that all the guys were secured for the day.
12 And I noticed inmates -- people down at Cell 144 to learn
13 her location. Once she approached 144, three guys came
14 out, grabbed her, put her in the room and closed the door
15 behind her.

16 Q I'm going to show you an item which is State's 11
17 and ask you whether or not you're familiar with this item.

18 A I am.

19 Q What is meant by a dorm roster?

20 A To let us know where inmates are assigned to, what
21 room they're assigned to.

22 Q Okay. And does the Department of Corrections have a
23 dorm roster which covers the time period between October
24 2020 and December 28 of 2020?

25 A Yes.

1 Q And would it account for who was in Cell 144 back on
2 December 27th of 2020?

3 A Yes.

4 Q And who was that inmate assigned to Building F-3,
5 Wing B, Cell 144?

6 A Inmate Chavis Cox.

7 Q Chavis Cox?

8 A Yes, ma'am.

9 Q Is that the defendant in this case?

10 A Yes, ma'am.

11 MS. MAYES: State's 11 for [indiscernible], Your
12 Honor.

13 THE COURT: Any objection?

14 MR. CHEHOSKI: No objection, Your Honor.

15 THE COURT: It's admitted.

16 (State's Exhibit No. 11, Dorm Roster, having been
17 premarked for identification, was received into evidence.)

18 BY MS. MAYES:

19 Q So the defendant, Chavis Cox, was assigned to Cell
20 144?

21 A Yes.

22 MS. MAYES: And next, Your Honor, I believe pursuant
23 to the State's notice of evidence, already marked as a
24 Court's exhibit in this case, South Carolina Code Section
25 19-5-520, the State has Exhibits 2, 6, and 5 all being

1 video surveillance pursuant to 19-5-520.

2 THE COURT: 2, 6, and 5?

3 MS. MAYES: 2, 5, and 6, Your Honor.

4 THE COURT: Okay. Any objection?

5 MR. CHEHOSKI: No objection, Your Honor.

6 THE COURT: They're admitted.

7 (State's Exhibit No. 2, Video Surveillance, having
8 been premarked for identification, was received into
9 evidence.)

10 (State's Exhibit No. 5, Video Surveillance, having
11 been premarked for identification, was received into
12 evidence.)

13 (State's Exhibit No. 6, Video Surveillance, having
14 been premarked for identification, was received into
15 evidence.)

16 MS. MAYES: We have one more, Your Honor. State's
17 37, also video surveillance pursuant to that same statute.

18 THE COURT: What number is that?

19 MR. FENDER: 37, Your Honor.

20 THE COURT: Thank you. Let me know if you have any
21 objection.

22 MR. CHEHOSKI: No, no objections, Your Honor.
23 Again, no objection. I'm still renewing -- well, subject
24 to all previous objections on State's 11, 12, 35, 36, and
25 37. And 10.

1 MS. MAYES: Beg the Court's indulgence.

2 I believe State's 37 also without objection, Your
3 Honor.

4 MR. CHEHOSKI: Subject to previous objections.

5 THE COURT: All right. Let me see the lawyers just
6 for a second.

7 BENCH CONFERENCE

8 (A bench conference was held off the record and
9 outside of the hearing of the jury.)

10 THE COURT: I mean, this previous objection to the
11 video, are you talking about [indiscernible]?

12 MR. CHEHOSKI: [Indiscernible].

13 THE COURT: But what...

14 MS. MAYES: I don't think there was an objection to
15 the video.

16 THE COURT: I don't know if there was any objection
17 to the video.

18 MR. CHEHOSKI: [Indiscernible].

19 THE COURT: Well, I can't preserve any objection
20 that doesn't have a basis.

21 MR. CHEHOSKI: [Indiscernible].

22 MS. MAYES: Judge, [indiscernible] the record
23 [indiscernible] this witness [indiscernible] pursuant to
24 19 [indiscernible].

25 MR. CHEHOSKI: [Indiscernible].

1 MS. MAYES: [Indiscernible] the statute that
2 [indiscernible] business record.

3 THE COURT: [Indiscernible] that the business
4 record. Ms. Mayes, I need to make sure my record
5 [indiscernible].

6 MS. MAYES: I understand. [Indiscernible].

7 THE COURT: I don't think -- I don't think it was
8 either. At least not in my notes.

9 MR. CHEHOSKI: [Indiscernible].

10 THE COURT: Well, I don't have any previous -- I'm
11 not going to play that [indiscernible] in the record. We
12 either have an objection and we state it in court --

13 MR. CHEHOSKI: [Indiscernible].

14 THE COURT: [Indiscernible] on the record.

15 (Open court resumes as follows:)

16 THE COURT: All right. I'm looking at two -- follow
17 along with me, Ms. Mayes, please. 2, 5, 6, 36, 37 are all
18 videos.

19 MS. MAYES: At this time, Your Honor, we do not have
20 a 36. We have a 2, a 5, a 6, and a 37, all videos.

21 THE COURT: Okay.

22 MS. MAYES: And also, for the record, Your Honor,
23 these are all videos in which we have previously filed a
24 notice of evidence as a business record pursuant to
25 19-5-520 without objection.

1 THE COURT: Okay. I haven't heard of an objection
2 for these, but if there is an objection, I'd like to hear
3 it from you, Mr. Chehoski.

4 MR. CHEHOSKI: Again, Your Honor, I would -- my only
5 objection would be, again, if there's a chain of custody
6 and personal knowledge is all that. And this would be the
7 standing objection to those, provided that those are
8 completed. There are no new objections.

9 THE COURT: Okay. Well, I think the problem is that
10 she's introduced these under the business record
11 exception.

12 MR. CHEHOSKI: Yes, Your Honor.

13 THE COURT: Is my understanding. So I'm not going
14 quite sure I know what -- what the objection is, but for
15 the sake of the record, I'm going to say that your
16 objection is to the --

17 MR. CHEHOSKI: Correct, Your Honor. Again -- and I
18 think this is probably [indiscernible] later. These are
19 all introduced pursuant to the business records exception.
20 They have to come in through the custodian of the records.
21 They have not established that has been done, that
22 Associate Warden Terry is that person. So, again, so it
23 would be subject to the chain of custody to the evidence
24 custodian.

25 THE COURT: Anything you'd like to add to that,

1 Ms. Mayes?

2 MS. MAYES: Your Honor, the business records
3 exception 19-5-520 works around the custodian --

4 THE COURT: That's what -- my thought too. So I'm
5 not sure what the objection is. However, I have ruled.
6 She gave you notice on the business exception. I'm
7 letting them in. I understand your objection. I just
8 don't think it applies, but for the record, it is so
9 noted. How's that?

10 MR. CHEHOSKI: Thank you, Your Honor.

11 THE COURT: Okay. Go ahead, Ms. Mayes.

12 MR. CHEHOSKI: [Indiscernible].

13 THE COURT: Okay.

14 BY MS. MAYES:

15 Q All right. I am going to begin, Major Terry, by
16 showing you all four videos we just mentioned, and I'm
17 going to ask you whether or not you recognize your
18 initials. First, I'm going to show you what is
19 State's 37.

20 A Yes.

21 Q Do you recognize your initials on this video?

22 A Yes, ma'am.

23 Q I'm going to show you what is State's 5 and ask you
24 if you recognize your initials on this video.

25 A Yes, ma'am.

1 Q And then I'm going to show you State's 6 and ask you
2 if you recognize your initials on this video.

3 A Yes, ma'am.

4 Q Can you tell us whether or not all three of these
5 are a true and accurate reflection of the events that took
6 place within your prison on the night of December 27th?

7 A It is.

8 Q Have you done anything to alter these videotapes in
9 any way?

10 A No, ma'am.

11 Q And as the major over operations of security at that
12 point in time, to your knowledge, did anyone else do
13 anything to alter or change these videos?

14 A No, ma'am.

15 Q Do they all appear true and accurate, to the best of
16 your recollection?

17 A Yes.

18 Q And are the timestamps noted on these videotapes
19 [indiscernible] possible within the appropriate time
20 frame?

21 A Yes.

22 Q So the date and timestamp or the stamp is accurate,
23 to your knowledge?

24 A Correct.

25 MS. MAYES: This would be State's 37 to publish at

1 this time, Your Honor.

2 THE COURT: Any -- well, subject to the business
3 rule exception objection.

4 MR. CHEHOSKI: Yes, Your Honor. And that has
5 already been ruled on.

6 THE COURT: Okay. It's admitted.

7 (State's Exhibit No. 37, Video Disc, having been
8 premarked for identification, was received into evidence.)

9 BY MS. MAYES:

10 Q So before we actually play the video, I want to go
11 back to what we were talking about before. You indicated
12 that there was one officer who was responsible for this
13 particular floor in F-3 B on this evening and that was
14 which officer?

15 A Sergeant Harden.

16 Q All right. And you indicated that, when you
17 observed the video, you saw her doing what of her job
18 duties? Tell us what job duty she was doing.

19 A She was counting and going around securing doors.

20 Q Okay. When you go -- does that require the officer
21 to go to each cell?

22 A Correct.

23 Q And upon your observation of the video, what
24 happened when she's around this area of 147?

25 A You can see inmates peeping out of Cell 144 to see

1 what her location was.

2 Q Looking out of this cell to see where she was?

3 A Yes.

4 Q And then what happens, if anything, based on your
5 observations, when she gets to the area of 144?

6 A Three guys came out and grabbed her and pushed her
7 in the cell.

8 Q Okay.

9 MS. MAYES: Publish, please.

10 (Video plays.)

11 BY MS. MAYES:

12 Q And the timestamp that we're looking at here in the
13 upper left-hand corner says 1807. Is this in military
14 time?

15 A It is.

16 Q So break that down for us again for the record.
17 What would 1807 translate to?

18 A 6:07.

19 Q 6:07 p.m.?

20 A Yes.

21 Q On the date of December 27, 2020?

22 A Yes.

23 Q And who was this individual depicted here?

24 A Sergeant Harden.

25 Q All right. Sergeant Tawanna Harden?

1 A Yes.

2 (Video continues to play.)

3 BY MS. MAYES:

4 Q But this would be the area looking at the blueprint
5 we saw previously? This would be around 1:46 or 1:47?

6 A Correct.

7 Q Now, this time of evening -- well, first of all --
8 MS. MAYES: Stop it right there, please.

9 BY MS. MAYES:

10 Q We just saw movement from this cell. And which cell
11 was this?

12 A That's 144.

13 Q That is 144? That's the cell that belonged to the
14 defendant Chavis Cox?

15 A Yes, ma'am.

16 Q And what did we just see occur right there?

17 A An inmate peeping out, looking at -- looking for the
18 location of Sergeant Harden.

19 MS. MAYES: Please continue.

20 (Video continues to play.)

21 BY MS. MAYES:

22 Q Again, what are we seeing there?

23 MS. MAYES: Pause it, please.

24 A Inmates peeping out to see her location.

25 BY MS. MAYES:

1 Q So that would be the second time that that has
2 occurred?

3 A Yes.

4 Q And she would be visible within the eyesight of
5 whoever is opening that cell door?

6 A Yes.

7 MS. MAYES: Please continue.

8 (Video continues to play.)

9 BY MS. MAYES:

10 Q Is she the only correctional officer working this
11 floor on that night at this time?

12 A Yes.

13 Q She's working alone?

14 A Yes.

15 MS. MAYES: Pause it, please.

16 BY MS. MAYES:

17 Q What is occurring now over here?

18 A Inmates are about to come out and take her and put
19 her in the cell.

20 MS. MAYES: Please continue.

21 (Video continues to play.)

22 MS. MAYES: Pause it.

23 BY MS. MAYES:

24 Q How many inmates did you see participate in taking
25 her into that cell?

1 A Three.

2 MS. MAYES: Please continue.

3 (Video continues to play.)

4 BY MS. MAYES:

5 Q Here, we see that someone's attention is looking
6 downward. But, again, is she working alone that night?

7 A She is.

8 Q So other than inmates, there would have been no
9 other correctional officer to hear or see that?

10 A Correct.

11 Q Now, you mentioned before that she has keys. Are
12 those keys on her person?

13 A They are.

14 Q And those keys that she had would go to any of these
15 cells?

16 A Yes.

17 (Video continues to play.)

18 Q What is happening now?

19 A Inmate is coming out, letting another inmate out
20 with her keys.

21 Q So an inmate had been released from this cell and is
22 now going into that cell 144?

23 A Yes.

24 Q Does that indicate that at least four inmates were
25 involved in this?

1 **A** Yes.

2 **Q** And we saw the person with the keys head up those
3 stairs? Where do those stairs go?

4 **A** Upstairs to more cells.

5 **Q** And based on your knowledge from working this case
6 that night, how many inmates ultimately were released
7 using those keys, approximately?

8 **A** Approximately 80 to 100.

9 **Q** There we saw another inmate come out of 144 and
10 seems to be communicating with someone upstairs?

11 **A** Yes.

12 **Q** And now someone else appears to be at the door as
13 well?

14 **A** Yes.

15 **Q** And was this the individual that originally had the
16 keys?

17 **A** Yes.

18 **Q** Sergeant Harden remains inside that cell?

19 **A** She does.

20 **Q** You indicated 80 to 100 inmates across the prison
21 ended up being released that night?

22 **A** Yes.

23 (Video continues to play.)

24 **Q** What is happening here, if you know?

25 **A** He's letting out more inmates.

1 Q Using the keys to release additional inmates?

2 A Yes.

3 (Video continues to play.)

4 MS. MAYES: Pause it, please.

5 BY MS. MAYES:

6 Q Eventually, do the inmates in Cell 144 where
7 Sergeant Harden is located, eventually, do they flee?

8 A Yes.

9 MS. MAYES: Please continue.

10 (Video continues to play.)

11 BY MS. MAYES:

12 Q And at this point in time, at 6:00, should this many
13 inmates be out and running around?

14 A No.

15 Q So is it obvious to you, looking at this videotape,
16 that there has been --

17 MS. MAYES: Stop it, please, right there. Back up.

18 BY MS. MAYES:

19 Q Did it appear to you that numerous inmates have now
20 been released using those keys?

21 A Yes.

22 (Video continues to play.)

23 MS. MAYES: And right there. Pause.

24 BY MS. MAYES:

25 Q This individual here, located here, he came out of

1 what cell?

2 A Cell 144.

3 Q 144? He is carrying an item, a dark-colored item.
4 Can you tell us whether or not that is consistent with the
5 type of jacket or clothing that would have been worn by
6 officers?

7 A Yes, ma'am.

8 Q And based on your knowledge of this case as well as
9 your observations of the video -- let me go back. You had
10 worked this prison your entire career?

11 A Mm-hmm, correct.

12 Q And you're seeing inmates on a daily basis?

13 A Yes.

14 Q So it's sort of like having classmates at school,
15 for example?

16 A Yes.

17 Q That you'd see on an everyday basis?

18 A Yes, ma'am.

19 Q Do you have knowledge as to who this individual is
20 there carrying that dark-colored jacket?

21 A I do.

22 Q Who is that individual?

23 A Inmate Stanley Jones.

24 Q Stanley Jones? And you said he came out of 144?

25 A Yes.

1 Q Now, this individual here appears to be carrying
2 something as well. What is he carrying?

3 A A bag with some T-shirts and some beef jerkys in it.

4 Q What color is the bag that he's carrying?

5 A It's a mesh-type clear bag.

6 Q Okay. So it was a whitish or clear in color?

7 A Correct.

8 Q What cell did this individual come out of?

9 A 144.

10 Q He also came out of 144?

11 A Yes.

12 Q And, again, going back to your ability to recognize
13 people on a -- from seeing them on a daily basis, who was
14 this individual?

15 A Inmate Chavis Cox.

16 Q Chavis Cox?

17 A Yes.

18 Q Is that the defendant in this case?

19 A Yes.

20 MS. MAYES: Please continue.

21 (Video continues to play.)

22 BY MS. MAYES:

23 Q And now this third individual [indiscernible].

24 MS. MAYES: Pause it.

25 BY MS. MAYES:

1 Q This third individual here, are you familiar with
2 his identity?

3 A I am.

4 Q Who is that individual?

5 A Jonathan Archie.

6 Q All right. Jonathan Archie, what did he do at Cell
7 144?

8 A Well, he came out and secured the cell.

9 Q What do you mean by that? Tell us what it means
10 when he just made that movement at the cell door.

11 A He came out, stuck his key in the door and locked
12 it, secured it.

13 Q So he used Sergeant Harden's key to lock her inside?

14 A Yes.

15 Q Once that cell door is locked, can she get out?

16 A No.

17 Q Is there any correctional officer left on this floor
18 to manage the inmates who have now escaped?

19 A No.

20 MS. MAYES: Please continue.

21 (Video continues to play.)

22 BY MS. MAYES:

23 Q And at this hour, 6 p.m., with this much movement
24 going on along the floor, is that common or uncommon?

25 A Uncommon.

1 Q So does it appear to be that all of these inmates
2 have now been released?

3 A Yes.

4 Q I'm going to show you some still shots -- these are
5 going to be State's 8, State's 9, and State's 7 -- and ask
6 you whether or not these appear to be a fair and accurate
7 reflection of the video that we just watched, starting
8 with State's 8 and State's 9 there at 144.

9 A Yes.

10 Q As well as State's 7, depicting individuals leaving
11 Cell 144?

12 A Yes.

13 MS. MAYES: State's 7, 8, and 9 for evidence at this
14 time, Your Honor.

15 THE COURT: Any objections?

16 MR. CHEHOSKI: No, Your Honor.

17 THE COURT: They're admitted.

18 (State's Exhibit Nos. 7, 8, and 9, Still Shot
19 Photos, having been premarked for identification, was
20 received into evidence.)

21 BY MS. MAYES:

22 Q So looking here at State's 8, I believe, based on
23 the video, which was roughly 6:09 p.m., that three
24 individuals take Sergeant Harden inside?

25 A Correct.

1 Q And this dark-colored clothing that's located right
2 there where we see the inmates fled from the opposite
3 side, who was that individual right there wearing the dark
4 clothing?

5 A That's Stanley Jones.

6 Q Okay. And who would the individual be wearing the
7 dark clothing between these two inmates?

8 A Mr. Cox.

9 Q Do you know whether or not that depicts Sergeant
10 Harden right here?

11 A Ma'am?

12 Q Is Sergeant Harden present in this video?

13 A Oh, correct. Sergeant -- yes.

14 Q So looking here at State's 8, that would be Sergeant
15 Harden that's being depicted between the two inmates?

16 A Yes.

17 Q And now looking at State's 9, all three of those
18 individuals went in as she was taken inside?

19 A Yes.

20 Q And then moving forward -- that's 6:09. Moving
21 forward to 6:12, several minutes later, did you observe
22 all of these individuals come out of Cell 144?

23 A I did.

24 Q Does that include this individual here carrying the
25 white trash bags?

1 A Yes, ma'am.

2 Q And, again, you were able to identify that as which
3 individual?

4 A Inmate Chavis Cox.

5 Q Warden Terry, do you see Chavis Cox in this
6 courtroom today?

7 A Yes.

8 Q Can you tell us where he is seated?

9 MR. CHEHOSKI: Renew my previous objection, Your
10 Honor.

11 THE COURT: So noted for the record.

12 BY MS. MAYES:

13 Q I'm going to ask you again, sir: Where do you see
14 Mr. Cox seated?

15 A He's right there.

16 Q And what color shirt is he wearing?

17 A Blue.

18 Q Any doubt in your mind that Chavis Cox is the
19 individual that you observed on that video?

20 A He is.

21 Q Same Chavis Cox that was -- that was assigned to
22 Cell 144 back on December 27th?

23 A Yes, ma'am.

24 Q Now, you talk about the keys being used to release
25 numerous other inmates. I'm going to reference right

1 here, you indicate that was Building F-4?

2 A Yes.

3 Q Who was the correctional officer who was taken
4 hostage in F-4?

5 A Sonya Cunningham.

6 Q Can you tell us whether or not she was also placed
7 inside of a cell?

8 A She was.

9 Q Were her keys taken?

10 A Yes.

11 Q Was her radio taken, if you recall?

12 A I can't recall.

13 Q Going back to Sergeant Harden at F-3, were you able
14 to confirm from the video, as well as your investigation,
15 whether her keys were taken?

16 A Yes.

17 Q And whether her radio was taken?

18 A It was.

19 Q And then you indicated something occurred in the
20 supervisor's office. How many staff members were taken
21 hostage there in the supervisor's office?

22 A Two.

23 Q And what were the identity of those two staff
24 members?

25 A Officer Cuey and Lieutenant Hall.

1 Q Okay. So Lieutenant Verdea Hall was there inside
2 the supervisor's office?

3 A Yes.

4 Q And also you said a Sergeant Aaron Cuey?

5 A Yes.

6 Q And was he is male officer?

7 A Yes.

8 Q And Sergeant Jameelya Cunningham, was she a male
9 officer or a female officer?

10 A She's a female.

11 Q And Lieutenant Verdea Hall, was she a male officer
12 or a female officer?

13 A Female.

14 Q So you had three female officers and one male
15 officer all taken hostage?

16 A Correct.

17 Q And you said somewhere between 80 and 100 inmates
18 ultimately released because keys were being used?

19 A Yes.

20 Q What kind of chaos does that create within your
21 prison?

22 A I mean, it's a major chaos with 100 guys with
23 weapons and I got limited staff. So it's an emergency.

24 Q Okay. When you say "with weapons," let me ask you
25 this: What is meant by the term "shank"?

1 A It's a weapon inmates use. They make shanks out of
2 metal. Any metal inside the institution.

3 Q So they're handmade and they're made from materials
4 that can be found anywhere within the prison?

5 A Yes.

6 Q Could, for example, shanks be made from items right
7 here in this courtroom?

8 A Yes.

9 Q The metal, for example, used on a microphone?

10 A Yes.

11 Q Metal used on speakers?

12 A Yes.

13 Q Staplers?

14 A Yes.

15 Q Any other common devices?

16 A I mean, you can make a shank out of wood.

17 Q Okay. How common are shanks -- despite your efforts
18 to control for security, but how common are shanks within
19 the prison system?

20 A Very common. We deal with them every day.

21 Q And that includes McCormick?

22 A Yes.

23 Q So knowing that the potential for weapons are out
24 there and 80 to 100 inmates are potentially released, is
25 this an emergency situation?

1 **A** It is.

2 **Q** And what outside -- I know you mentioned that you
3 were making phone calls on the way there, but what outside
4 agencies came in to assist the McCormick Correctional
5 Institute when faced with this type of uprising?

6 **A** Our rapid response team and the SLED SWAT team.

7 **Q** Okay. Rapid Response, tell us what that means.

8 **A** They deal with all emergencies within the State of
9 South Carolina.

10 **Q** Okay. So are you a member of the Rapid Response
11 Team?

12 **A** I'm not.

13 **Q** Did you come out there in the role of security that
14 night?

15 **A** I did.

16 **Q** And when it becomes a situation where it is now a
17 security threat, are weapons now being used?

18 **A** Yes.

19 **Q** And possessed?

20 **A** Yes.

21 **Q** By yourself as operations -- as security operations
22 manager?

23 **A** Yes.

24 **Q** As well as the members of the SWAT team that
25 arrived ---

1 A Yes.

2 Q --- from the State Law Enforcement Division?

3 A Yes, ma'am.

4 Q And potentially also from your Rapid Response Team?

5 A Correct.

6 Q Despite the efforts to control what's going on
7 within the prison and hostages being taken, what efforts
8 are underway to guard the fence -- guard the perimeter?

9 A We had -- we called the local police to give us a
10 second perimeter, and we called our OIG department, which
11 is our police within the institution.

12 Q OIG, Office of Inspector General?

13 A Yes.

14 Q So are there situations where this type of chaos is
15 created in order for an escape to be attempted or carried
16 out?

17 A Yes.

18 Q And does it limit your ability to guard the
19 perimeter if the focus is on rescuing hostages inside?

20 A Yes.

21 Q Ultimately, can you tell us whether there was an
22 attempted escape where individuals got over the first
23 fence?

24 A It was.

25 Q And do you have a report with you in regards to that

1 incident?

2 A I do.

3 Q And, at this point in time, are you out at the
4 prison when those individuals were apprehended in that
5 fence area?

6 A I was.

7 Q Can you tell us the identity of those five
8 individuals who were found over the first fence?

9 A We had Darren Rogers. We had Jonathan Archie,
10 Johnelle Richardson, Chavis Cox, and Inmate James Heyward.

11 Q Okay. So Heyward, Archie, Johnelle Richardson, one
12 more, and then you mentioned Chavis Cox?

13 A Yes.

14 Q Again, is that the defendant in this case?

15 A Yes.

16 Q So you had first identified him leaving Cell 144
17 after Sergeant Harden was taken inside and he had items
18 with him?

19 A Yes.

20 Q And then, from there, is ultimately apprehended over
21 the fenced area?

22 A Correct.

23 MS. MAYES: I'm going to -- again, Your Honor, if he
24 could step down one more time.

25 THE COURT: He may.

1 BY MS. MAYES:

2 Q Could you show us where on this map, this aerial
3 photo -- where on this aerial photo they were able to get
4 over the fence, just the general area in which that
5 occurred?

6 A The area right here.

7 Q So that would be Building F-4?

8 A Yes.

9 Q Now, what, if anything, is located here in close
10 proximity to that fence?

11 A Say what now?

12 Q Yeah, what, if anything, else is located around here
13 in close proximity to that fence?

14 A Oh, our perimeter.

15 Q Okay. And is there a stairwell in this area?

16 A It is.

17 Q Did it appear -- can you tell us what, if anything,
18 you observed about the proximity of that stairwell to the
19 fence that they first got over?

20 A Inmates -- I believe inmates utilized the stairwell
21 over here to get over this fence and have attempted to get
22 through this fence.

23 Q Okay. Thank you, sir. You may return.

24 And based upon all of your observations that night,
25 did Chavis Cox, was he included among the five inmates

1 that got over that first fence?

2 A He did.

3 Q Right there from that area at Building F-4?

4 A Yes.

5 Q Although he was originally assigned to be in Cell
6 144 in Building F-3?

7 A Correct.

8 Q Thank you.

9 MS. MAYES: Beg the Court's indulgence.

10 THE COURT: Take your time.

11 BY MS. MAYES:

12 Q Now, the McCormick County Correctional Institute, is
13 that a state prison?

14 A It is.

15 Q Although it is a state prison, can you tell us
16 whether or not it is within the jurisdiction of McCormick
17 County?

18 A It is.

19 Q What is the physical address?

20 A 386 Redemption Way.

21 Q Okay. But located here in McCormick County,
22 although it is a state prison?

23 A Correct.

24 Q I want to ask you about Sergeant Harden. You got
25 there, you said, from home. You drive out there. You

1 made phone calls. By the time you arrived, is the State
2 Law Enforcement Division SWAT team in route?

3 A Yes, ma'am.

4 Q And were you there when they arrived?

5 A I was.

6 Q While you were waiting for the SWAT team to arrive,
7 do you know whether or not other inmates who had been
8 released came to 144 at some point to communicate or check
9 on Sergeant Harden?

10 A I think, at one point, they did, and one of them
11 gave her her radio back, and I was able to communicate
12 with her through radio by then.

13 Q Okay. So I want to clarify that. Those inmates
14 were just random inmates who had been released?

15 A Yes.

16 Q Did any of those inmates appear to be the defendant,
17 Chavis Cox?

18 A No.

19 Q So these were other inmates who had now been
20 released but came to check on her?

21 A Yes.

22 Q And, at some point in time, did someone bring her a
23 radio?

24 A They did.

25 Q Even though her original radio had been taken?

1 **A** Yes.

2 **Q** And you indicated that radios were being taken at
3 other locations among the campus?

4 **A** Yes.

5 **Q** You indicated that there was an uprising at the
6 supervisor's office?

7 **A** Yes.

8 **Q** Would radios have been present in there?

9 **A** Yes.

10 **Q** And you indicated that also a hostage-taking in
11 Building F-4. Would radios have been present there?

12 **A** Yes.

13 **Q** So numerous radios would have been taken?

14 **A** Yes.

15 **Q** And, ultimately, someone brings a radio to Sergeant
16 Harden inside there?

17 **A** Correct.

18 **Q** Tell us about that. Once an inmate was able to get
19 a radio to her, did you yourself have communication with
20 her?

21 **A** I did.

22 **Q** Tell us about that, please, sir.

23 **A** I mean, at first, she was very upset, crying. I
24 managed to calm her down and told her to "Stay calm; I'm
25 coming to get you."

1 Q So that voice that you indicated, she was upset and
2 crying, was that usual or unusual for Sergeant Harden?

3 A That was unusual.

4 Q Had you ever heard her in that condition before?

5 A I haven't.

6 Q And you told her what?

7 A To "Stay calm. I'm coming to get you, I promise."

8 Q And when you promised to come get her, what agencies
9 were you relying on to assist you in coming to get her?

10 A SLED and RRT.

11 Q Okay. And, ultimately, can you tell us where the
12 dorm camera shows that rescue attempt with Sergeant
13 Harden?

14 A It did.

15 Q And are you present in the foreground of that rescue
16 attempt?

17 A I am.

18 Q So the individual that we see there wearing uniform
19 with a gun would be you?

20 A I was in plain clothes.

21 Q Okay. And once that door had been locked, would she
22 have had any way to get out on her own?

23 A No.

24 Q Or any way to prevent or manage the uprising that
25 was occurring in F-3?

1 **A** No.

2 **Q** Or any way to alert -- once her radio is gone -- any
3 way to alert Building F-4 prior to the hostages being
4 taken there?

5 **A** No.

6 **Q** Any way to alert the supervisor's office?

7 **A** No.

8 **Q** Thank you. Nothing further.

9 **THE COURT:** Mr. Chehoski? Let me ask --
10 Mr. Foreman, does the jury need a break before we do
11 cross? One goes we all go.

12 **JURY FOREMAN:** Yeah, I have one that needs to take a
13 break.

14 **THE COURT:** Got one. All right. Let me let y'all
15 take a break then.

16 **JURY FOREMAN:** All right.

17 **THE COURT:** Is that all right with you,
18 Mr. Chehoski?

19 I'll let the bailiff take y'all back to your jury
20 room.

21 (The jury exited the courtroom at 3:39 p.m.)

22 **THE COURT:** All right. Warden Terry, if you need to
23 take a break, you can, but you can't speak to anybody ---

24 **THE WITNESS:** I'm good.

25 **THE COURT:** --- because you're still under oath.

1 THE WITNESS: All right. I'm good.

2 (A recess was taken from 3:40 p.m. to 3:57 p.m.)

3 (The jury entered the courtroom at 3:57 p.m.)

4 THE COURT: Mr. Foreman, jury ready?

5 JURY FOREMAN: Jury is ready.

6 THE COURT: All right. Please be seated.

7 All right. Mr. Chehoski?

8 MR. CHEHOSKI: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. CHEHOSKI:

11 Q Warden Terry, I want to ask you first, showing you
12 State's Exhibit No. 8. All right. And this is
13 essentially the moment that Sergeant Harden was pushed
14 inside the cell; is that right?

15 A Yes.

16 Q Happening at, I take it, roughly 6:08.
17 Do you see an inmate right here?

18 A Yes.

19 Q Okay. Do you see an inmate right here?

20 A Yes.

21 Q Do you see part of an inmate right here?

22 A Uh-huh.

23 Q Okay. Is that usual or unusual for that many people
24 to be outside of their cells at 6:08?

25 A That's usual. We have workers too.

1 Q Okay. There are workers.

2 I want to talk to you about workers. Tell me, how
3 does one become a worker?

4 A I mean, inside the dorm, they fill out an
5 application through their dorm lieutenant. They're the
6 one that determines if they work for them or not.

7 Q Okay. It's a dorm lieutenant ---

8 A Yes.

9 Q --- who makes that decision.

10 Was Sergeant Harden a dorm lieutenant?

11 A No.

12 Q Okay. Is there a list of dorm workers that would be
13 provided for a sergeant, who is and who is not a dorm
14 worker?

15 A Well, she'd have it in her logbook.

16 Q Okay. And would that be accessible to all the COs?

17 A Yes.

18 Q All right. And I just want to make sure we're
19 [indiscernible], this December 27th was a Sunday; is that
20 right?

21 A I don't know off the top of my head.

22 Q Okay. Would it surprise you if it was a Sunday?

23 A No.

24 Q Okay. And so are there different rules on the
25 weekend than the weekday?

1 **A** No.

2 **Q** They're not? All right.

3 Are people other than workers allowed outside the
4 dorm?

5 **A** No, but we have more than dorm workers. We have
6 cafeteria workers too.

7 **Q** Okay. Are people -- I mean, outside of cafeteria
8 workers, dorm workers, outside of that, if you're not a
9 dorm worker or a cafeteria worker or any other worker, are
10 you allowed outside of your cells?

11 **A** No, you'll be locked down on the weekend.

12 **Q** Locked down on the weekend?

13 **A** Correct.

14 **Q** So there are different rules?

15 **A** Correct, correct, correct.

16 **Q** Okay. All right. And you testified on direct that,
17 prior to Sergeant Harden coming to the door, the door to
18 Cell 144 was unlocked; is that right?

19 **A** Correct.

20 **Q** All right. And you also just testified that, on the
21 weekends, if you're not a worker, you're going to be
22 locked down in your dorm?

23 **A** Correct.

24 **Q** Okay. All right. I'm going to show you what's
25 already been placed into evidence as State's Exhibit No.

1 12. All right. And you testified that this building
2 right here is Building -- no, I'm sorry, this building
3 right here is F-3?

4 A Yes.

5 Q And so -- and that this part right here, that was
6 the -- what part is that?

7 A That's the B Wing.

8 Q That's B Wing?

9 What part is this right here?

10 A That's the A Wing.

11 Q All right. And you testified that Sergeant Harden
12 was working in B Wing; is that right?

13 A Yes.

14 Q Was she only working in B Wing?

15 A I don't recall.

16 Q Okay. Do you recall she was also working in A Wing
17 as well?

18 A It's possible.

19 Q Okay. It's possible that she was working in both
20 A Wing and B Wing at the same time?

21 A Correct.

22 Q How many inmates are in A Wing and B Wing at any
23 given time?

24 A 100 and some on each side.

25 Q And is there a door between A Wing and B Wing?

1 **A** It is.

2 **Q** Okay. Is that door supposed to be remain locked or
3 unlocked during the shift?

4 **A** If she's going back and forth, she's going to unlock
5 it and go through, but it's locked normally.

6 **Q** It's locked normally?

7 Is there ever an acceptable time where it would be
8 open and remain unlocked?

9 **A** No.

10 **Q** Also, is there ever a time -- would there ever come
11 a time when a CO would leave a dorm unsupervised?

12 **A** No.

13 **Q** No? There's never a time? Okay.

14 If an instance came when a CO had to leave a dorm
15 unsupervised, okay, would it be -- would it be
16 acceptable -- would it be acceptable for the -- those
17 inmate workers to be -- remain outside of the cell or
18 should they be locked down?

19 **A** That's a captain's -- the captain of the shift's
20 decision.

21 **Q** All right. So, again, it would be up to the captain
22 of the shift?

23 **A** Yes.

24 **Q** Do you recall, by any chance, who was working in the
25 A Wing?

1 A I don't.

2 Q You don't? Okay.

3 When we saw the video, you said there were three
4 people in the cell; is that right?

5 A Yes.

6 Q Okay. You said -- you also said that Chavis Cox was
7 assigned to Cell 144?

8 A Yes.

9 Q Who else was assigned to 144?

10 A No one.

11 Q All right. But we saw three people in that cell; is
12 that correct?

13 A Correct.

14 Q All right. Who was -- were you able to identify a
15 person who was able to get Sergeant Harden's radio?

16 A I wasn't.

17 Q Were you also -- were you aware that Sergeant Harden
18 was also given keys?

19 A I wasn't.

20 Q You were not aware of that?

21 So you would not be able to identify who gave
22 Sergeant Harden those keys?

23 A No.

24 MR. CHEHOSKI: One moment, please, Your Honor.

25 BY MR. CHEHOSKI:

1 Q You had watched the entire evening of this
2 surveillance; is that correct?

3 A Correct.

4 Q And when you watched the video, you were able to
5 witness inmates passing items through the flap -- through
6 the flap door to Sergeant Harden while she was in the
7 cell; is that correct?

8 A I didn't see it.

9 Q You didn't see that?

10 A No.

11 Q All right. Because that would have included the
12 radio?

13 A I have no knowledge she had a radio until after the
14 fact. I have no knowledge that someone gave her a radio
15 until after the fact. I don't know how she got a radio.

16 Q She got a radio -- but you're aware that she got a
17 radio while she was locked in the cell; is that correct?

18 A She somehow obtained a radio, yes.

19 MR. CHEHOSKI: One more moment, Your Honor.

20 THE COURT: Take your time.

21 MR. CHEHOSKI: That's all the questions I have, Your
22 Honor.

23 THE COURT: Any redirect?

24 MS. MAYES: Yes, Your Honor.

25

1 REDIRECT EXAMINATION

2 BY MS. MAYES:

3 Q Okay. So going back to State's 7, Warden, after the
4 inmates who were in 144 fled and Sergeant Harden was
5 locked inside, you estimated that 80 to 100 inmates were
6 ultimately released?

7 A Yes.

8 Q And having worked the video surveillance, you do see
9 inmates or groups of inmates at some point in time
10 approach Cell 144?

11 A Yes.

12 Q Did it appear -- can you tell us whether or not it
13 appeared they were attempting to communicate with Sergeant
14 Harden through the flap?

15 A Correct.

16 Q And then, ultimately, again, without knowing the
17 mechanism of how, you were able to initiate radio contact
18 with Sergeant Harden just prior to her rescue?

19 A Yes.

20 Q Does that indicate to you that a radio was somehow
21 transmitted to her?

22 A Somehow but I don't know how. I mean...

23 Q And you don't know the identity of the inmates that
24 did that; is that correct?

25 A Correct.

1 Q Now, when you got a question about the layout -- and
2 looking here at State's 12 -- if one correctional officer
3 is working all of F-3, does that mean they have to go
4 through between Wing B and Wing A?

5 A Yes.

6 Q And would that sometimes allow for the door to be
7 unlocked?

8 A Yes.

9 Q And throughout all of this time on this date,
10 December 27th, 2020, how many inmates were assigned to
11 Room or Cell 144 at the residential unit?

12 A One.

13 Q Just one?

14 A Yes.

15 Q And the identity of that inmate?

16 A Chavis Cox.

17 Q Thank you. Nothing further.

18 MR. CHEHOSKI: No redirect, Your Honor.

19 THE COURT: Okay. May I excuse this witness?

20 MS. MAYES: Yes, Your Honor. We ask that he be
21 allowed to return to duty.

22 MR. CHEHOSKI: No objection, Your Honor.

23 THE COURT: Warden Terry, thank you for coming.

24 THE WITNESS: You're welcome.

25 MS. MAYES: Your Honor, at this time, the State

1 calls Sergeant Tawanna Harden.

2 THE COURT: Okay. Can I get the clerk to swear the
3 sergeant in?

4 THE CLERK: Place your left hand on the Bible and
5 raise your right hand.

6 SGT. TAWANNA HARDEN

7 after having been duly sworn, was examined and
8 testified to as follows:

9 DIRECT EXAMINATION

10 BY MS. MAYES:

11 Q Good afternoon. Tell us a little bit about
12 yourself. I'm going to ask you what State you're
13 currently working in. What state are you currently
14 working in?

15 A I'm in the state of Georgia.

16 Q Okay. And --

17 MR. CHEHOSKI: Your Honor, please ask the witness to
18 speak up into the microphone.

19 MS. MAYES: May I approach, Your Honor?

20 THE COURT: Absolutely. Gotta talk loud to somebody
21 can hear you, and the court reporter takes down everything
22 you say.

23 THE WITNESS: Yes, ma'am.

24

25

1 BY MS. MAYES:

2 Q Sergeant Harden, what state are you currently
3 residing in?

4 A In Georgia.

5 Q Okay. Need you to speak up just a little bit more.

6 A I'm in Georgia.

7 Q Okay. And without going into any details regarding
8 the type of facility, what is your current job occupation?

9 A I'm currently an officer. A correction officer.

10 Q So you are a correction officer in the State of
11 Georgia?

12 A I am.

13 Q Where were you working in 2020?

14 A In McCormick Correctional Facility.

15 Q Right here in this county?

16 A Yes, ma'am.

17 Q How many years have you been with the South Carolina
18 Department of Corrections prior to that night in 2020?

19 A Three years.

20 Q So three years as a correctional officer?

21 A Yes, ma'am.

22 Q Tell us, Sergeant, about your training -- specific
23 training to become a correctional officer.

24 A I, too, as Major Terry, went to the facility in -- I
25 believe it was in Columbia for the training. I went there

1 to do six weeks' training. They basically train you on
2 the policies of the corrections. They teach you the
3 procedures of operation and of course we do gun training.

4 Q Okay. Now, you do gun training but when you working
5 the floor, like you were that night, were you allowed to
6 carry a weapon?

7 A No, ma'am, I was not.

8 Q Or even a Taser?

9 A No.

10 Q So you were working without a weapon?

11 A That's correct.

12 Q And that night, on December 27th, how many
13 correctional officers were working F-3 Wing B that night?

14 A Only myself.

15 Q You're alone?

16 A Yes, ma'am.

17 Q Had you worked that shift alone many other nights
18 leading up to this?

19 A Very often.

20 Q Okay. But this night, December 27th, it's between
21 Christmas and New Year's day, how, if at all, did that
22 holiday period affect your -- the staff that night?

23 A We were very short-staffed. Not -- our captain, he
24 left that night or that afternoon. Our lieutenant that
25 would have normally been on the shift with us didn't come

1 to work. I think he had actually taken some time off. So
2 we were shorter than we normally are. We're normally
3 short but we were even shorter that night.

4 Q Okay. Tell us about your job duties around the
5 6 p.m. range. What's the normal responsibilities around
6 that time frame of 6 in the evening?

7 A We are -- we should have the inmates locked down and
8 proceeding for count.

9 Q What do you mean by "lock down"?

10 A Lock down is behind the doors, secured.

11 Q So if inmates are out because they're cafeteria
12 workers, are you now trying to get them into their cells?

13 A That would be correct.

14 Q And if inmates are out because they are dorm
15 workers, are you now trying to get them into their cells?

16 A Also correct.

17 Q If inmates are out because they're at the showers or
18 for any other reason, are you now trying to get them into
19 their cells?

20 A That's correct.

21 Q So that 6 p.m. is an important time period in your
22 job?

23 A It is. Actually, they should already be in at
24 6 p.m. I should have my doors -- I'm either locking the
25 doors or they're already locked. I should be ready for

1 the count to be called at the door or wherever I am, ready
2 to talk the walk to do my count.

3 Q Okay. Tell us about your uniform in general. What
4 are you wearing?

5 A I have on fatigue pants -- the navy blue -- the
6 shirt and a vest. It's a security vest to keep us from
7 being stabbed while we're on duty.

8 Q Okay. And what other type of clothing do you have
9 over the vest?

10 A We may have a jacket if it's cold. A jacket or a
11 coat.

12 Q And what color is that jacket?

13 A It's also navy blue as the pants would be.

14 Q What kind of tools do you have on you? Do you have
15 a radio?

16 A Yes, a radio.

17 Q Where do you normally have that radio?

18 A It would be in my -- it would be in my vest. It's a
19 pocket that's in the vest up here. I would have it up
20 here or I would have it in a pocket down here. I can't
21 remember that night where I had it specifically but one of
22 those spots it would be.

23 Q Okay. Sergeant Harden, the keys that would open all
24 of these cells, who has those keys?

25 A I do.

1 Q And where were they on your person?

2 A On my belt.

3 Q And your belt which is worn --

4 A On my waist, locked.

5 Q On your waist.

6 A Mm-hmm, fastened.

7 Q Tell us what happened when you were in this area of
8 146 to 147, if you recall.

9 A I was pushed into a cell by three inmates.

10 Q Okay. And do you recall which cell it was that you
11 were pushed in?

12 A 144.

13 Q So that would be right here looking at State's 10,
14 144?

15 A Yes, ma'am.

16 Q Tell us what you remember about that.

17 A Whew. We had received -- well, I had received a
18 call from the lieutenant that was on shift that night.
19 She called and said to me that she wanted me to report out
20 to the yard. At that point, I didn't ask why; I just
21 proceeded out to the yard. She said to come out to the
22 yard and get keys and watch the yard.

23 When I got out of the yard, I asked the question as
24 to, you know, what was going on. She said they had an
25 incident in our -- what we call our -- I think we call it

1 RHU at the time where we house inmates that are -- they're
2 basically troubled and they're locked up there to keep
3 them from the full population. So they had to go take
4 care of that incident.

5 Q And, again, that's an unrelated incident to what
6 happened here at 144?

7 A Correct.

8 So while I'm in the yard, I'm out there and I'm
9 waiting for them, basically just monitoring to make sure
10 that everything is secure. They come back. They said
11 they had taken care of the incident so, at this time --
12 let me slow down.

13 Prior to them calling, I'm already preparing because
14 it's about time for us to go home. I was already
15 preparing for us to lock down. So once they did come
16 back, I proceeded back into the unit. I went to one side
17 to let them know that we're going to start locking down,
18 and I went to the other side. Then I go back into the
19 office to sit. I get another call. When I get that call,
20 she tells me they need me to come back to the yard so that
21 they can go back to RHU. And I'm thinking, "Well, why are
22 you guys going back up there?"

23 Nevertheless, I go out. I get the keys. This is
24 setting us back. The time has been set back now due to
25 the incident that is occurring.

1 So I go to the yard, wait for them to come back.
2 This time, they come back; they said that everything is
3 fine. I go to get ready to lock the guys in. I have one
4 of the dorm workers who meets me at the sally port --
5 meets me as I'm walking to the door. He says to me --

6 MR. CHEHOSKI: Objection, Your Honor. Hearsay.

7 BY MS. MAYES:

8 Q Without repeating what anyone else said to you.

9 A Okay, I'm sorry.

10 Q But, again, you originally were going to do this
11 about 6 p.m. but you said the time got pushed back because
12 there was an incident in the yard.

13 A Correct.

14 Q And they needed your assistance out in the yard.

15 A That's correct.

16 Q Once that matter was taken care of, did you make it
17 into F-3?

18 A I did.

19 Q Okay. Specifically when you get to 144, looking
20 here at State's Exhibit 9, what do you remember happening
21 around the door area?

22 A I was pulled into the -- into the cell.

23 Q Okay. I'm going to stop you right there.

24 A Okay.

25 MS. MAYES: State's 37.

1 (Video continues to play.)

2 BY MS. MAYES:

3 Q Are things appearing normal to you at this point?

4 A No.

5 Q Why?

6 A I have inmates that are out that should be already
7 in their cells; they're running around doing unnormal
8 things. As you see me here, I'm standing, waiting for an
9 inmate that's at the water fountain. He's one of my
10 workers -- my dorm workers. I'm waiting for him to come
11 to his cell. I asked him -- I questioned him, "What are
12 you guys doing? Why are you guys out?" I basically had
13 informed them, "You need to be inside when I come back so
14 that we can lock down." It's not normal for him to be
15 coming around getting water at the last minute for other
16 inmates, but he was. So I'm waiting, because he's at that
17 water fountain, and I'm waiting for him to come.

18 MS. MAYES: Pause it.

19 BY MS. MAYES:

20 Q At this point in time, were you aware of what was
21 happening in 144?

22 A No, ma'am, I was not.

23 Q Were you giving instructions to anyone?

24 A I am. I'm probably verbally still saying to him,
25 "Sir, I need you to hurry up. Come on. Let's go. What

1 are you doing? Why are you taking so long? Stop playing
2 around. Let's go."

3 (Video continues to play.)

4 MS. MAYES: Stop there, please.

5 BY MS. MAYES:

6 Q All right. What's happening now?

7 A Due to the fact the inmate takes too long to -- at
8 the water fountain, I proceed down because my thinking is
9 I'll just go ahead and lock other doors while I wait for
10 him. When I get down to the door, these three gentlemen
11 come out of the cell.

12 Q And you recall there being three individuals that
13 came out of 144?

14 A Yes, ma'am, I do.

15 Q Okay. Sergeant Harden, what, if anything, did you
16 see in the possession of these inmates?

17 A What did I see? One of them had a weapon.

18 Q Can you describe the weapon?

19 A I would call it a knife, but as you questioned
20 Major, it would be what they consider to be a shank.

21 Q Okay. But when you use the term "knife," did it
22 appear to have a blade on it?

23 A Yes.

24 Q What was your reaction to seeing a weapon?

25 A I was stunned.

1 Q I'm sorry?

2 A I was stunned.

3 Q Okay.

4 A Mm-hmm.

5 Q Now, in this situation, again, you don't have a
6 firearm?

7 A No, ma'am.

8 Q You don't have a Taser?

9 A I do not.

10 Q Did you consider what options you would have -- you,
11 a female, against three inmates?

12 A No. Honestly, I kind of blanked out. I was so
13 startled, I remember just being froze, and I'm looking at
14 them and I'm wondering, "What are you guys doing?" And I
15 said it. I said, "What are you doing?"

16 And they're like, "Go in the room."

17 And I'm like, "Go in the room?"

18 And I look at him like, "You really want me to go in
19 there?"

20 At this point, that's when the coat comes open, and
21 I see this -- and I froze. And I'm just looking like,
22 "Are you kidding me?"

23 Q And you spoke of freezing. Can you tell us what
24 this individual who was standing behind you is doing?

25 A They're pushing me in that room.

1 Q They're physically pushing you into room.

2 And the person at the door, what is that person
3 doing?

4 A I don't know. I just remember being grabbed and
5 taken like -- like I'm being taken into this room. I
6 don't remember all the dynamics of it. I just know that I
7 was -- I was taken into the room.

8 Q So both of these individuals are taking you into the
9 room as this individual was standing guard or appearing to
10 be a lookout?

11 A Mm-hmm.

12 Q Please continue.

13 (Video continues to play.)

14 Q And it was that fast?

15 A Yeah.

16 MS. MAYES: Pause, please.

17 BY MS. MAYES:

18 Q You recall there being how many people in that cell
19 with you?

20 A Three.

21 Q Three?

22 A Mm-hmm.

23 Q Did you recognize any other people who had you in
24 that cell?

25 A I recognized all three of them.

1 Q Okay. You recognized all three by face?

2 A Yes, ma'am.

3 Q Did you know any of them by name?

4 A Just one.

5 Q And who was that person?

6 A Chavis Cox.

7 Q Okay. That would be the defendant in this case,
8 Chavis Cox?

9 A Yes, ma'am.

10 Q Sergeant Harden, among the three individuals that
11 took you into that cell, can you tell us whether or not
12 Chavis Cox was one of them?

13 A Yes, he was.

14 Q Once you're in the cell, what happens next?

15 A Whew. I remember being pushed up to the wall, and
16 I'm held there. There's an inmate that's standing at the
17 door. Chavis is in the middle and the other one is over
18 this way. I don't really know how to describe it, but the
19 cell is a box. The door is -- the door is here. The wall
20 is here. I'm on this wall. There's an inmate standing at
21 the door here. Chavis is here and the other guy is over
22 here.

23 Q Okay. What, if anything, do you recall the
24 defendant Chavis Cox saying to you?

25 A He was -- he -- the only thing I actually can

1 remember him saying to me was take my clothes off. He
2 forcibly was like, "Take off your clothes."

3 Q So he told you to take off your clothes?

4 A Correct.

5 Q What was your reaction to that?

6 A At first, I started to make motion to do it. As I
7 told this to anyone, the day of this incident, I heard a
8 voice from within. And I know people may think I'm crazy
9 when I say this, but I believe it was the voice of the
10 Lord. And I heard, "Do not get riled up. If you get
11 riled up, they're going to get riled up."

12 So as I'm bending down to start to take my shoe off,
13 I'm thinking I'm not going to take my clothes off. So I
14 look up to him and I say to him, "I'm not taking off my
15 clothes. What do you need me to take my clothes off for?"

16 And he's still being adamant about me taking my
17 clothes off. At that time, the gentleman that's in the
18 other side of him, he runs out the cell. And we're still
19 standing there. And I can't remember everything that was
20 going on, but I remember him running out the cell. And
21 I'm looking like, "Where is he going?"

22 A few minutes later, he runs back in. And he stands
23 next to Chavis and he says to him -- first he says to me,
24 he said, "Ms. Harden," he said, "We're not going to do
25 anything to you."

1 And he looks at Chavis and he was like, "We're not
2 going to do anything to her." And he says, "All we want
3 to do is get out of here."

4 Q Okay. . So let me stop you right there. You
5 indicated that an individual came out the door at some
6 point.

7 A Mm-hmm.

8 Q What had been taken from your person at this point?

9 A My keys had been taken. I can't remember if they
10 had taken any radio at that point, but I know that my keys
11 had been taken.

12 Q Okay. Your keys, you told us, were on the belt.

13 A Mm-hmm.

14 Q Tell us how you remember them getting the keys off
15 of you.

16 A Well, when I got into the room, they immediately was
17 asking me, "Where are your keys? Where are your keys?"
18 And I'm shaking and I remember patting myself saying,
19 "They're right here. They're right here."

20 And I'm trying to take them off because they wanted
21 me to take it off, but I guess I'm not moving fast enough.
22 And I can't even remember which one of them but somebody
23 snatches my belt. My belt snatches and the keys, they hit
24 the floor.

25 Q Okay. And, Sergeant Harden, the weapon that you

1 told us about, did you see that weapon presented while you
2 were in that cell?

3 A I did.

4 Q And while your keys were being taken?

5 A Yes, ma'am.

6 Q And you indicated that one individual comes out, and
7 that's after your keys have been taken?

8 A Mm-hmm.

9 Q And, again, you wouldn't have been able to see what
10 was taking place on the outside?

11 A No, ma'am.

12 Q And during that time, can you tell us whether or not
13 Chavis Cox remained in that cell with you?

14 A He did.

15 Q And while someone else is on the outside with your
16 keys, what, if anything, is Chavis Cox doing on the
17 inside?

18 A He has a -- he has a knife in his hand, and he's
19 standing there still with me, I guess, insisting that I
20 take my clothes off. And I remember saying to him -- I
21 looked at him because, at this point, it's just like I
22 just don't want to be hurt.

23 And because of the rapport I have with the inmates
24 in the facility -- even with him, I thought -- I said to
25 him, "Are you really going to do this to me?" with the

1 hopes that it would persuade him to leave me alone and not
2 hurt me.

3 I don't know at what point in the midst of all of
4 this but I remember there was a conversation with them,
5 and I said to them, "What are you guys going to do?" I
6 said, "I have a family. I just want to go home." I said,
7 "Whatever you're going to do, you can do it." I said,
8 "Just don't hurt me." And -- yeah.

9 Q Okay. And you indicated that another individual or
10 that someone returns to the cell and instructs Chavis Cox
11 not to hurt you?

12 A Yes, ma'am.

13 Q And you heard that conversation?

14 A I did.

15 Q Please continue.

16 (Video continues to play.)

17 BY MS. MAYES:

18 Q That would be 6:09 p.m. Would that be accurate?

19 A I don't know the time.

20 Q 6:09?

21 A Yes, but I --

22 Q 6:09?

23 A Yeah.

24 (Video continues to play.)

25 BY MS. MAYES:

1 Q Is this the individual that you reference leaving
2 after your keys were taken?

3 A From the video, I'm not certain.

4 Q Okay. But, again, can you see what's going on out
5 here while you're in there?

6 A I do not.

7 (Video continues to plays.)

8 BY MS. MAYES:

9 Q And throughout this time -- we're in realtime now as
10 we're watching the video. Throughout this time, are you
11 against the wall?

12 A Yes. I'm still on the wall.

13 Q And is Chavis Cox instructing you to take your
14 clothes off?

15 A At some point in there, he did.

16 Q And was he armed with that knife?

17 A He was.

18 Q Are you even aware of how many people are now
19 entering that cell?

20 A No.

21 Q And does Chavis Cox remain in that cell with you
22 throughout this time?

23 A Yes, he is.

24 Q Is he still armed?

25 A He is.

1 (Video continues to play.)

2 BY MS. MAYES:

3 Q And what are you thinking at this point?

4 A You mean while I'm in the cell? Honestly, at some
5 point, I blanked out. I was like really just stuck and
6 I -- I'm just standing there. That's all I remember is
7 just standing there, so...

8 Q Were any other COs working that floor that night?

9 A No, ma'am. It's just me.

10 Q Are you aware that there's no one that's going to
11 come to your rescue?

12 A Very aware.

13 (Video continues to play.)

14 MS. MAYES: All right. Pause.

15 BY MS. MAYES:

16 Q An individual that came out of 144 had the
17 dark-colored item. What do you believe that item to be,
18 Sergeant Harden?

19 A That was my jacket.

20 Q The jacket that you were instructed to take off at
21 one point?

22 A Correct, mm-hmm.

23 Q This individual is carrying something. What do you
24 remember seeing Chavis Cox do and what do you remember
25 about this portion of the video?

1 A When they got ready to leave out of the cell, they
2 proceeded out. And I remember him grabbing a bag of stuff
3 that was packed and pulling it out the cell. And I'm
4 thinking, "Why would you be taking stuff with you?"

5 Q Okay.

6 A But I do remember him taking a bag of items out that
7 was packed already prior to him leaving the cell.

8 MS. MAYES: Please continue.

9 (Video continues to play.)

10 BY MS. MAYES:

11 Q Who is that individual with the bag?

12 A That's Chavis Cox.

13 Q And what just happened there at the door?

14 A I was locked in the cell.

15 Q Do you have your radio at this point?

16 A I do not.

17 Q They have taken your radio?

18 A They have.

19 Q And you were locked in with your own keys?

20 A I was.

21 Q Is anyone else in the cell with you now at this
22 point?

23 A No. I'm alone.

24 (Video continues to play.)

25 BY MS. MAYES:

1 Q Is this standard, at 6:13 p.m., to have this many
2 inmates without supervision?

3 A No, ma'am. They're in at this time.

4 Q So this should not be occurring?

5 A Not at all.

6 (Video continues to play.)

7 BY MS. MAYES:

8 Q Now, you told us that Cell 144 is a normally
9 assigned to which inmate?

10 A Chavis Cox.

11 Q And, to your knowledge, did he have sole possession
12 or residency of that unit?

13 A That would be correct.

14 Q And you indicated that you saw him grab a bag as
15 he's leaving?

16 A Correct.

17 Q Did you know what was in the bag?

18 A I did not.

19 Q And, at this point in time, Chavis Cox has left the
20 cell and the cell is being locked. You don't have a
21 radio.

22 After this occurred, what happened next?

23 A When they closed the door, there was a bit of a
24 relief because, of course, I'm not hurt and they have left
25 my presence. They close the door, and I hear one of them

1 say, "Lock her in there." And I'm thinking, "Lock me in
2 here?" And you hear the door pop, and it pops. When that
3 happens, I flop to the floor. And I say -- I look to the
4 window and I say to myself, I said, "Lord, how am I going
5 to get out of here?"

6 So I'm sitting there and I'm waiting. And as I'm
7 waiting, I start to hear an up-rile. I'm hearing the guys
8 making noises. And you can hear the doors. And I'm
9 thinking, "Are they opening these doors?"

10 So, of course, I look out the flap and they are.
11 They're opening the doors and you see inmates coming from
12 everywhere. And I'm thinking, "What is going on?"

13 And then I get afraid because I'm thinking they're
14 going to double-back for me. And now it's more of them.
15 So I'm in fear.

16 I had an inmate to come to the door, and he says to
17 me, he says, "Harden, are you okay?"

18 And I said, "No, I'm not okay." I said, "What is
19 going on?" I said, "Do you-all know what's going on?"
20 And I said, "Can you send somebody to the yard?" I said,
21 "I need some help. I need someone to go to the yard to
22 tell them what's going on down here. I don't have a
23 radio. I need some help."

24 And the inmate that --

25 Q You can't repeat what everyone else said to you.

- 1 A Okay.
- 2 Q But I'll stop you right there.
- 3 So you were originally taken into 144. Is there any
- 4 doubt in your mind that you were taken in there for the
- 5 purpose of taking your keys?
- 6 A You mean is there any doubt right now?
- 7 Q Yes.
- 8 A No.
- 9 Q Is that why you were taken in there?
- 10 A I believe that and probably other reasons, but yes.
- 11 Q Okay. And once the keys were taken and you're
- 12 inside, you said that you can hear commotion going on from
- 13 other areas.
- 14 A Mm-hmm.
- 15 Q Was it apparent -- were you hearing the sound of
- 16 cell doors?
- 17 A Yes.
- 18 Q Was it apparent to you that numerous inmates were
- 19 being released?
- 20 A Yes.
- 21 Q And you said eventually someone comes to the door.
- 22 A Mm-hmm.
- 23 Q And is there a flap at that door ---
- 24 A It is.
- 25 Q --- where you might be able to put a food tray or

1 normally ---

2 A Correct.

3 Q --- transfer a meal?

4 A Correct.

5 Q And were people able to communicate with you through
6 that flap?

7 A They were.

8 Q Were any of the people that came to check on you the
9 defendant, Chavis Cox?

10 A No, ma'am, that was not him.

11 Q Okay. Were any of the people that came to check on
12 you Samuel Jones, the individual that we saw with your
13 jacket?

14 A No.

15 Q Were any of the people that came to check on you
16 Jonathan Archie ---

17 A No, ma'am.

18 Q --- the person with your keys?

19 A No.

20 Q So none of those three involved in the
21 hostage-taking actually came to check on you?

22 A No, ma'am.

23 Q These were other inmates who just happened to have
24 been released at some location within the prison?

25 A Correct.

1 Q And you said that, when one came to the flap, you
2 instructed him to do what?

3 A To go to the yard to get help.

4 Q Okay. And by going to the yard -- we're going to
5 look at that picture that we have and ask you what is
6 meant by "the yard." Where on here would the yard be?

7 A It would be anywhere outside of that dorm.

8 Q So this area would be considered the yard?

9 A Correct.

10 Q So you're saying go to the yard and try and get
11 help?

12 A Correct.

13 Q Alert another CO; for example?

14 A Yes.

15 Q However, at some point, did someone bring something
16 while you're in 144?

17 A Yes.

18 Q What is brought to you?

19 A I'm -- I'm sorry. I was being brought a radio.

20 Q Okay. And prior to the radio, was something brought
21 to you?

22 A No.

23 Q All right.

24 A Not prior. After.

25 Q Okay. So a radio is brought to you?

1 A Correct.

2 Q Now, how did this inmate bring the radio? How was
3 it brought to you?

4 A He came to the door and I hear him yelling, "Harden,
5 Harden." And I get up and I stand and look at the window
6 and he's standing there. And he's frantic. And I was
7 like, "What is the matter with you? What's going on?"

8 And he says, "Take this, take this."

9 And I said, "What? What is it?" He has a radio.
10 He shows it to me -- he lifts his shirt and he shows me
11 the radio.

12 Q So he had the radio inside his shirt?

13 A Correct.

14 Q Were you concerned about how an inmate might have
15 gotten a radio?

16 A Yes, I was.

17 Q Did you have concern that this radio might not have
18 been your radio but belonged to another officer?

19 A Well, not at that moment. I was just wondering,
20 "Where did you get it from? How did you get it?" And I'm
21 just -- that was the thought at that moment. Like, "Where
22 did you get the radio from and how did you get it?"

23 He explained that -- am I to say how he explained?

24 Q Without repeating what anyone else said, did you
25 eventually learn that other areas of the prison had been

1 accessed by inmates?

2 A Not at that moment, no.

3 Q What else was brought to you while you were in Cell
4 144?

5 A All the keys to all the units in the yard.

6 Q And this was brought by....

7 A An inmate.

8 Q So another inmate comes and gives you keys?

9 A Mm-hmm.

10 Q Are they giving you the keys with the expectation
11 that you might be able to get out?

12 A They didn't say. They literally pulled the flap
13 down and threw all the keys inside.

14 Q Okay. What can you tell us about those keys once
15 you looked at the keys and had a chance to examine them?

16 A That it -- it meant something horrible had taken
17 place because I had the keys to every door, everything. I
18 had all the keys that the yard officer, who is the one
19 that is the head of security, should have. So when I saw
20 those keys, yeah, I panicked because I'm thinking, "Why do
21 I have these keys? And where is she at if I have these
22 keys?"

23 Q So can you tell us whether or not you're realizing
24 at this point that other COs have also been taken hostage?

25 A In that moment, I couldn't say that they was taken

1 hostage, but I knew something was wrong because I knew I
2 shouldn't have those keys.

3 Q Or that their keys were taken from them?

4 A Correct.

5 Q So you have keys that don't belong to you?

6 A That's correct.

7 Q And those keys don't go to F-3?

8 A No -- well, they brought mines back too, but I
9 only -- I didn't only just have those but I had the others
10 as well.

11 Q Okay. Now, were any of the people who brought those
12 keys back to you Chavis Cox?

13 A No, ma'am.

14 Q Or Jonathan Archie?

15 A No, ma'am.

16 Q Or Stanley Jones?

17 A Was not.

18 Q So these are other people who have somehow acquired
19 keys?

20 A Correct.

21 Q How long would you estimate that this went on,
22 Sergeant Harden, until ultimately you were rescued?

23 A For me, it was forever. I didn't know at the time
24 but I was told it was three hours.

25 Q Okay. And do you recall being rescued by SWAT?

1 A Yes, I do.

2 Q Okay. And up until that point in time, had you
3 known for sure exactly what had taken place in the other
4 buildings there at the prison?

5 A I did not.

6 Q Only that you had lost your keys and your radio?

7 A Correct.

8 Q Sergeant Harden, is there any doubt in your mind
9 about the identity of the person who took you into Cell
10 144?

11 A No, ma'am.

12 Q Who was among those three inmates?

13 A Chavis Cox.

14 Q And you had seen Chavis Cox prior to that day?

15 A I did.

16 Q Having worked that dorm F-3 Side B on numerous
17 occasions?

18 A Yes, ma'am.

19 Q You'd recognize him if you saw him?

20 A I would.

21 Q Sergeant Harden, do you see Chavis Cox in this
22 courtroom?

23 A I do.

24 Q Where is he seated?

25 A He's sitting there in the blue shirt.

1 MR. CHEHOSKI: Renew my prior objection, Your Honor.

2 THE COURT: So noted for the record.

3 BY MS. MAYES:

4 Q I'm going to ask you again: Do you see Chavis Cox
5 in this courtroom?

6 A Yes, ma'am, I do.

7 Q Where do you see Chavis Cox?

8 A I see him sitting there with the blue shirt on.

9 MS. MAYES: Your Honor, may the record reflect that
10 she has identified Chavis Cox?

11 THE COURT: The record does reflect so.

12 BY MS. MAYES:

13 Q Any doubt in your mind that Chavis Cox had
14 possession of a weapon as well during this incident?

15 A No doubt at all.

16 Q Do you recall being interviewed by members of the
17 State Law Enforcement Division, including this agent right
18 here -- this SLED agent ---

19 A Yes, ma'am.

20 Q --- Russ Padgett?

21 A That's correct, I do. I remember that.

22 Q As well as giving statements that night ---

23 A I do.

24 Q --- about the incident that had occurred?

25 A Mm-hmm.

1 Q Do you recall giving them the name Chavis Cox even
2 that night?

3 A I do.

4 Q Did you have any problem at all identifying him or
5 recalling the name of this individual?

6 A I did not. I did not.

7 Q Okay. And do you also recall any name -- other name
8 that you knew him by there pursuant to your job as a
9 correctional officer other than Chavis Cox?

10 A Yes. Inside the unit, he's called Money Cal.

11 Q Money Cal?

12 A Yes, ma'am.

13 Q Is that like C-a-l?

14 A Yes.

15 Q Okay. Money Cal?

16 A Uh-huh.

17 Q So you knew him by that name as well?

18 A I knew him to be called that name, yes.

19 Q You had heard him called that name, Money Cal?

20 A Mm-hmm.

21 MS. MAYES: Beg the Court's indulgence.

22 BY MS. MAYES:

23 Q So, to recount the events, going back -- looking
24 here at State's 9, when you're taken inside, did you have
25 possession of all of the keys to all of these cells when

1 you went inside?

2 A I did.

3 Q And once they left out, did you have any of those
4 keys left at 6:12 when they went out?

5 A No, ma'am, I did not.

6 Q Did you have your radio left when they went out?

7 A I did not.

8 Q And the jacket that's been previously identified?

9 A I did not.

10 Q You believe that to be your jacket?

11 A It was my jacket.

12 Q Taken as well?

13 A Yes, ma'am.

14 Q And the weapon that you saw the individuals with,
15 did you ever see that left behind in the cell?

16 A I did not.

17 Q Is it your belief that they left with that weapon?

18 A It is my belief that they left with it.

19 Q Along with your keys?

20 A Yes, ma'am.

21 Q And those trash bags ---

22 A Yes, ma'am.

23 Q --- or the white bags?

24 A Yes, ma'am.

25 MS. MAYES: Nothing further at this time, Your

1 Honor.

2 THE COURT: Mr. Chehoski?

3 CROSS-EXAMINATION

4 BY MR. CHEHOSKI:

5 Q Sergeant Harden, you had been working for South
6 Carolina Department of Corrections for three years at that
7 point; is that correct?

8 A Yes, that's correct.

9 Q And you had already mentioned that you were
10 short-staffed that day; that you said your captain had
11 left that afternoon?

12 A Yes, sir.

13 Q Okay. And that there was -- it was so short-staffed
14 that you were actually supervising both A Wing and B Wing
15 of F-3; is that right?

16 A Correct.

17 Q Do you remember how many inmates there were there?

18 A There possibly could have been 200 and something.

19 Q What time did your shift start that day?

20 A If this was the time change, I think it was either
21 7:00 or 8:00. I can't remember; it's been a while. We
22 had recently did a shift change of time, so it could have
23 been 7 a.m.

24 Q All right. So around 6:00, you're in the last hour
25 of your shift; right?

1 A Correct, mm-hmm.

2 Q And do you remember that December 27th, 2020, that
3 was a Sunday; right?

4 A I believe it was, yes.

5 Q And when you started your shift, you had mentioned
6 in your statement that you had opened the doors -- doors
7 to the cells for the workers; is that right?

8 A Not all of them. Some of them. Some of them was
9 already open.

10 Q Some were already open?

11 A Correct.

12 Q But -- and then you had opened some others, and you
13 said they had done that a little early; is that right?

14 A Correct.

15 Q And you said that you had opened those doors early,
16 like, as a courtesy to the workers?

17 A Yeah.

18 Q Essentially you're showing them some respect to let
19 them get on with their day a little earlier?

20 A Well, yeah, because some things take longer than
21 others, and, to be honest, there were some workers that
22 will be locked in earlier than others. There was a
23 courtesy of inmates that would be left out, as the major
24 said, due to our captain making the decision to let -- do
25 you want to stop me?

1 Q Yes. All right. I want to talk about inmate
2 workers just for a minute. Are you -- when you start your
3 shift, do you know of the two hundred -- you said 270
4 workers?

5 A No, not 270 workers. There could poss- --

6 Q Or approximately 270 inmates ---

7 A Mm-hmm.

8 Q --- that were there. Do you know which one of them
9 are workers?

10 A It's not 270 inmates. There could possibly be 225.
11 But, yes, I know the workers.

12 Q Yes. So, again -- thank you for correcting me.

13 Of the 225 workers, do you know -- 225 inmates, do
14 you know who among them are the workers?

15 A I do.

16 Q And it's the doors of their cells that are unlocked;
17 is that correct?

18 A Correct, mm-hmm.

19 Q And if they are not an inmate worker or a cafeteria
20 worker or have some other job within the Department that
21 they have applied for, then they're locked down; is that
22 right?

23 A Correct.

24 Q All right. Thanks.

25 And you're not the one who -- are you the one who

1 approves or denies applications to become a worker?

2 A I am not.

3 Q You are not. That was somebody else who did that?

4 A Correct.

5 Q And you had the -- but you would have access to the
6 list of people who were the inmate workers; is that right?

7 A I would.

8 Q Yes.

9 And being an inmate worker, it would be a privilege
10 for the -- to be a worker would be a privilege for the
11 inmate; is that right?

12 A Correct.

13 Q And that would be a privilege that could be revoked
14 as well; is that correct?

15 A That's correct.

16 Q All right. Now, the cell door to 144, that was --
17 before 6:00 -- was unlocked; is that right?

18 A Yes.

19 Q All right. Are you -- by that testimony, are you
20 saying that Chavis Cox was a worker?

21 A Yes.

22 Q He worked? All right. Is there any documentation
23 that you're aware of that shows that he's a worker?

24 A I'm not aware if it was or not.

25 Q And when you went to Cell 144, there are two other

1 people that are also in the cell; is that right?

2 A When I got there and they came out, yes.

3 Q Yes. And so it's your testimony, then, because they
4 were out of their cell, that they would be workers too; is
5 that right?

6 A Correct.

7 And if I may?

8 Q Yes.

9 A One of the men that was in there, there was -- he
10 shared a room with a kitchen worker. The kitchen worker
11 had just come back. That door was open due to the kitchen
12 worker having to take a shower. So that would allow him
13 space to be with the door open.

14 Q All right. Again, but if Chavis Cox was not an
15 inmate worker, his cell would not have been locked --
16 unlocked; is that correct?

17 A Correct.

18 Q Okay. And, therefore, no other person would be able
19 to get in; is that right?

20 A That's correct.

21 Q And he would not have been able to get out; is that
22 right?

23 A Correct.

24 Q Now, on to your -- the shift of December 27th, you
25 were not just working the B Wing of F-3; is that right?

1 **A** That's correct.

2 **Q** You also had the A Wing?

3 **A** Mm-hmm.

4 **Q** And that was the reason why the door between the two
5 wings was unlocked; is that right?

6 **A** Because I was working them both?

7 **Q** Yes.

8 **A** Yes.

9 **Q** But it seems like that's a "yes, and." Was there
10 something else?

11 **A** I'm not sure if you're asking if the door was open
12 because I was working there or what was the purpose behind
13 the doors being opened.

14 **Q** I mean, is that door supposed to be open?

15 **A** It can be open at certain points.

16 **Q** At certain points.

17 Is it supposed to be open at 6:00 when you're
18 supposed to be locking down for the end of the shift?

19 **A** It can be, if I choose to open it.

20 **Q** If you choose. So it's your choice to leave it
21 open?

22 **A** Mm-hmm.

23 **Q** All right. And around that time, you were -- you
24 had gotten a call requesting your assistance outside the
25 dorm?

1 **A** Correct.

2 **Q** And that was out in the yard; is that right?

3 **A** That's correct.

4 **Q** Right? You could have locked down the door --
5 locked down the dorm before you were answering that call;
6 is that right?

7 **A** I could have.

8 **Q** And if you had done that, everybody would have been
9 in their cells; is that correct?

10 **A** No, that's not correct.

11 **Q** I mean, but if you had locked down the dorm -- you
12 had not -- you're saying that, if you had locked down the
13 dorm, the inmates would still be outside of their cells?

14 **A** Correct, because the door -- those unit doors has
15 nothing to do with the cell doors.

16 **Q** All right. What I'm trying to understand is do you
17 have -- if you had locked down the door -- dorm -- if you
18 had locked down the dorm meaning the inmates are in their
19 cells and it's secure before answering that call, then
20 they would -- then you could have left the dorm and all
21 the inmates would not be able to get outside their cells;
22 is that correct?

23 **A** If I had the time to lock the doors before making
24 that call, yes.

25 **Q** And you could have done that; right?

1 A No.

2 Q You're saying you could not have locked down the
3 door before answering this call?

4 A That's correct. It was an emergency call. There
5 was no time to lock the doors. That's why we was called
6 out immediately to the yard because of the capacity of
7 what was taking place in the unit that they had to report
8 to.

9 Q So when you answered that call, you left the dorm
10 completely unsupervised; is that right?

11 A I did.

12 Q And did you left the dorm completely unsupervised
13 with inmates able to go in and out of their cells; is that
14 right?

15 A Based on the call, I did.

16 Q And they could have also gone between A Wing and
17 B Wing too; is that correct?

18 A That's correct.

19 Q And, again, in your shift, it was your job to lock
20 it down; is that correct?

21 A That is also correct.

22 Q Okay. You mentioned in your statement that you
23 usually begin your lockdown at 5:30; is that right?

24 A Yes.

25 Q But on this, you didn't start your lockdown until

1 after 6 p.m.?

2 A No, I was in the process of doing that before the
3 call came. And when the call came, which probably was
4 around 5:30 when the first call came through, that's why I
5 wasn't able to proceed with the lockdown because I got
6 interrupted with the emergency call to come to the yard.

7 Q So, again -- but you didn't -- again, it was still
8 after 6:00 and you're still doing lockdown?

9 A Yes, due to the emergency call.

10 Q Now, I read something in the discovery about a black
11 card. Are you familiar with this?

12 A A who?

13 Q A black card.

14 A A black card?

15 Q Yes, ma'am.

16 A No.

17 Q You're not familiar?

18 What about a Cash App card?

19 A No.

20 Q You're not familiar with either of those?

21 A I mean, I'm familiar with those terms, but...

22 Q Okay. What is your understanding of what a Cash App
23 card or a black card is?

24 A I know that a Cash App card is a card where you
25 receive money or have money.

1 Q Okay. And do you have one of those?

2 A I do.

3 Q Do inmates have one of those?

4 A I recall some having them.

5 Q Okay. Can inmates get access to a black -- to a

6 Cash App card?

7 A Yes.

8 Q You said at some point -- you state in your

9 testimony, again, at some point that some inmate brought

10 you a radio?

11 A Correct.

12 Q Do you know who the inmate was who brought you that

13 radio?

14 A I don't know him by name but I know his face.

15 Q You don't know his name?

16 A I do not.

17 Q Were you also delivered a set of keys as well?

18 A I was brought all the keys.

19 Q You were brought all the keys?

20 A Correct.

21 Q Could you have used those keys to secure your

22 release from Cell 144?

23 A I tried but I couldn't get out.

24 Q I could not. But you did try?

25 A I did.

1 Q Okay. All right. You understand that the doors
2 lock from the outside but can you unlock them from the
3 inside as well?

4 A No.

5 Q All right. So when the inmates brought you those
6 keys, it still wouldn't do you any good?

7 A No, they didn't. I tried but I couldn't get out.

8 Q Again, aside from the general nature that they're
9 not in the hands of the inmates anymore and they're back
10 in the hands of a guard.

11 A Correct.

12 Q But aside from that, they don't do you any good
13 securing your release from Cell 144?

14 A That's correct.

15 Q And the inmates who brought you the keys, they did
16 not unlock the door for you, did they?

17 A No, they did not.

18 MR. CHEHOSKI: One moment, please, Your Honor.

19 BY MR. CHEHOSKI:

20 Q And just again to make sure that I do have this
21 right, if Chavis Cox is not a dorm worker, his cell door
22 is locked; is that right?

23 A It should be.

24 Q It should be.

25 A Correct.

1 Q And, again, you made the choice to leave cell or
2 Dorm F-3 unsupervised to answer this emergency call; is
3 that right?

4 A I did.

5 MR. CHEHOSKI: All right. No further questions,
6 Your Honor.

7 THE COURT: Thank you, Mr. Chehoski.

8 Ms. Mayes?

9 MS. MAYES: Briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. MAYES:

12 Q Sergeant Harden, just to follow up on that a little
13 bit more, going back to December 27th, was it your belief
14 at that point in time that Chavis Cox was a dorm worker?

15 A Yes, ma'am.

16 Q Which would allow him to come and go along with
17 other dorm workers?

18 A Correct.

19 Q Along with cafeteria workers?

20 A Yes, ma'am.

21 Q And what about even if somebody wanted to take a
22 shower?

23 A Yes.

24 Q Okay. So all of those are reasons that someone
25 might be able to come and go?

1 **A** Correct.

2 **Q** Now, when you got called out to the yard -- I want
3 to ask a little more about that. You got called out to
4 the yard because of an emergency there; is that correct?

5 **A** That's correct.

6 **Q** Were you called out to the yard by a supervisor?

7 **A** I was.

8 **Q** And was that a situation where, I believe, 911 was
9 involved?

10 **A** Correct.

11 **Q** So that was an urgent or an emergent situation?

12 **A** That would be correct.

13 **Q** When you go out to the yard like that, given that it
14 was an emergency, was that the reason that you left F-3?

15 **A** Yes.

16 **Q** But, in so doing, you returned to F-3?

17 **A** I did.

18 **Q** And, again, even upon your return, were you the sole
19 officer working that dorm?

20 **A** I was.

21 **Q** You got a question about the keys that ultimately
22 were brought to you.

23 **A** Mm-hmm.

24 **Q** You said you knew they weren't your keys?

25 **A** Correct.

1 Q And you were alarmed at that point?

2 A I was.

3 Q Were you able to attempt to try and unlock your cell
4 from the inside?

5 A I did.

6 Q Tell us how you went about trying to attempt that.

7 A I took the key and put my hand through the flap and
8 tried to reach over into the hole to unlock it but I
9 couldn't do it.

10 Q You couldn't get out of the flap and into the key
11 lock?

12 A Well, I was able to get through the flap because
13 it's wide enough for you to put your arm in, but I
14 couldn't get the key in there because of -- I guess, like
15 the -- it's probably about this wide. And then I'm
16 putting my hand in, but I couldn't get around to get the
17 key into the hole to, like, actually try to unlock it.

18 Q Okay. Understood.

19 And in that point in time, were you aware, based on
20 the sounds and the commotion that you were hearing, that
21 numerous inmates had been released?

22 A Correct.

23 Q And also that other staff members may be in jeopardy
24 because of the radio and keys being brought to you?

25 A That's correct.

1 MS. MAYES: Thank you. Nothing further.

2 THE COURT: Mr. Chehoski?

3 RECROSS-EXAMINATION

4 BY MR. CHEHOSKI:

5 Q Sergeant Harden, you could have told your supervisor
6 that you were locking down the dorm before answering that
7 call; is that correct?

8 A No, sir. When they --

9 Q You could not have told them that?

10 A No. When they call for an emergency, you move.

11 Q All right. And so you --

12 MR. CHEHOSKI: All right. That's all I have.

13 THE COURT: Okay. May I excuse the sergeant?

14 MS. MAYES: Yes, Your Honor, although she would be
15 exempt from sequestration.

16 THE COURT: You are excused.

17 MS. MAYES: Due to the hour, Your Honor, that would
18 be our last witness for the day.

19 THE COURT: Okay. Ladies and gentlemen of the jury,
20 we're going to start promptly at 9:30 in the morning. I'm
21 on a schedule and trying to keep to it. So 9:30.
22 Everybody in the jury room about 9:15.

23 Remember: Do not talk to anyone about this case.
24 If you see it on the news or in the newspaper, please cut
25 off the TV and do not watch it. Do not do any research,

1 looking at anything on this case.

2 I will see y'all in the morning. Hope you have a
3 good evening. Thank you.

4 (At 5:01 p.m, the trial adjourned until May 30,
5 2024, at 9:30 a.m.)

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1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Chavis Cox

3 2022-GS-36-00185, et al

4 DATE OF HEARING: May 28, 2024

5 COURT REPORTER/MONITOR: DCRP/Anna Foster

6 *****

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11 recording and supporting information, and that I am
12 neither counsel for, related to, nor employed by any of
13 the parties to this case, and I have no interest,
14 financial or otherwise, in its outcome.

15
16 17 /s/ Bobbi Fisher_____

18 Bobbi Fisher, RPR and Certified Transcriber

19 Date Submitted:

20
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1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 2 COUNTY OF McCORMICK * TRANSCRIPT OF RECORD
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 3 -----X
 STATE OF SOUTH CAROLINA, *
 4 *
 State, *
 5 *
 vs. * Case No. 2022-GS-35-00184
 6 * 2022-GS-35-00185
 * 2022-GS-35-00186
 7 CHAVIS LARANZO COX, *
 *
 8 Defendant.*
 -----X

Trial Dates:
 May 28-30, 2024

JURY TRIAL - VOLUME II
 Tuesday, May 29, 2024
 Pages 174-351

B E F O R E:

The Honorable Debra R. McCaslin, Presiding Judge; and
 a jury.

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

Suzanne Mayes, Esq.
 Douglas Fender, Esq.
 Assistant Solicitors for the State

Jason Scott Chehoski, Esq.
 Megan Gresham, Esq.
 Attorneys for the Defendant

Recorded by: DCRP/Court Monitor Anna Foster

Transcribed by: Bobbi Fisher, RPR
 SC Official Court Reporter III

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

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12 COURT REPORTER LEGEND

13 Dash (--)	Indicates an interruption in speech
14 Ellipses (...)	Indicates trailing off in speech
15 (ph)	Indicates phonetic word
16 [Verbatim]	Indicates the word is said as written
17 (Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

1 P R O C E E D I N G S

2 (The jury entered the courtroom at 9:41 a.m.)

3 THE COURT: All right, Mr. Foreman. Jury ready?

4 JURY FOREMAN: Jury is ready.

5 THE COURT: Please be seated.

6 All right. Let me address the jury just for a
7 moment for my morning question. Have you talked to anyone
8 about this case or has anyone tried to talk to you or
9 approached you about this case? Have you seen anything in
10 the newspaper, the TV, or have you done any research
11 concerning this case? If so, please raise your hand.

12 (No response given.)

13 THE COURT: Thank you.

14 The State can call their next witness.

15 MR. FENDER: Your Honor, the State calls Mike
16 Wheeler to the stand.

17 THE COURT: Okay.

18 THE CLERK: Raise your right hand and place your
19 left hand on the Bible.

20 MIKE WHEELER,

21 after having been duly sworn, was examined and
22 testified to as follows:

23 THE COURT: If you'll state your name and spell your
24 last name for the court reporter, please.

25 THE WITNESS: Michael Wheeler. W-h-e-e-l-e-r.

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. FENDER:

4 Q Good morning, Mr. Wheeler.

5 A Good morning.

6 Q Can you tell us where you work at?

7 A I'm currently employed with SLED.

8 Q And what's your title there?

9 A Lieutenant in charge of the SWAT team.

10 Q Lieutenant in charge of the SWAT team.

11 Can you tell us just a little bit about SLED and the
12 SWAT team.

13 A SLED has a part-time SWAT team of about 50 people.
14 They're all throughout the State of South Carolina. Some
15 live in the Upstate, towards the beach, in Charleston. We
16 train twice a month for the MAIT team, and each specialty
17 team trains about once a month. We have team or groups of
18 entry members: Less lethal, precision rifle, negotiators,
19 containment, and EMTs.

20 Q What kind of incidents does the SWAT team respond
21 to?

22 A We respond to various incidents usually in the --
23 over a hundred a year from hostage rescue and barricaded
24 suspects, executing high-risk warrants, whether search and
25 arrest warrants, and security details, things at the State

1 House, Myrtle Beach Memorial Day weekend, Cooper River
2 Bridge Run, and things like that.

3 Q And when you say "hostage situations," what does
4 that mean?

5 A Someone is being held against their will and we have
6 to go in there and rescue them.

7 Q In a scenario like that, would you perform an
8 extraction?

9 A Depending on the situation, yes. Either an
10 extraction or rescue. It depends on how they're being
11 held. If they're being held behind a wall or something
12 like that and we have to damage the wall, which would lead
13 to an extraction.

14 Q Did you respond to an event that occurred on
15 December 27th, 2020?

16 A Yes. We got called in from the Department of
17 Corrections, I believe, regarding a hostage situation
18 along with a prison riot and escape at the McCormick
19 Correctional Institute.

20 Q Can you tell us about what you remember from that
21 day from the time that you were asked to respond to that
22 call to the time you arrived on the location?

23 A We arrived on the scene, again, with that bare
24 minimum information of all three events taking place.
25 When we arrived on the scene, members of SCDC advised us

1 that one of their corrections officers was being held
2 hostage inside one of the dormitories. Her status was
3 questionable. They had had no contact with her and had
4 not been able to see her on any of the cameras at the
5 time. So we were concerned for her safety. But the small
6 team we had at the time -- because, again, being a full
7 SWAT call, other agents were responding from further away.

8 We took a small team into that dorm with a hasty
9 plan. Based on the situation, her safety was what we were
10 concerned about, not anything else.

11 So I activated my body-worn camera and entered the
12 dorm with my team using an enhanced diversionary device as
13 we entered that particular part of the dorm and made our
14 way to the area we believed she was in, checked the door
15 and found that it was locked. Fortunately, we had a key
16 so we didn't have to breach it any mechanical way.
17 Unlocked the door and got her out.

18 Q So you arrived on the scene and, with other first
19 responders, you decided to go into the prison to try to
20 rescue her?

21 A Yes. She was a priority at that time. The other
22 situations were less of a priority. She was our only
23 concern.

24 Q Can you describe the kind of scene as you were going
25 into the prison? You know, what you saw, what you

1 remember?

2 A The exterior door was secured as well, so we had to
3 open that, which opened up into the dorm. There was a
4 section to the left as well as to the right. We cleared
5 the initial office space, if you want to call it that, to
6 another door that led to the particular dorm we were in.
7 When we opened that door, again, we threw in an enhanced
8 diversionary device.

9 When we entered there, there was two inmates or
10 subjects in the area. They got down on the ground for our
11 commands, and then we, again, moved into that one
12 particular area that we thought she was in, found her
13 there, and got her out.

14 Q And you testified that you did have a body camera?

15 A Yes, my agency-issued body-worn camera was on and
16 activated at the time.

17 MR. FENDER: Your Honor, may I approach the witness?

18 THE COURT: You may.

19 (State's Exhibit No. 4, Body-Worn Camera Video, was
20 marked for identification.)

21 BY MR. FENDER:

22 Q Let me show you what's been marked here as State's
23 Exhibit 4. Is that your initials on this disc?

24 A It is.

25 Q Have you had an opportunity to review the item?

1 **A** I have.

2 **Q** Is this, in fact, your body camera from this event?

3 **A** It is.

4 MR. FENDER: Your Honor, at this time, I'd move
5 State's 4 into evidence and publish to the jury.

6 THE COURT: Any objection to State's No. 4?

7 MR. CHEHOSKI: No objection, Your Honor.

8 THE COURT: It's admitted.

9 (State's Exhibit No. 4, Body Camera Footage, having
10 been premarked for identification, was received into
11 evidence.)

12 (Video plays.)

13 MR. FENDER: Can you pause?

14 BY MR. FENDER:

15 **Q** Just to give us some context, what is happening at
16 this moment here?

17 **A** We are outside of the dorm area to the entire
18 building. We have opened the first door using an enhanced
19 diversionary device. As we entered that door, I believe
20 it did not activate as it was supposed to. That's -- the
21 weapon system I was holding at the time was a 40mm sponge
22 round launcher. I'm at the right-hand side of the door
23 about to make entrance into that building.

24 **Q** So we're seeing your body-worn camera going into
25 this building?

1 **A** Correct.

2 **Q** Thank you.

3 (Video continues to play.)

4 MR. FENDER: If you could please pause there.

5 BY MR. FENDER:

6 **Q** At this point, did you know what you were walking
7 into as far as this dorm?

8 **A** We knew we were going into the dorm looking for the
9 corrections officer and that there was also the prison
10 riot, so we expected some inmates to be out. Those are
11 two of them there that are prone down on the floor.

12 **Q** You see these individuals in the orange here.
13 They're inmates that are out of their cells?

14 **A** Yes.

15 **Q** Thank you.

16 MR. FENDER: If you could please play.

17 (Video continues to play.)

18 BY MR. FENDER:

19 **Q** Now, at this point, have you located the cell that
20 the hostage was locked into?

21 **A** Yes.

22 **Q** And when you said, "I need a key, I need a key," was
23 that your voice?

24 **A** Yes, it was.

25 **Q** Can you tell us just what's going on at that moment?

1 A So when we went up to the door, obviously, I tried
2 to check it. I even instructed the person inside to open
3 it, which they couldn't, and then we knew we had someone
4 with SCDC with us that had a key, so I was calling them up
5 to unlock the door.

6 Q And the female correctional officer, she was locked
7 inside the cell?

8 A Yes.

9 Q And you had to use the key to extract her?

10 A Correct.

11 Q One she was released from the cell, can you tell us
12 what happened next?

13 A She left the building under the escort that was with
14 her. We -- our plan had been just to get her out and
15 leave depending on the situation inside. Given that there
16 was only those two inmates out, we decided to stay in that
17 dorm and secure everyone else in their cells.

18 Q And did you also learn that there was a surveillance
19 video of that dormitory as well?

20 A Yes.

21 Q Have you had an opportunity to review that?

22 A I have.

23 (Counsel confer off the record.)

24 MS. MAYES: Your Honor, may we approach?

25 BENCH CONFERENCE

1 (A bench conference was held off the record and
2 outside of the hearing of the jury.)

3 MS. MAYES: Due to (indiscernible) 19-5-520, we know
4 this is evidence so it's already in (indiscernible)
5 objection.

6 THE COURT: Yeah, we've already put in 3.

7 MALE SPEAKER: (Indiscernible) as yesterday.

8 MALE SPEAKER: Yes. It's a different time but it is
9 the same video so it's...

10 MS. MAYES: (Indiscernible).

11 THE COURT: But is that No. 3?

12 MS. MAYES: It is, Judge.

13 THE COURT: I think 3 is in.

14 MS. MAYES: It was all (indiscernible).

15 MALE SPEAKER: I think 5 is already in. That's all
16 I was trying to get to, (indiscernible) where the
17 foundation is coming from and all that.

18 THE COURT: Okay. Are we all right with the
19 foundation?

20 MALE SPEAKER: (Indiscernible).

21 THE COURT: Okay.

22 (Open court continues as follows:)

23 (Video continues to play.)

24 MR. FENDER: Your Honor, may I approach the witness?

25 THE COURT: You may.

1 BY MR. FENDER:

2 Q This I'm showing you now, is this your initials on
3 this?

4 A It is.

5 Q Now, this video, does it show you entering the dorm
6 room and rescuing the hostage?

7 A It does.

8 MR. FENDER: Your Honor, at this time, I'd like
9 State's -- State's 3 and publish to the jury.

10 THE COURT: All right. Any objection?

11 MR. CHEHOSKI: Your Honor, again, this is pursuant
12 to the same issue as yesterday.

13 THE COURT: Okay. Go ahead and publish.

14 (State's Exhibit No. 3, Footage of Different Angle,
15 having been premarked for identification, was received
16 into evidence.)

17 BY MS. MAYES:

18 Q As he's bringing this video up, this does video --
19 does this show the same event that was also shown on your
20 body cam?

21 A Yes, just from a different angle from wherever the
22 security camera happened to be inside the dorm.

23 Q So this is just a different angle of the same event?

24 A Yes, sir.

25 Q All right. Thank you.

1 MR. FENDER: Can you pause it there, Paul?

2 BY MR. FENDER:

3 Q And we just saw the flash taking place?

4 A The enhanced diversionary device created that loud
5 flash -- or that flash, and it would have been a loud
6 noise associated with it, yes.

7 Q All right. Thank you. Please play.

8 (Video continues to play.)

9 A That would be me passing them, going to the door.
10 And I'm at the door now. Probably about this time, asking
11 for the key. You see a lady coming up with the key in her
12 hand. And she's working the door.

13 And they're leaving. At this point, I'm making the
14 decision for us to stay and secure this dormitory.

15 Q Thank you. Please answer the defense attorney's
16 questions.

17 A Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. CHEHOSKI:

20 Q Just one question. There was no one else in the
21 dorm with the officers -- I mean, no one else in the cell
22 with the officer, though; right?

23 A Correct.

24 Q Thank you.

25 THE COURT: Any redirect?

1 MR. FENDER: No redirect. May he be excused?

2 THE COURT: Absolutely. Absolutely.

3 Thank you.

4 THE WITNESS: Thank you, Your Honor.

5 MR. FENDER: Your Honor, the State would call Daniel
6 Cotter to the stand.

7 THE COURT: David...

8 MR. FENDER: Daniel Cotter.

9 THE COURT: Daniel Cotter. Thank you.

10 All right. Mr. Cotter, let's get sworn.

11 THE CLERK: If you would, please raise your right
12 hand and place your left hand on the Bible.

13 DANIEL COTTER,

14 after having been duly sworn, was examined and
15 testified to as follows:

16 THE COURT: Mr. Cotter, if you'd please take a seat
17 and state your full name and spell your last name for the
18 court reporter, please.

19 THE WITNESS: Yes, ma'am. Good morning. My name is
20 Daniel Cotter. Last name is C-o-t-t-e-r.

21 THE COURT: Thank you.

22 DIRECT EXAMINATION

23 BY MR. FENDER:

24 Q Good morning, Agent Cotter.

25 A Good morning.

1 Q I just want to ask you, can you tell us a little bit
2 about maybe your background, your training, your
3 experience?

4 A Sure. In 2002, I started working corrections in New
5 Hampshire. I was a correctional officer there, moved up
6 the rank. Ended up -- I was just a corporal there. So,
7 2006, I had moved to South Carolina, took a position with
8 the South Carolina Department of Corrections as a
9 corrections officer, moved up through the ranks there.
10 Achieved the rank of captain.

11 And, from there, I decided to get into outside law
12 enforcement. I went to the police academy, got Class I
13 certified, and I have been a Class I officer for
14 approximately seven years.

15 Q So you yourself worked as a correctional officer?

16 A Yes, sir.

17 Q And now you work in law enforcement, investigating
18 crimes?

19 A Yes, sir.

20 Q Can you tell us just kind of, again, who you work
21 for and the kind of crimes that you investigate?

22 A Okay. So I work for the South Carolina Department
23 of Corrections still and -- but I'm in the law enforcement
24 capacity. So I'm currently an assistant chief working for
25 the Office of Inspector General for SCDC. So what we do

1 there is we investigate crimes that happen within the
2 prison, and also, any crimes that branch out from the
3 prisons. So if they're making drug deals from inside the
4 prison to the outside and we find that nexus to it, we can
5 still investigate. We have statewide jurisdiction.

6 Q Okay. So you're kind of a special kind of police
7 officer or investigator that handles investigating crimes
8 in prisons?

9 A Yes, sir.

10 Q And McCormick Correctional Institute, is that a
11 state facility located in McCormick County?

12 A Yes, a state correctional facility.

13 Q And as part of your job responsibilities, do you
14 also respond to emergencies?

15 A Yes. That's part of our job as a region.

16 Q Okay. Can you tell us just a little bit about the
17 kind of training that you went through as far as emergency
18 response?

19 A As far as emergency response, there's basically the
20 two tiers. Since I have a unique background in
21 corrections and law enforcement, but the correctional
22 experience, we learned crowd control, emergency
23 situations.

24 As far as law enforcement, it's kind of a tactical
25 response from a law enforcement side. As far as -- it

1 depends on the situation that's going on, but we can just
2 be -- as simple as officer presence during a simple
3 incident and -- all the way up to, you know, shotguns or
4 rifles, depending on the situation.

5 Q And as an investigator, do you also investigate
6 these crime scenes?

7 A Yes, sir.

8 Q Can you tell us a little bit your training and, you
9 know, what you-all do to collect evidence and document
10 scenes?

11 A Okay. And as well with -- with my correctional and
12 law enforcement background, I'm trained in evidence
13 collection and preservation and documenting the evidence
14 when we obtain it, doing correct chains of evidence to
15 make sure that the evidence is secured in a secure place
16 once it's obtained.

17 Q And just to ask you a little bit about, you know,
18 prisons and specifically McCormick Correctional Institute,
19 can you tell us about the different layers of security in
20 a place like that?

21 A Okay. There's numerous levels. I guess the most
22 basic one would start with the individual cell that an
23 inmate resides in. The individual cells are locked. So,
24 beyond that, the next level of security would be the doors
25 on the exterior of the unit. Beyond that, there's two --

1 two fences. There's what they call the interior fence and
2 the exterior fence. Both of those fences have razor wire
3 over them.

4 And the last line of defense at that point would
5 be -- they have a rover, which is a vehicle that patrols
6 around the facility, and that's an armed position.

7 Q So if an inmate, you know, is trying to escape and
8 they first [indiscernible] ---

9 A Mm-hmm.

10 Q --- they'd have to get out of the dorm?

11 A Yes, sir.

12 Q They'd have to get over the first fence?

13 A Yes.

14 Q They'd have to get over the second fence?

15 A Yes.

16 Q And then they'd have to escape from the rover as
17 well?

18 A Yep.

19 MR. FENDER: Your Honor, may I ask for the witness
20 to step down?

21 THE COURT: Absolutely.

22 BY MR. FENDER:

23 Q I'd like to show you now what's already in evidence
24 as State's Exhibit 12. Can you tell us what this is?

25 A Okay. This is a view of all of McCormick

1 Correctional Institution.

2 Q Can you highlight just some of the fences and kind
3 of security items that you just testified about?

4 A Sure. It's a little difficult to see through this
5 map, but there would be [indiscernible].

6 Q All right. So....

7 A Right here would be a -- that would be what they'd
8 call interior fence. An interior fence kind of rotates
9 around the facility and then -- so it rotates around the
10 facility. And then there's another secondary fence. You
11 can kind of see a little bit here. That goes around. And
12 then the rover would be on this road here as a last line
13 of defense.

14 Q So it's quite impossible to get out of that place;
15 is that fair to say?

16 A Yes, sir.

17 Q All right. You're welcome to take a seat back
18 there.

19 So, at this time, I want to direct your attention to
20 December 27th, 2020. Can you tell us what you remember
21 about from that day?

22 A Okay. Two days after Christmas, we were enjoying a
23 long break for the Christmas holiday. I received a
24 call -- I can't remember what time -- at night, but had
25 received a call from my assistant chief and basically

1 explaining that there had been a situation at McCormick
2 and that inmates had escaped. We hadn't heard of how many
3 escaped at that point. There were some wild rumors as I
4 was driving in that there was up to 100 inmates that had
5 escaped.

6 So, obviously, I ran code to the situation. And
7 when I got to the institution, I kind of knew it was
8 something big as soon as I got there because I was ushered
9 in. They wanted our presence.

10 So I asked, "Do I need a weapon?" They said, "Yes."
11 So I grabbed my shotgun from the trunk, loaded it up, made
12 it hot, ready to fire. I entered the facility. I was
13 ushered through the facility directly out onto the yard
14 and they directed me over to the -- they kept saying the
15 PI building, so I went over towards the PI building. And
16 the PI building is off to the right as soon as you get on
17 to the yard, and it's -- they led me to an area between
18 the PI building and F-4 Unit. And, there, right past that
19 first inner fence, I saw a bunch of people laying down.
20 There was five individuals laying down on the ground that
21 were identified immediately as inmates.

22 I covered them with my weapons, told them not to
23 move. And I basically covered them until corrections
24 staff assembled and they were able to get a team. And
25 they took each of the five individuals -- one at a time --

1 and placed them in restraints and took them into lock-up.

2 Q So you were there initially to prevent inmates from
3 escaping?

4 A Yes, sir.

5 Q And you said these five inmates, they made it over
6 the first fence?

7 A Yes, the first fence.

8 Q Did you later learn that one of those inmates was
9 Chavis Cox?

10 A Yes.

11 Q And he was an inmate detained there at the facility?

12 A Yes, sir.

13 Q So once these inmates had kind of -- you know, the
14 situation had been brought under control, can you tell us
15 a little bit about where you have a nexus that things
16 shifted into investigation?

17 A Okay. Immediately after we -- well, we had to -- we
18 had to basically breach each of the units and make sure
19 that each of the units were secure. And we do that for
20 crime scene preservation. So, once again, inmates were
21 all placed back into the cells and role call count is
22 conducted to make sure that nobody had made it over the
23 second fence.

24 So, after that, we go right into crime scene
25 preservation and documentation. SLED Crime Scene assisted

1 with that. And I was the -- I was made the assistant to
2 SLED on this case, so I was responsible with assisting
3 SLED and gathering evidence and gathering reports,
4 assisting with interviews. So we had done all that.

5 As far as evidence, do you want me to go into...

6 Q Yeah, I want to ask you specifically ---

7 A Sure.

8 Q --- was a phone collected?

9 A Yes. Several phones were collected.

10 Q And that was collected pursuant to your procedures
11 of evidence collection?

12 A Yes. I took possession of several phones and we
13 entered them into evidence with proper chains of evidence,
14 following our policies and procedures.

15 Q And who was that phone turned over to?

16 A Myself and then I turned it over to the evidence
17 coordinator. We have an evidence room that it was
18 submitted to.

19 Q Is that for the purposes of an extraction?

20 A Yes. And then, ultimately, that's where it would
21 go. We have our own in-house cell phone extraction team
22 that would take the cell phone and extract the data off of
23 it.

24 Q Is that kind of basically looking for information
25 inside that phone?

1 A True.

2 Q And do you have that phone with you here today?

3 A Yes.

4 Q Do you have the IMEI number on that package?

5 A Yes.

6 Q If you could, please read that into the record.

7 A Okay. 352176101055004.

8 Q And is this the phone that was properly collected
9 from the crime scene pursuant to your procedures?

10 A Yes, and we listed it as Evidence Item No. 1.

11 Q And just a couple more questions about the phone.
12 Are inmates allowed to have phones?

13 A No.

14 Q Would that be consider an item of contraband?

15 A Yes. Contraband in SCDC is listed as any item not
16 authorized by the director of SCDC. And cell phones are
17 definitely an item of contraband and a very dangerous one
18 within the prison.

19 Q And did it appear that this phone had been
20 discarded?

21 A Yes. It was found in a common area outside the
22 fence.

23 MR. FENDER: Beg the Court's indulgence.

24 THE COURT: Mm-hmm.

25 BY MR. FENDER:

1 Q And just a couple, you know, quick follow-up
2 questions. This phone, was it observed on the ground?

3 A Yes.

4 Q And tell us just very specifically as you can about
5 how it was collected.

6 A Okay. It was collected and placed in the evidence
7 bag, a proper chain of evidence. The items were provided
8 to me. And so, from there, I would send them off to -- I
9 would further the chain. It would be entered into our
10 evidence. And there's an evidence locker at OIG that we
11 submit it to.

12 Q There's also an Agent Cox reflected on that as well?

13 A Yes, yes. He was the one that found it within the
14 common area on the ground, and he provided that cell phone
15 to me, and it was submitted according to our policies and
16 procedures.

17 Q Okay. And just for clarification, Agent Cox is not
18 Chavis Cox, the inmate?

19 A No. It is Agent Cox that works with us.

20 Q Same last name but no relation or nothing like that.

21 A Yes.

22 MR. FENDER: And, Your Honor, if I may approach the
23 witness.

24 THE COURT: You may.

25 MR. FENDER: Your Honor, I'd just ask at this time

1 to mark this as an exhibit, State's 29 for identification
2 purposes.

3 THE COURT: For ID purposes only?

4 MR. FENDER: Yes, Your Honor.

5 MR. CHEHOSKI: What was the number?

6 MR. FENDER: 29.

7 THE COURT: And that's the phone?

8 MR. FENDER: Yes, Your Honor, for identification.

9 THE COURT: Thank you.

10 (State's Exhibit No. 29, Cell Phone, was marked for
11 identification.)

12 BY MR. CHEHOSKI:

13 Q And did you see Agent Cox pick this phone up and
14 give it to you?

15 A I did not see Agent Cox pick up the phone, but he
16 did secure it and submit it to me.

17 Q And this was in your presence?

18 A Yes, sir.

19 Q And that was all pursuant to your evidence
20 collection procedures?

21 A Absolutely, yes, sir.

22 Q Thank you. Please answer the defense attorney's
23 questions.

24 THE COURT: Mr. Chehoski or Ms. Gresham.

25 CROSS-EXAMINATION

1 BY MR. CHEHOSKI:

2 Q Investigator Cotter, you have been with the South
3 Carolina Department of Corrections for how long now?

4 A Since 2006.

5 Q Since 2006.

6 Were you a corrections officer at any point in time?

7 A Yes.

8 Q All right. How long were you a corrections officer
9 for?

10 A It was 2006, so approximately seven years ago.

11 Q Seven years.

12 In your time as a corrections officer, were you ever
13 supervising a dorm alone?

14 A Yes.

15 Q Was it ever your practice to leave a dorm
16 unsupervised?

17 A No, not typically.

18 Q And was it ever your practice to leave the dorm
19 unsupervised with inmates out?

20 A No.

21 Q Were you ever supervising two different wings of a
22 dorm?

23 A I have never done that, no.

24 MR. CHEHOSKI: That's all the questions I have, Your
25 Honor.

1 THE COURT: Thank you.

2 Any redirect?

3 MR. FENDER: Beg the Court's indulgence.

4 THE COURT: Take your time.

5 REDIRECT EXAMINATION

6 BY MR. FENDER:

7 Q Just very briefly. I know you were asked some
8 questions on being a corrections officer yourself. You
9 were not a correctional officer in December of 2020; is
10 that correct?

11 A No.

12 Q All right. Do you know the specific circumstances
13 that Tawanna Harden faced that day?

14 A Yes.

15 Q Can you briefly describe that?

16 A I know she was taken hostage, basically, and placed
17 into a cell against her will.

18 Q So she was taken hostage by inmates?

19 A Yes.

20 Q Against her will?

21 A Yes.

22 Q Do you know the circumstances that led her to be
23 called to the yard?

24 A For her to be called to the --

25 Q Yeah, that the defense attorney was asking you

1 about.

2 A I don't. I don't know anything about her being
3 called to the yard.

4 Q So you don't have specific knowledge of that, is
5 what I'm asking.

6 A No.

7 Q Okay. But you do know that she was taken hostage?

8 A Yes.

9 Q Okay. Thank you.

10 A Thank you.

11 THE COURT: May I excuse this witness?

12 MR. FENDER: Yes, Your Honor.

13 THE COURT: Okay. Agent, thank you.

14 THE WITNESS: Thank you, ma'am.

15 THE COURT: Before you call your next witness, I
16 need just two seconds.

17 BENCH CONFERENCE

18 (A bench conference was held off the record and
19 outside of the hearing of the jury.)

20 (Open court resumes as follows:)

21 THE COURT: All right. Mr. Foreman, ladies and
22 gentlemen of the jury, I'm going to give you like a
23 five-minute break. It won't be but just a second. Okay?
24 If you'll follow the officer back to the jury room.

25 (The jury exited the courtroom at 10:17 a.m.)

1 THE COURT: All right. Mr. Foreman, jury ready?

2 JURY FOREMAN: Jury is ready.

3 THE COURT: All right. Please be seated.

4 All right. Call your next witness.

5 MS. MAYES: The State calls Agent Todd Shank.

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

8 AGENT TODD SHANK,

9 after having been duly sworn, was examined and
10 testified to as follows:

11 DIRECT EXAMINATION

12 BY MS. MAYES:

13 Q Good morning. Tell us a little bit about yourself.

14 A Yes, ma'am. My name is Todd Shank. I'm a
15 lieutenant with the South Carolina Law Enforcement
16 Division in the Crime Scene Investigations Unit.

17 Q Okay. And I'm going to ask you to take the
18 microphone and, if you can, just move it a little bit
19 closer to you. Much better.

20 A Is that better?

21 Q It is.

22 A Perfect.

23 Q Agent Shanks, tell us a little bit more about your
24 job description with the South Carolina Law Enforcement
25 Division.

1 **A** Yes, ma'am. So my main job is I'm a crime scene
2 investigator. We -- at SLED, we're an assisting agency,
3 so if a county or a city or another state entity needs
4 help with any kind of forensics investigation, our job is
5 to go assist with the documentation, with photographs,
6 notes, diagrams, and we collect evidence and submit
7 everything to the lab for testing.

8 **Q** Okay. And how long have you been with the Crime
9 Scene Investigation Division at SLED?

10 **A** A little over 10-1/2 years now.

11 **Q** And in that 10-1/2 years, tell us about your
12 specific educational background and training that led you
13 to become a CSI agent.

14 **A** Yes, ma'am. So, first, for SLED, you have to have a
15 four-year degree. So I have a four-year degree from --
16 or, excuse me, I have a four-year college degree from The
17 Citadel down in Charleston.

18 After getting hired on at SLED, I then went through
19 a 12-week police academy where you have to go learn how to
20 become a police officer, all the laws, legal aspects of
21 being a police officer, you go through that.

22 And then we have an internal and an external kind of
23 training for crime scene. The internal training normally
24 takes about a year to a year and a half and it's broken up
25 into different blocks or sections, if you will. For

1 example, photography would be a section. In each section,
2 you have to do reading of textbooks, articles, different
3 types of literature that you have to understand to know
4 the principles and how to do the different block.

5 You also then have to take written tests where you
6 have to pass a written test on said section and you have
7 to do practical applications with it, each block, showing
8 that you know how to do each discipline.

9 So there's multiple blocks -- photography, diagrams,
10 collecting of fingerprints, latent prints, footwear, tire
11 track, DNA. Every type of evidence that we would come
12 across, there's a block for it.

13 After all of those blocks are done, you have to do a
14 mock crime scene or pretend crime scene where we know the
15 outcome of the crime scene, and you are tested to see if
16 you are following policies and procedures, you are
17 processing the scene correctly. And you have a mock trial
18 where you have to show that you can testify and explain
19 your findings to a court.

20 And then, at the end of that, you have a written
21 test where you are tested on anything and everything you
22 have learned. While you're doing your internal training,
23 you're also going to crime scenes with your field training
24 officer. So you're also doing on the job training.

25 After all that's done, you're deemed competent.

1 You also go through external training, so I have
2 been through a three-day photography course, a 40-hour
3 bloodstain pattern analysis reconstruction course, a
4 shooting incident reconstruction course that was 40 hours,
5 and a three-day intermediate crime scene investigations
6 course, just to name a few. And those are all external.

7 Q And you mentioned, among your training in working
8 crime scenes, it includes photography and photo
9 documentation?

10 A It does.

11 Q Of any evidence found?

12 A It does.

13 Q And what about the actual evidence collection
14 process itself?

15 A So that is -- there are several blocks that deal
16 with that, and that is on how to properly collect DNA
17 evidence, how to properly swab things. Any kind of
18 evidence you may encounter. What is best practices on how
19 to collect it to preserve the evidence to bring back to
20 the lab.

21 Q All right. So how many crime scenes would you
22 estimate in your career you have attended and conducted
23 some role in actually processing evidence at that crime
24 scene?

25 A I have been on about 500. I don't remember the

1 exact number off the top of my head.

2 Q Does that include homicide or murder investigations?

3 A It does.

4 Q Does that include other crimes as well?

5 A It does.

6 Q Now, I wanted to ask you specifically about
7 testifying as an expert in the field of crime scene
8 investigation. Have you been previously qualified in the
9 courts of this state as an expert?

10 A I have.

11 Q On how many such occasions?

12 A Six.

13 MS. MAYES: Your Honor, at this time, the State
14 offers Agent Todd Shank as an expert in crime scene
15 investigations.

16 MR. CHEHOSKI: Make it seven, Your Honor.

17 THE COURT: Okay. Let me tell the jury: Normally,
18 a witness cannot give an opinion testimony. They normally
19 testify to things that they have either heard, sensed,
20 smelled or something of that nature. However, there is an
21 exception. When someone is qualified because of education
22 or their experience, they may be permitted to give an
23 opinion as an expert. And this witness is qualified as an
24 expert in crime scene investigation and will be allowed to
25 give opinion testimony. That doesn't mean you must accept

1 the opinion, but it is evidence for you to consider any
2 way you see fit.

3 All right. You can proceed.

4 .MS. MAYES: Thank you, Your Honor.

5 BY MS. MAYES:

6 Q Agent Shank, take us through your work specifically
7 at the McCormick County Correctional Institute on the
8 evening or during the evening hours of December 27th,
9 2020.

10 A Yes, ma'am. So we were requested to come assist
11 with this. The original information I had was that there
12 was a riot and that a couple of correctional officers had
13 been taken captive pretty much.

14 So our job as the crime scene investigators, once
15 everything is secured and everybody is locked back down,
16 our job is to go in with our cameras and document anything
17 and everything that we -- that looks probative to what
18 happened or look into document where garbage is, where
19 things have been overturned where they shouldn't be. Our
20 job is to try to document and find anything and everything
21 we can to explain how it happened, what happened, and
22 potentially even who was involved.

23 Q Okay. And I want to -- again, we're looking at an
24 overhead. But by the time of your arrival, had the SLED
25 SWAT team already arrived to take care of the hostage

1 situation specifically involving Sergeant Tawanna Harden?

2 A Yes.

3 Q So SWAT had already come and conducted that?

4 A Yes.

5 Q And, to your knowledge, at the time, you were
6 actually moving through photographing, has, to the extent
7 possible, the riot aspect of this been controlled?

8 A Yes.

9 Q So what time would you estimate you actually begin
10 your work in processing this scene?

11 A So we got on to -- if I may refer to my notes.

12 We got on-scene at 10:13 that night. We met with
13 our regional investigators where we gather more
14 information. And then, as a crime scene investigator, our
15 job is to not get in the way of the more important work
16 being done with the hostage situation. So, at that point,
17 we would hang out and just -- and wait.

18 But I don't remember having to wait that long
19 because by the time -- everyone at Crime Scene is
20 stationed out of Columbia, so by the time we got there, I
21 think it was pretty much done, and we were ready to start
22 processing the scene.

23 Q Okay. And did that go on into the early morning
24 hours of December 28th, to your knowledge?

25 A It did.

1 Q Okay. So looking here at State's exhibit already in
2 evidence being State's 12, were you aware of a situation
3 involving Building F-3?

4 A Yes. .

5 Q Were you also aware of a situation involving
6 Building F-4?

7 A Yes.

8 Q And were you also aware of a situation involving the
9 supervisor's office or offices within that general area?

10 A I was.

11 Q Okay. Did all of those -- and were all of those
12 areas included in your work?

13 A Yes. .

14 Q I want to start with Cell 144. And looking here at
15 State's 10, we would be within Dorm F-3 and specifically
16 Cell 14 -- 144. Why was that cell of interest to you for
17 processing?

18 A From what I recall from that one, there was items
19 that may have been involved or if you --

20 Q Let me ask you this: Were you aware that that was
21 the location where Sergeant Harden had been taken hostage?

22 A I believe there was someone taken hostage there, but
23 I don't remember the name of the officer.

24 Q Okay. I'm going to show you what is State's 13 and
25 ask you whether or not you recognize this item.

1 A Yes, ma'am.

2 Q How so?

3 A These are photographs I took the night of.

4 Q And then I'm going to show you State's 23 and ask
5 you whether or not you recognize this collection of
6 photographs, beginning with 23 and its attachments.

7 A I do.

8 Q And can you tell us whether these photographs
9 depicted in 23 and 13 are a fair and accurate
10 representation of that crime scene as you recall finding
11 it?

12 A They are.

13 Q Did you tamper, alter, or change any of the
14 conditions?

15 A I did not.

16 Q This is as you found it on that night?

17 A It is.

18 MS. MAYES: For evidence, Your Honor, 13 and 23.

19 THE COURT: Any objection?

20 MR. CHEHOSKI: One moment, please, Your Honor.

21 Your Honor, I have no objection to State's Exhibit
22 13, but I do object to the relevance of 23.

23 THE COURT: All right. Can I see 23?

24 Go ahead and lay a foundation.

25 BY MS. MAYES:

1 Q All right. Looking at State's 13, you indicated
2 that part of what you processed was Cell 144?

3 A Yes.

4 Q And were you aware as to whether or not keys were
5 used to release additional inmates?

6 A I do not remember the keys, but I do know we
7 searched that cell thoroughly.

8 Q How many -- do you understand, how many inmates
9 ultimately were released as part of the riot? It doesn't
10 have to be an exact number.

11 A I just knew that -- my understanding was there was a
12 lot of people that were out that were not supposed to be,
13 from what I was told.

14 Q And you indicated that you were also aware that, in
15 addition to Building F-3, another dorm was involved in
16 that uprising?

17 A Yes.

18 Q As well as the area within the supervisor's office?

19 A Yes.

20 Q And did you process or photo document all of those
21 locations?

22 A We did.

23 Q Can you tell us whether or not you observed, in the
24 area of the supervisor's office, indications of an
25 uprising?

1 A Yes, we did.

2 Q Okay. Would that be consistent with people having
3 been released that shouldn't be released?

4 A Yes.

5 MS. MAYES: State's 23 for evidence, Your Honor.

6 MR. CHEHOSKI: Your Honor, I renew my objection as
7 it pertains to Mr. Cox.

8 THE COURT: You don't believe it's relevant?

9 MR. CHEHOSKI: Correct.

10 THE COURT: Anything you want to add to it?

11 MS. MAYES: Your Honor, only that it relates to the
12 keys originally being taken.

13 THE COURT: I'm going to allow it and admit it, but
14 your objection is noted for the record.

15 Also, just for the record, Exhibit No. 13 is also
16 admitted with no objection.

17 (State's Exhibit No. 13, Photograph of the Incident
18 Night, having been premarked for identification, was
19 received into evidence.)

20 (State's Exhibit No. 23, Photograph of Crime Scene,
21 having been premarked for identification, was received
22 into evidence.)

23 BY MS. MAYES:

24 Q Now, looking here at Cell 144, you indicated that
25 that was processed and photographed?

1 A It was.

2 Q What are we looking at right here?

3 A So this is standing in the common area looking at
4 Door 144 or Cell 144. .

5 Q Okay. What is this right here, Agent Shank?

6 A So that appeared to be a locking device that locked
7 and secured that flap for potentially food or whatever
8 else may need to be given to inmates without having to
9 open the doors.

10 Q Okay. And that flap, based on your knowledge in
11 having worked this scene, does the flap normally open?

12 A I believe they normally do, but I believe you need a
13 key to open it.

14 Q Okay. And is it your understanding that this cell
15 has a lock as well?

16 A Yes.

17 Q Now, looking at State's 23, what area is this?

18 A So this is -- if you remember the overview map, the
19 area down away from the dorms, those are the office areas.
20 This is outside of the office. And above the door, you
21 can see where it says, "Supervisor's Office." And this
22 door entered into an area of other offices.

23 Q Is that what we're looking at here?

24 A It is.

25 Q Did you see an indication of a riot?

1 **A** Yes.

2 **Q** Does that look consistent to you with items being in
3 disarray?

4 **A** It does.

5 **Q** As well as the additional photograph?

6 **A** Yes.

7 **Q** All taken within that area of the supervisor's
8 office?

9 **A** They were.

10 **Q** Now, going back to 144, when we talked about the
11 tray or the flap, ordinarily, is that something that can
12 open and close back up?

13 **A** I believe so.

14 **Q** Okay. So potentially communication could take place
15 through that flap being open?

16 **A** I would assume so, yes.

17 **Q** Now, in addition to processing those areas, what, if
18 any, knowledge do you have of something occurring but
19 beyond the fenced area? Looking at State's 12. What
20 knowledge did you have of anything that had occurred
21 beyond the dorm itself and in the fence area?

22 **A** So when we first got on-scene, we were told that
23 several inmates had apparently scaled or gotten over the
24 fence and were trying to escape the facility itself.

25 **MS. MAYES:** Okay. And, Your Honor, if the witness

1 may step down.

2 THE COURT: He may.

3 BY MS. MAYES:

4 Q I know that this is an aerial, but to the best of
5 your ability, do you know if that included an area beyond
6 the fence that may not be visible here on State's 12?

7 A F-4 is on the right; correct?

8 Q Let me show you State's 17 and State's 16.

9 A I believe that straight fence -- if this is F-4,
10 then this straight fence right here, there is a set of
11 stairs that runs here that, I believe, they used to
12 actually try to jump over the fence. But right here, this
13 is where [indiscernible] processing where things had come
14 [indiscernible] or folks had come over the fence.

15 Q So I'm going to ask you a few more questions about
16 that. So your understanding is that there was a stairwell
17 that is close or adjacent to a fenced area and the
18 stairwell was utilized to getting over the fence?

19 A Yes.

20 Q Okay. Thank you. You may return.

21 I'm going to show you what's State's 16 and
22 State's 17 and ask you whether or not you're familiar with
23 those items.

24 A I am.

25 Q Also, State's 14 and State's 15.

1 A Yes, ma'am, I am.

2 Q Are all of those a fair and accurate reflection of
3 the conditions in which you found them on that night ---

4 A Yes.

5 Q --- while processing that scene that you just told
6 us about that is adjacent to the stairwell and the fence?

7 A Yes.

8 MS. MAYES: All for evidence, Your Honor, State's
9 15, 16, 17 and 14.

10 THE COURT: Any objection?

11 MR. CHEHOSKI: No objections, Your Honor.

12 THE COURT: They're admitted. 14, 15, 16, and 17
13 without objection.

14 (State's Exhibit No. 14, 15, 16, and 17, Photograph
15 Adjacent to Stairs, having been premarked for
16 identification, was received into evidence.)

17 BY MS. MAYES:

18 Q Okay. The first photograph I'm going to show you
19 right here, this is State's 15. I'm going to ask you to
20 explain what you can -- to the best of your ability, what
21 can you describe about this fence and the wiring.

22 A So the chain-link fence that you're seeing with
23 the -- I call it barbed wire; I'm not sure of the
24 technical term for it -- but with the barbed wire running
25 across the top and across the bottom, that is the actual

1 exterior fence that was -- that runs between the buildings
2 on the facility.

3 Q Okay. What is the purpose of this barbed wire? And
4 we see it here on the bottom and we see it along the top.

5 A It's got very sharp razors on it, and it's to
6 encourage you not to try to climb through it.

7 Q Okay. Would this be the first fence within the
8 perimeter of the prison?

9 A From my understanding, yes, because you can go from
10 facility or from unit to unit inside of this fence, but I
11 do think there was a fence on the outside of that as well.

12 Q Okay. So this would be regarded as the first fence?

13 A That would make sense, yes.

14 Q And you had mentioned before a stairwell. Can you
15 tell us, looking at State's 15, what we're looking at here
16 in the foreground of this photograph?

17 A Yes, ma'am. So we're currently standing on the
18 transition of the stairs. You walk upstairs, there's a
19 flat spot, which is where I'm standing here looking at the
20 chain-link fence. And if you turn around and keep going,
21 you'll go up the other half of the stairs. So it's a
22 split-level stair with the base of the transition right
23 next to the exterior fence.

24 Q Okay. Next, I'm going to show you State's 17 from a
25 different angle. And let me just clarify. This is if

1 you're within the prison walls and that's the fence; is
2 that correct?

3 A Yes.

4 Q You're within the prison walls.

5 Did you have a chance to actually process the scene
6 from the other side outside this fence?

7 A We did.

8 Q And take photographs from that angle as well?

9 A We did.

10 Q So I'm going to show you on State's 17 and I'll ask
11 you is this from that other side? You're now on the other
12 side of the fence?

13 A I am.

14 Q And is this the condition that you found them in
15 relation to where the inmates who had made it over the
16 fence were recovered?

17 A Yes.

18 Q Looking here at this photograph, do you see that
19 stairwell that you described in the background?

20 A I do.

21 Q And which building would this be, if you recall?

22 A That's F-4.

23 Q Okay. So Dorm F-4, its stairwell, and then the
24 fence, and along here would be the razor wire that you
25 previously described?

1 **A** Yes.

2 **Q** What is this item that we're looking at right here?

3 **A** It was a homemade rope ladder.

4 **Q** A rope ladder?

5 **A** Yes, ma'am.

6 **Q** Okay. And that exactly as you found it at the
7 scene?

8 **A** It is.

9 **Q** Now, what are all of these items strung across the
10 top of the wire?

11 **A** There was clothing, fabric material, any --
12 different things that appeared to try to stop the razor
13 wire from cutting someone trying to get off or get out.

14 **Q** Were you able to determine from your work at the
15 scene how that rope ladder was actually placed over the
16 fence?

17 **A** Yes. So if you look at the top railing on the
18 actual stairwell, you can see a string coming down --
19 right there. That's actually how the ladder was secured.
20 It was tied to that top rail.

21 **Q** So I'm going to show you State's 16 and ask you if
22 you can tell us if this would be the other side of that
23 rope ladder.

24 **A** It is.

25 **Q** So now looking at the other side of the rope ladder,

1 what is this item here?

2 A That appeared to be some kind of sandbag that was
3 sitting at the top of the stairs.

4 Q Is that working as an anchor of sorts?

5 A I'm not sure what it was for because, when I look at
6 it, I believe it was tied to that top right, and that's
7 how they secured it.

8 Q Okay.

9 A But it could have been a step. It could have been
10 any number of things to get up over to it to try to jump.

11 Q All right. So this is a sandbag. And then the rope
12 ladder that we just looked at would be on the opposite
13 side looking, again, at State's 17?

14 A Correct.

15 Q And is this part of the rope ladder here?

16 A Yes. So we actually processed the outside of the
17 fence first. So when they got us into the facility, we
18 threw the rope ladder over, knowing it was secured, so
19 that's why it looks like it's on the side. Originally, it
20 was hanging out so I could remove it and not destroy it in
21 the Concertina wire or the razor wire. We had thrown it
22 over before we got to this; that's why it looks different.

23 Q And is this another close-up view of that same rope
24 ladder as in State's 16?

25 A Yes. And this is on the outside of the facility.

1 Q I'm going to show you another photograph in this
2 series, that this would be an establishing shot showing
3 the stairwell with that sandbag and rope ladder that you
4 were talking about. But going back to your original
5 description of the stairwell being adjacent to the fence,
6 can you tell us how close you would estimate this fence is
7 to that stairwell?

8 A I did not measure the actual distance, but it was --
9 it was close. I didn't want to -- you didn't want to
10 stick your hand out and get stuck, but it wasn't...

11 Q Close enough that, if you had it to this top portion
12 of the stairwell, you could potentially make it over the
13 fence?

14 A Yes.

15 Q And, again, that would be the sandbag that you
16 previously described?

17 A Yes.

18 Q Now, this photograph is dark. I think you indicated
19 it is late evening hours that you're working this on into
20 the early morning hours?

21 A Yes, ma'am.

22 Q But did this laundry bin up here, did you find this
23 condition with the laundry bin in place?

24 A Yes, ma'am.

25 Q So did that appear that it was part of the crime

1 scene itself?

2 A I thought it was, yes.

3 Q Relating to the escape?

4 A Yes.

5 Q And then, all of these items that we see thrown
6 across the fence -- the top of that fence where the razor
7 wire is, what did you determine would be the purpose or
8 apparent purpose of those items?

9 A So my first impression was they were using any kind
10 of fabric they could to try to prevent the razor wire from
11 getting to them. They use it more as kind of a shield, if
12 you will.

13 Q Okay. Looking at, again, portions of State's 16,
14 would this be a close-up view of those items that are
15 placed along the razor wire?

16 A It is.

17 Q So, potentially, if those items are there as a
18 shield, you could make it over the fence being cut
19 directly?

20 A Yes.

21 Q Now, going back to that photograph that shows the
22 scene in its entirety, did you have an opportunity to
23 actually collect and review evidence that is found along
24 the way on the opposite side of the fence?

25 A We did.

1 Q And, again, was all of this evidence consistent with
2 evidence found over the fence?

3 A Yes.

4 Q Indicating that the individuals had made it over the
5 fence and left those items behind?

6 A It all made sense to that, yes.

7 Q Potentially when they were apprehended?

8 A Yes, yes.

9 Q And you were aware that multiple inmates were
10 apprehended over that fence?

11 A I was, yes.

12 Q I'm going to show you some items and ask you whether
13 or not you can identify them. These are going to be
14 State's 18, 19, 20, 21, and 22 and 28. If you could look
15 at those photographs and tell us whether or not you
16 recognize them.

17 A Yes, ma'am, I do.

18 Q Are those all a fair and accurate representation of
19 that scene as you found it?

20 A They are.

21 MS. MAYES: For evidence, Your Honor, being State's
22 28, State's 22, State's 18, State's 19, State's 20.

23 THE COURT: Any objection?

24 MR. CHEHOSKI: No, no objections, Your Honor.

25 THE COURT: They're admitted.

1 MS. MAYES: And State's 21 as well, Your Honor.

2 THE COURT: Got it. That's admitted.

3 (State's Exhibit Nos. 18, 19, 20, 21, 22, and 28,
4 Scene Photograph, having been premarked for
5 identification, was received into evidence.)

6 BY MS. MAYES:

7 Q If at any point in time, Agent Shank, you need to
8 come down here to get up close to look at the photographs,
9 just let me know, please.

10 A Yes, ma'am.

11 Q So, again, looking at State's 28, does that appear
12 to be homemade rope leader that you already described?

13 A It is.

14 Q Do you have -- did you collect that ladder as
15 evidence during the course of your processing this scene?

16 A Yes, ma'am, I did.

17 Q Do you have it with you today?

18 A Yes, ma'am, I do.

19 Q I'm going to ask you whether or not you can identify
20 that item.

21 MS. MAYES: And with the Court's permission, Your
22 Honor, to unseal.

23 THE COURT: Any objection?

24 MR. CHEHOSKI: No objection, Your Honor.

25 THE COURT: He may.

1 You got scissors?

2 THE WITNESS: I have got a knife, Your Honor.

3 THE COURT: Okay.

4 BY MS. MAYES:

5 Q Does this appear to be the item that is reflected in
6 State's 28 on the overhead?

7 A Yes, ma'am.

8 Q And is it in the same condition in which you found
9 it that night, collected as evidence?

10 A Yes, ma'am. There are markings where our DNA folks
11 would have marked it after they did their processing.

12 MS. MAYES: State's 30 for evidence, Your Honor.

13 MR. CHEHOSKI: Without objection.

14 THE COURT: All right. It's admitted.

15 (State's Exhibit No. 30, Homemade Ladder, having
16 been premarked for identification, was received into
17 evidence.)

18 BY MS. MAYES:

19 Q Now, in addition to collecting that rope ladder as
20 evidence, I'm going to ask you about some other items that
21 were potentially recovered. Looking here at State's 18
22 and, again, can you tell us whether the dark nature of
23 these photographs is consistent with the evening hour?

24 A It is.

25 Q And if you need to come down, let me know, but what

1 are these items over here in the left-hand portion of
2 State's 18?

3 A Those were a large quantity of Slim Jims.

4 Q Slim Jims. Okay. The meat product?

5 A Yes.

6 Q Commonly at grocery stores?

7 A Yes.

8 Q And then various other items surround that as well?

9 A Yes, ma'am.

10 Q Would this be a close-up view again of the Slim Jims
11 being here in the foreground?

12 A Yes, ma'am.

13 Q And then, finally, another close-up view?

14 A Yes, ma'am.

15 Q Those being Slim Jims there?

16 A Yes, ma'am.

17 Q And then were there also some writing, some paper
18 found and also belongings?

19 A There were.

20 Q And it's your understanding that it's within this
21 area that five inmates were potentially recovered?

22 A Yes.

23 Q Looking here at State's 19, does this appear to be
24 some food items here?

25 A Yes. There was multiple snacks.

1 Q And then this item here, I want to show you a
2 closer-up view of that. This item here, what is that?

3 A It was a clear trash bag that had writing on it.

4 Q A clear trash bag?

5 A Yes, ma'am.

6 Q And for the record, what color does that appear to
7 be?

8 A It appears white in this photo but when you have
9 looked at it, it was clear white.

10 Q Okay. So a clear white trash bag ---

11 A Yes, ma'am.

12 Q --- was located here on the other side of the fence?

13 A Yes, ma'am. This is on the outside of the fence
14 looking into the facility.

15 Q Okay. So this trash bag ended up over the fence;
16 correct?

17 A It did.

18 MS. MAYES: Your Honor, may we -- may the witness
19 step down?

20 THE COURT: He may.

21 BY MS. MAYES:

22 Q And I'm going to move those here so it's not
23 obstructing you of any jurors.

24 Looking here, what -- at these notations that are
25 handwritten, what does this appear to be?

1 A That looked to me as a dollar sign.

2 Q The money sign? And the letters?

3 A C-a-l.

4 Q All right. So Money C-a-l?

5 A Money Cal.

6 Q Money Cal.

7 And that writing, Money Cal -- and on what item, if
8 you're looking at the original photograph, State's 19?

9 A It's on there. Yes, it's on this bag right here.
10 It's on the [indiscernible].

11 Q Okay. And if you could remain there, I have another
12 photograph to show you.

13 These items here, were they photographed at a closer
14 range?

15 A They should have been, yes.

16 Q Looking here at State's 20, does this appear to be
17 that same groupings of items with the Cheez-Its around it?

18 A It does.

19 Q And then this particular item here being a sketch
20 diary, was that also photographed at a closer-up angle?

21 A Yes.

22 Q State's 20. And you may need to view this item with
23 the naked eye, but I'm going to ask you specifically about
24 the writing or name on this particular item.

25 A I'm reading N-H-C or N-H is the first line and

1 Chavis, C-h-a-v-i-s.

2 Q Okay. And, again, that's found over the fence?

3 A It was.

4 Q Next, I'm going to ask you about this portion of
5 State's 20. I think you had noted that there were
6 numerous writings and writing-type materials?

7 A There were.

8 Q Did that include notepads?

9 A Yes.

10 Q Loose paper?

11 A Yes.

12 Q Items of that nature?

13 A It did.

14 Q What are we looking at in State's 21?

15 A So whenever we have any kind of loose paperwork,
16 we're looking through the paperwork to see if there's any
17 pertinent information we may find, and this was found on
18 one of the notebooks on the outside of the prison, which,
19 when you read it, Edgefield PD is 27 minutes away. They
20 have got an address to a bank, a post office, roads
21 telling them to stay off of it. So, to me, this was --
22 and then McCormick PD is five minutes, three miles from
23 the prison.

24 Q So based upon your observation, could this appear to
25 be consistent with an escape plan?

1 A I thought so, yes.

2 Q And so that it's photographed and documented as
3 well?

4 A Correct.

5 Q Now, this actually says what, if you could read it
6 for the record?

7 A It says, "Stay off Buncom (ph) Street."

8 Q Okay.

9 A And then, "Stay clear of East Gold Street, main PD
10 to prison." Or main road. Excuse me, yes.

11 Q Okay. And what, if any, reference is made to
12 McCormick PD?

13 A So McCormick PD is five minutes, 3.0 miles from
14 prison, 115 West Augusta Street.

15 Q All right. And what, if any, notations were made
16 regarding the Edgefield Police Department?

17 A It says, "Edgefield PD is 27 mins, 25 mile" or "mi"
18 and then "402 Main Street."

19 Q All right. And you indicated there was also a
20 reference to a bank and a post office and a
21 [indiscernible] office?

22 A Yes, ma'am.

23 Q Thank you. You may return.

24 In addition to all of those items being found over
25 the fence, can you tell us what is depicted in State's 22.

1 **A** Yes. This was a handheld radio that we found in all
2 those items.

3 **Q** So this was also found over the fence?

4 **A** It was.

5 **Q** Can you tell us whether or not this handheld radio
6 is consistent with the SCDC-issued radio of a corrections
7 officer?

8 **A** We believed it was, and we actually ended up doing a
9 chain of custody to give it back to them.

10 **Q** Thank you.

11 **MS. MAYES:** Beg the Court's indulgence.

12 **THE COURT:** Take your time.

13 **BY MS. MAYES:**

14 **Q** Based upon your coming -- I think you said you were
15 stationed out of Columbia?

16 **A** Yes, ma'am.

17 **Q** But based upon you coming from Columbia to work this
18 scene here in McCormick County, did all of those times and
19 locations appear consistent with your knowledge of the
20 area, the distance to the McCormick Police Department, and
21 the prison?

22 **A** I don't know the distances from the prison. I
23 apologize. I'm not sure.

24 **Q** But you know that the prison is within McCormick
25 County?

1 **A** Yes, I did know that.

2 **Q** Thank you.

3 **MS. MAYES:** Nothing further.

4 **THE COURT:** Any cross?

5 **MR. CHEHOSKI:** Yes, Your Honor, very briefly.

6 **CROSS-EXAMINATION**

7 **BY MR. CHEHOSKI:**

8 **Q** Now, you searched this Cell 144; is that correct?

9 **A** I did.

10 **Q** And that was part of, I believe, State's 13?

11 **A** I don't remember the -- I apologize.

12 **Q** There were quite a few of them.

13 Is that correct?

14 **A** Yes, sir.

15 **Q** And you also -- you also wrote a report regarding
16 what was done at this time; is that correct?

17 **A** I did.

18 **Q** And have you seen that report?

19 **A** I have.

20 **Q** All right. And you say that -- in that report that
21 you wrote -- that you searched the inside of 144 inside
22 F-3; is that correct?

23 **A** We did.

24 **Q** And it says that you found nothing of evidentiary
25 value; is that right?

1 **A** Correct.

2 **Q** Were you aware of who that cell was assigned to?

3 **A** If I -- beg the Court's indulgence.

4 I just have one suspect cell, so, no, sir, I don't
5 recall.

6 **Q** It's fine. You didn't record who this cell was
7 assigned to; is that right? And that probably was part of
8 your -- part of your duties; is that correct?

9 **A** Correct.

10 **Q** All right. And so there's nothing in there
11 regarding a planned escape; is that correct?

12 **A** There was nothing in there that we saw that made --
13 not that I recall.

14 **Q** And there was nothing in there regarding the taking
15 of the correctional officer as a hostage; is that correct?

16 **A** Not that I recall.

17 **Q** Now, according to your report, there were two knives
18 that were located; is that right?

19 **A** There were.

20 **Q** All right. And one was found -- one was found
21 outside near the -- one was found outside; is that
22 correct?

23 **A** Yes, sir, there were.

24 **Q** And that was near the perimeter fence?

25 **A** It was.

1 Q To your knowledge, you don't have any information if
2 Chavis Cox's fingerprints were found on this weapon; is
3 that correct?

4 A I have no idea. Sorry.

5 Q And you have no -- no information that Chavis Cox's
6 DNA was found on that; is that correct?

7 A I don't know.

8 Q The other knife was located just outside the fence;
9 is that right?

10 A One was -- one knife was said to be from the ground
11 in front of Cell 132 in F-3.

12 Q Oh, in F-3?

13 A Inside F-3, yes.

14 Q Inside F-3.

15 And, to your knowledge, Chavis Cox's fingerprints
16 were not found on that one; is that correct?

17 A I don't know.

18 Q You don't have any -- and you don't have any
19 information whether his DNA was found there?

20 A I have none. No, sir.

21 Q And with regard of that notepad with the directions
22 to the -- that had, like, the distances to the police
23 department, the post office and all that, that was not --
24 that notepad was not part of the sketch pad; is that
25 correct?

1 **A** No, sir. That was a separate notebook.

2 **Q** It was a completely separate notebook.

3 And you don't know who that belonged to; is that
4 correct?

5 **A** I do not.

6 **Q** All right. Last question: While you had State's
7 Exhibit 30, the rope ladder, in your custody, did you do
8 any tests to see how much weight it could carry?

9 **A** I did not, no.

10 MR. CHEHOSKI: All right. No further questions,
11 Your Honor.

12 THE COURT: Thank you.

13 Any redirect?

14 MS. MAYES: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 **Q** Going back to Cell 144, back to items that -- or
18 this is the cell that was searched. Did you have
19 information that this cell belonged to Chavis Cox? Is
20 that information that you would have known?

21 **A** It may have been, but I don't have it --

22 **Q** All right. Let me just clarify this. You're there
23 to process the scene; correct?

24 **A** Correct.

25 **Q** But you're not one of the lead investigators in

1 terms of identifying which cell belongs to who?

2 A No, ma'am.

3 Q Okay. So looking here at State's 11, the
4 information that that was Chavis Cox's cell, you wouldn't
5 have had that information available to you when you're
6 processing it?

7 A No.

8 Q You're just there to process it as you find it?

9 A We're looking for forensic evidence that may tie
10 anything to the case that we -- and we're -- we're trying
11 to bring the science and the forensics to the
12 investigation.

13 Q And, for example, this video still, State's 7 from
14 the video of the hostage-taking incident and the inmates
15 fleeing, you would not have been privy to this when you're
16 processing the scene?

17 A No.

18 Q This all would have been pulled and accessed at a
19 later point?

20 A Yes.

21 Q By other investigators who aren't Crime Scene; is
22 that accurate?

23 A Yes.

24 Q So your role is only to actually process the scene
25 itself?

1 A Correct.

2 Q And, at this point in time, would you have even
3 known the significance of the white trash bags that are
4 being carried?

5 A I do not, no.

6 Q So looking here in State's 13, one of the items that
7 you found within that cell -- and, again, this would have
8 been found inside Cell 144?

9 A It is.

10 Q And I'm going to turn this around to get a little
11 bit of a different view on it, but, again, you
12 photographed this item, but at that point in time, did you
13 even know what it was?

14 A I had no idea what that was.

15 Q And your role in this case, would it have also been
16 to do the phone extraction or would someone else have done
17 the phone extraction?

18 A Someone else would have.

19 Q Okay. So, ultimately, are you aware of phones being
20 collected from the --

21 MR. CHEHOSKI: Objection, Your Honor. This is
22 outside the scope of cross.

23 MS. MAYES: I'll rephrase.

24 THE COURT: Okay. She's going to rephrase.

25 BY MS. MAYES:

1 Q So you photographed this because it was significant
2 to you?

3 A I photographed that because I didn't know what it
4 was and it looked out of place.

5 Q What does it appear to be based upon not only the
6 phone you took but you actually processing that scene?

7 A So it looks almost like something you could wear.

8 Q Say that again. I'm sorry?

9 A It looks like almost something you could wear. Like
10 it's -- the way it's tied up, it -- I'm not sure. It was
11 just -- I believe it was something he could have
12 potentially worn but it just -- it didn't make sense.

13 Q Okay. Potentially to cover an arm or a knee,
14 something of that nature?

15 A That's what it looked like to me.

16 Q Can you tell us whether or not that also could be
17 consistent with something to protect from razor wire?

18 A I mean, it would make sense to do anything you could
19 to try to protect yourself.

20 Q Now, I'm going to show you State's 32 because
21 counsel was asking about any other items found within this
22 cell State's [verbatim] 144. I'm going to show you what's
23 State's 32 and ask you whether or not you recognize this
24 item.

25 A Yes, ma'am, I do.

1 Q Were those items also found within the Cell 32 -- I
2 mean, Cell 144?

3 A Yes, ma'am. They were.

4 Q That are depicted here in State's 32?

5 A Yes.

6 MS. MAYES: For evidence.

7 THE COURT: Any objection?

8 MR. CHEHOSKI: Objection to relevance, Your Honor.

9 THE COURT: Can I just see that, please?

10 MS. MAYES: Yes, Your Honor.

11 THE COURT: I'm going to allow it.

12 MR. CHEHOSKI: Yes, Your Honor.

13 THE COURT: I'm going to admit it, but I'll
14 certainly note your objection to relevance.

15 (State's Exhibit No. 32, Pictures of Items Found,
16 having been premarked for identification, was received
17 into evidence.)

18 BY MS. MAYES:

19 Q Were all areas within 144 photographed?

20 A Yes, ma'am.

21 Q All right. Looking at 32, what do we see here?

22 A There are two mallets that were on the back of the
23 toilet, and then it appeared to be some soap and other
24 items.

25 Q So these were actually found within the cell?

1 A They were.

2 Q Now, you're familiar with contraband within prisons
3 you have worked that are prison cases?

4 A I have.

5 Q Are you familiar with how common or uncommon items
6 such as shanks are?

7 A They are more common than one would hope, but
8 they're not supposed to have them at all.

9 Q Okay. And items such as 32, can you tell us whether
10 or not those are generally considered contraband?

11 A Yes. That is the first time I have ever seen a
12 hammer in a jail cell.

13 Q And, for that reason, you photographed it?

14 A Yes.

15 Q Thank you. Nothing further.

16 THE COURT: Mr. Chehoski?

17 MR. CHEHOSKI: One moment, Your Honor.

18 No, Your Honor.

19 THE COURT: May I excuse this witness?

20 MS. MAYES: Yes, Your Honor. And that would be the
21 State's only witness prior to the lunch break.

22 THE COURT: Okay. Thank you.

23 You can be excused.

24 THE WITNESS: Thank you, ma'am.

25 THE COURT: All right, ladies and gentlemen of the

1 jury. I'm going to let you go to an early lunch today.
2 And let me kind of give you -- so I can keep you apprised
3 of what's going on. There's a witness coming in that
4 won't be here until 1:00, so I'm going to let you go to
5 lunch. I ask that you back in your jury room at quarter
6 to 1:00 so we can get started. I hope to finish this case
7 today. Can't promise you but I'd like to. Worse
8 scenario, we'll finish it tomorrow. So it might be an
9 early afternoon. But I'll let you know when we get back
10 from lunch. Okay?

11 Enjoy your lunch. Please remember there is
12 absolutely no talking about this case to anyone even
13 amongst yourselves. Okay? Thank you.

14 (The jury exited the courtroom at 11:25 a.m.)

15 THE COURT: All right. Court will be in recess
16 until 1:00.

17 (A lunch recess was taken from 11:26 a.m. to 1:23 p.m.)

18 MOTIONS/MATTERS OF LAW

19 THE COURT: On the record.

20 All right. During break, it was brought to my
21 attention that -- Mr. Chehoski, I think it's one of the
22 family members, I'd like to note her name. It's the
23 defendant's sister.

24 Could you please stand? Could you tell me your
25 name?

1 MS. BESTEAKES: I go by Novie Besteakes.

2 THE COURT: Novie Speaks?

3 MS. BESTEAKES: N-o-v-i-e B-e-s-t-e-a-k-e-s.

4 THE COURT: Okay. Well, let me tell you, it was
5 brought to my attention that, during the lunch hour, that
6 you were kind of leaning over a car out in the parking lot
7 and...

8 MS. BESTEAKES: [Indiscernible] car.

9 THE COURT: Well, it's been reported to me that it
10 wasn't your car. It was one of the prosecution's cars.

11 MS. BESTEAKES: [Indiscernible].

12 THE COURT: And that you were filming on your cell
13 phone and even reached underneath the car. And it's
14 caused a --

15 MS. BESTEAKES: Do you have surveillance of that?

16 THE COURT: No. I was going to ask you, do you have
17 surveillance? I mean, did you record it on your phone?

18 MS. BESTEAKES: The sign says -- the sign says no
19 cell phones.

20 THE COURT: I'll let you go out and get the cell
21 phone and you can show me what you recorded out in the
22 parking lot.

23 MS. BESTEAKES: Absolutely.

24 THE COURT: Okay. You can go get the cell phone
25 right quick then.

1 MS. BESTEAKES: Absolutely.

2 THE COURT: Thank you.

3 MS. BESTEAKES: [Indiscernible].

4 THE COURT: Just -- you know, trying to be safe.
5 Sheriff, if she comes back...

6 THE DEPUTY: That's what she said to me is
7 "curiosity killed the cat." Is that a threat?

8 THE COURT: I do want Suzanne's car checked
9 underneath to make sure there's nothing underneath it.

10 MS. MAYES: What's that?

11 THE DEPUTY: Have another deputy look to make sure
12 [indiscernible].

13 THE COURT: Okay. I'm sure that's what she'll do,
14 if she comes back. She might not come back.

15 THE DEPUTY: When I walked up to her in the parking
16 lot and asked her what she was doing --

17 THE COURT: I just -- I just need to make sure that
18 everybody is safe in this trial.

19 (Pause in the proceedings.)

20 THE COURT: All right. If you'd just hand it to one
21 of the deputies, they're going to -- or hand it to the
22 sheriff.

23 MS. BESTEAKES: Y'all need the timestamp; right?

24 THE COURT: He's going to show me.

25 MS. BESTEAKES: I mean, for my own privacy, can I go

1 to the timestamp? Okay. What time was it? 11:30?

2 I'm on [indiscernible] social media platform and
3 [indiscernible].

4 You can see what I was doing. Oh, what it, that was
5 at 11 -- I got a couple -- got a lot of [indiscernible].
6 I'm right here. Do you need help?

7 THE COURT: Yeah, I didn't mean to --

8 MS. BESTEAKES: Yeah, if you swipe this way, you'll
9 be able [indiscernible].

10 THE COURT: [Indiscernible].

11 MS. BESTEAKES: Also [indiscernible] click here and
12 then swipe up and then you can scroll to [indiscernible]
13 right there. 11 what? About 11:30? I was talking to my
14 children in the car before I got here and I did see --

15 THE COURT: This is -- you're reported being outside
16 the car and in front of a white car.

17 MS. BESTEAKES: Right. I'm still parked right
18 beside it.

19 THE COURT: And looks like you took your shoe off.

20 MS. BESTEAKES: Yeah, absolutely. I was on the
21 (indiscernible) territory.

22 THE COURT: And made some gestures.

23 MS. BESTEAKES: I was going in there because I
24 was --

25 THE DEPUTY: It's 12:11 p.m.

1 MS. BESTEAKES: Okay. Good, good. Thank you. I
2 was [indiscernible]. I was waiting [indiscernible]
3 surprise him.

4 THE COURT: Well, I understand that, but you have to
5 understand that I'm running a court here, and I can't
6 allow anyone to --

7 MS. BESTEAKES: Does that [indiscernible] birthday
8 cake [indiscernible] trunk [indiscernible], stepped on an
9 ant -- fire ant [indiscernible]. [Indiscernible] kill
10 insects. I ain't killing [indiscernible].

11 THE COURT: I'm going to let you and Al watch that.
12 I'm not -- y'all let me know if you see something wrong
13 about the car. I just have to make sure that everything
14 is done in a safe manner when I'm trying a case. Okay? I
15 mean, this is a serious case, and I have had weird stuff
16 happen during trials. I'm not blaming you for anything.
17 I'm just telling you it was reported to me, and it's my
18 duty to ask. Okay?

19 MS. BESTEAKES: I could have [indiscernible].

20 THE COURT: You could have.

21 MS. BESTEAKES: [Indiscernible].

22 THE COURT: I just need to make sure that
23 everybody's safe. That's all.

24 MS. BESTEAKES: And that's why I'm [indiscernible].

25 (A discussion was held off the record.)

1 THE COURT: Well, any word from the other witness?

2 MR. FENDER: I'm hearing now 2 p.m., but there may
3 be another witness we could call before that one.

4 THE COURT: Oh, I thought that was the last one.

5 MR. FENDER: Right. Beg the Court's indulgence.

6 THE COURT: Okay.

7 (Pause in the proceedings.)

8 THE COURT: Where is the phone? How did you
9 video --

10 MS. BESTEAKES: I [indiscernible]. I shot that,
11 like, bedtime and [indiscernible]. [Indiscernible] on my
12 car and my Bluetooth was doing [indiscernible]. I
13 actually [indiscernible]. I actually -- before
14 [indiscernible] I didn't know [indiscernible], that they
15 thought something was really wrong. I was planning on
16 crossing streets [indiscernible] and I [indiscernible].

17 THE COURT: Okay.

18 MS. BESTEAKES: But I live across the street,
19 actually. [Indiscernible] outside the courthouse. You
20 can see me [indiscernible].

21 THE COURT: Y'all check it out, out of an abundance
22 of caution for me.

23 MS. BESTEAKES: Do I got to be there or
24 [indiscernible]?

25 THE COURT: All right. For the record, I have

1 reviewed it, along with the sheriff and the deputy
2 solicitor. I'm going to have Ms. Mayes' car checked by
3 the sheriff's department.

4 MS. MAYES: What happened?

5 THE DEPUTY: They're going to check your car.

6 THE COURT: And just, on the video, I didn't -- it
7 doesn't show anything about going to the white car. So...

8 But out of an abundance of caution, I'm having that
9 vehicle checked. All of it. The -- all of it.

10 THE DEPUTY: The car is clear.

11 THE COURT: Y'all got -- you sure?

12 THE DEPUTY: Yes, ma'am.

13 THE COURT: Okay. Now, let me ask you -- because, I
14 mean, this is a serious case and, you know, stranger
15 things have happened since I -- that I have seen as a
16 judge. Is there somebody out looking at the parking lot?

17 THE DEPUTY: We put somebody out there.

18 THE COURT: We're putting somebody out in the
19 parking lot. Perfect. That should take care of that.

20 (Pause in the proceedings.)

21 THE COURT: Okay. We got the next witness?

22 MS. MAYES: We do, Judge.

23 THE COURT: All right. Let me get the defendant up
24 here and then I'll bring in the jury, if everybody is
25 ready.

1 (The jury entered the courtroom at 1:38 p.m.)
2 THE COURT: All right. Mr. Foreman, jury ready?
3 JURY FOREMAN: Jury is ready.
4 THE COURT: Let's be seated.
5 All right. The State can call their next witness.
6 MS. MAYES: May it please the Court, Your Honor?

7 The State calls Agent Russ Padgett.

8 SPECIAL AGENT WILLIAM "RUSS" PADGETT,
9 after having been duly sworn, was examined and
10 testified to as follows:

11 THE COURT: Agent. If you'd state your full name
12 for the record and spell your last name for the court
13 reporter, please.

14 THE WITNESS: Special Agent William Russell Padgett.
15 Last name is spelled P-a-d-g-e-t-t.

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q Good morning, Agent Padgett. Tell us a little bit
19 about yourself. Where are you currently employed?

20 A I'm currently employed for the South Carolina Law
21 Enforcement Division as a special agent in Regional
22 Investigations.

23 Q All right. When you say "Regional Investigations,"
24 does that include the Midlands region?

25 A That does.

1 Q Okay.

2 A Which is ten counties across the Midlands and also
3 includes McCormick County.

4 Q All right. I'm going to need you to pull that
5 microphone up a little bit closer to you, and then speak
6 directly into it.

7 So within the South Carolina Law Enforcement
8 Division, or SLED, there are regions assigned for field
9 investigators?

10 A Yes, ma'am.

11 Q And you said that McCormick is within your
12 jurisdiction?

13 A Yes, ma'am. It's within my region.

14 Q Now, why does SLED get involved in investigations
15 into any events occurring within the McCormick
16 Correctional Institute?

17 A SLED is the assisting agency throughout the state.
18 Any time any agency needs manpower or assistance in
19 investigations, they request our assistance and we provide
20 it.

21 Q Okay. Now, Agent Padgett, I want to take you back
22 to the evening hours of December 27th, 2020. Were you
23 involved in the response team here at the McCormick
24 Correctional Institute?

25 A Yes, ma'am, I was.

1 Q And can you tell us whether or not that also, of
2 course, involved members of SWAT?

3 A Yes, ma'am, it did.

4 Q And the Rapid Respond Team?

5 A Yes, ma'am.

6 Q Were you present during the extraction of Sergeant
7 Tawanna Harden from the F-3 dorm?

8 A I was not inside of the F-3 dorm but I was present
9 at the facility.

10 Q You were present here at the facility.

11 And, again, let me ask you, were SLED agents
12 stationed around the perimeter as part of the response?

13 A Yes, ma'am. Where the little circle is on the
14 right-hand side of the picture there, that's the entrance
15 to the prison.

16 MS. MAYES: And, Your Honor, if he may step down.

17 THE COURT: He may.

18 BY MS. MAYES:

19 Q Okay. I'm going to ask you to please step down and
20 show us the areas at the institution that SLED responded
21 to.

22 A This is the entrance where you go in. I was
23 stationed right here. There was a few of the SCDC Office
24 of Inspector General agents there when I got there, but I
25 only live about 30 minutes away from the institution, so I

1 was one of the first people there.

2 We had agents and McCormick County Sheriff's
3 deputies all around the perimeter, this outside entrance
4 here, and the Office of Inspector General was on this
5 inner [indiscernible] and took the inmates [indiscernible]
6 or across this fence here into custody in this area right
7 here.

8 Q So I want to ask you a few more questions about
9 that. [Indiscernible] told us that there were officers
10 with the local McCormick County Sheriff's Department
11 involved on the perimeter. Why is that?

12 A Just to make sure that, if they did get over this
13 inner perimeter fence, to stop anybody from going through
14 the other fence.

15 Q Okay. And I'm going to show you another photograph
16 which is State's Exhibit No. 21 and ask you whether or not
17 you're familiar with some of the information contained on
18 this notation, Edgefield Police Department. Can you tell
19 us whether or not the information, that it's approximately
20 25 miles away, can you tell us whether or not that is
21 consistent with the location or proximity to the MCI?

22 A I do not have the exact knowledge of the approximate
23 distance [indiscernible] would be closer.

24 Q And we were talking about a Bumpon (ph) Street and
25 East Gold Street. Are you familiar with those locations?

1 **A** Not exactly sure about Bumpon (ph) Street, but I
2 think East Gold Street is the [indiscernible] once you get
3 into McCormick.

4 **Q** And then McCormick Police Department, three miles
5 from the prison. Are you familiar with the general
6 location of the McCormick Police Department?

7 **A** Yes, ma'am.

8 **Q** And can you tell us whether or not that information
9 appears to be consistent?

10 **A** That does appear consistent.

11 **Q** Let me ask you, going back to the fence, you
12 indicated -- I'm going to hand it to you -- that there
13 were individuals found over the first fence.

14 **A** Yes, ma'am.

15 **Q** And do you know how many of those inmates were
16 apprehended over the first fence?

17 **A** It was five inmates that was apprehended in this
18 area here.

19 **Q** Okay. Thank you. You may return.

20 Now, once it was learned that five individuals were
21 apprehended over the fence, can you tell us whether or not
22 members of SLED had body cameras?

23 **A** Yes, ma'am.

24 **Q** And as part of the protocol, was there contact with
25 those five individuals who had made it over the fence?

1 A Yes, ma'am.

2 Q And, ultimately, does that lead to identification of
3 those two individuals as well?

4 A Yes, ma'am, it does.

5 Q I'm going to show you a photograph and ask you
6 whether or not you recognize it. This would be
7 State's 35.

8 Can you tell us whether or not -- what mechanism was
9 used to create this photograph?

10 A That photograph was a still shot taken from a SLED
11 agent's body-worn camera that was provided to me
12 throughout the investigation.

13 Q Okay. And the identity of that SLED is?

14 A Tricia Stoner.

15 Q Okay. And can you tell us the date and time in
16 which -- or actually the time period in which this body
17 camera was made in relation to the attempted escape?

18 A It was the night of the escape shortly after they
19 were taken into custody.

20 Q Okay. And is this a fair and accurate
21 representation of this individual captured on the body
22 camera?

23 A Yes, ma'am.

24 MS. MAYES: This would be State's 35 for evidence,
25 Your Honor.

1 THE COURT: Any objection?

2 MR. CHEHOSKI: No objection, Your Honor.

3 THE COURT: It's admitted.

4 (State's Exhibit No. 35, Still Shot from Body Cam,
5 having been premarked for identification, was received
6 into evidence.)

7 BY MS. MAYES:

8 Q Okay. So now looking at State's 35, were you able
9 to make an identification of this individual from the five
10 who were captured over the fence?

11 A Yes, ma'am. He was identified as Chavis Cox.

12 Q Chavis Cox, the defendant in this case?

13 A Yes, ma'am.

14 Q And do you have information with you to tell you the
15 identity of the other four individuals who were found over
16 the fence?

17 A Yes, ma'am, I do.

18 Q And what are their identities?

19 A James Heyward, Darien Robinson, Jonathan Archie, and
20 Johnelle Richardson.

21 Q Okay. And can you tell us whether or not they were
22 all caught in the same general area?

23 A Yes, ma'am. Two of them were transported to the
24 hospital.

25 Q Okay. And is that consistent with injuries obtained

1 either from the razor wire or from coming over the fence?

2 A Yes. One of them had a broken leg and one of them
3 had severe cuts on their hands.

4 Q Okay. Cuts to the hands?

5 A Yes, ma'am.

6 Q And were those different individual than Chavis Cox?

7 A Yes, ma'am.

8 Q All right. So after Mr. Cox was apprehended, this
9 body camera still shot was created?

10 A Yes, ma'am.

11 Q Now, going back to this night, being December --
12 roughly December 27th into the early morning hours of
13 December 28, 2020, what, if anything, can you tell us was
14 significant about the neck area of Mr. Cox? And if you
15 need to look at this with the naked eye, I can allow you
16 to do so.

17 A There's a tattoo on his neck. I can't tell from
18 here what it -- what it depicts, but there is -- there's a
19 tattoo there.

20 Q I'm going to show you, again, with the naked eye,
21 looking here....

22 A Yes, ma'am.

23 Q Is the print of that tattoo visible?

24 A Yes, ma'am, it is.

25 Q And what portions of the neck does it appear to

1 cover?

2 A The upper chest to the bottom of his jaw.

3 Q And does that include both sides of the neck?

4 A Yes, ma'am.

5 Q Up into the upper chin area?

6 A Yes, ma'am.

7 Q And does he also have a goatee?

8 A Yes, ma'am, he does.

9 Q So that neck tattoo was documented on this night?

10 A Yes, ma'am.

11 Q Now, are you also aware of a cell phone -- I believe
12 this is State's 29 -- that was seized after the
13 individuals were apprehended over the fence?

14 A Yes, ma'am.

15 Q And why was this cell phone processed by a different
16 agency than the State Law Enforcement Division?

17 A It was seized by the South Carolina Department of
18 Corrections Office of Inspector General.

19 Q Okay.

20 A So their office processed it.

21 Q Okay. Does that include Agent Travis Cox?

22 A Yes, ma'am.

23 Q Does that include Agent Daniel Cotter?

24 A Yes, ma'am.

25 Q And so because their agency seeks this phone, they

1 were the ones that actually processed it?

2 A That's correct.

3 Q But as a result, did you ultimately receive a copy
4 of this phone extraction as well?

5 A Yes, ma'am, I did.

6 Q Thank you.

7 MS. MAYES: Nothing further of Agent Padgett at this
8 time, Your Honor.

9 THE COURT: All right. Mr. Chehoski?

10 MR. CHEHOSKI: One moment, Your Honor.

11 THE COURT: Take your time.

12 MR. CHEHOSKI: No questions, Your Honor.

13 THE COURT: May I excuse Agent Padgett then?

14 MS. MAYES: Yes, Your Honor.

15 THE COURT: Well, I'm only going to excuse you to
16 that table.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Okay. Thank you, Agent.

19 MS. MAYES: Your Honor, at this time, the State
20 calls Agent Katlyn Poole.

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

23 AGENT KATLYN POOLE,

24 after having been duly sworn, was examined and
25 testified to as follows:

1 THE COURT: Agent, if you'd have a seat and state
2 your full name and spell your last name for the court
3 reporter, please.

4 THE WITNESS: My name is Katlyn Ashley Poole. Last
5 name P-o-o-l-e.

6 DIRECT EXAMINATION

7 BY MS. MAYES:

8 Q Good afternoon. Can you tell us where you were
9 working back in December of 2020?

10 A South Carolina Department of Corrections, Office of
11 Intelligence and Investigations.

12 Q All right. And what was your job responsibilities
13 there?

14 A I was an intelligence analyst, so I extracted cell
15 phones and analyzed cell phones as well as helped pull
16 information that the agency needed.

17 Q Can you take the microphone and --

18 MS. MAYES: Well, Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 BY MS. MAYES:

22 Q I'm going to need you to speak directly into it.

23 A Yes, ma'am.

24 Q And, again, going back to your job description in
25 2020 with the Office of Inspector General over SCDC, give

1 us an overview of your job responsibilities.

2 A I extracted cell phones for them as well as just did
3 any analysis that they needed from me.

4 Q Okay. And when you say "extracted cell phones," can
5 you give us an overview of that term? What does that term
6 mean?

7 A Essentially, I was someone who was trained to take a
8 cell phone and pull all the information off of it and
9 analyze it in the system that was provided to us.

10 Q Okay. So when you talk about doing the cell phone
11 extraction, does that include photographs on the cell
12 phone?

13 A Yes, ma'am.

14 Q Does that include data that may have been sent to
15 the cell phone?

16 A Sometimes, yes, ma'am.

17 Q And can that also include data that goes from the
18 cell phone out?

19 A Yes.

20 Q So, basically, the full content of a phone that is
21 potentially subject to that extraction?

22 A Yes, ma'am.

23 Q Now, what type of training -- specific training do
24 you have that led you to the field of extraction for
25 phones?

1 **A** So I was a CCO/CCPA. That's a Cellebrite Certified
2 Operator and Cellebrite Certified Physical Analyst.

3 Essentially, it's a five-day training that trains you on
4 the Cellebrite system on extracting phones and then
5 analyzing the information that gets pulled from them.

6 **Q** So I'm going to back up a little bit and ask you,
7 prior to you becoming certified in the cell phone
8 extractions, how long had you been a criminal analyst with
9 the Department of Corrections?

10 **A** I believe around a year.

11 **Q** Okay. And what kind of educational training and
12 background do you have that led you to become a criminal
13 analyst?

14 **A** When I started at SCDC, we essentially helped the
15 agents with all their investigations and that then
16 included cell phones, and that was becoming more and more
17 common at the time and so they needed more people to do
18 them and essentially asked if I would be one of them. And
19 I said yes wholeheartedly and I went on to extract over
20 150 cell phones with them.

21 **Q** Okay. And what type of undergraduate education did
22 you have prior to joining SCDC?

23 **A** I have a bachelor's degree in sociology and
24 criminology.

25 **Q** Now, once you were being trained as a criminal

1 analyst -- you mentioned the word "Cellebrite."

2 A Mm-hmm.

3 Q What does that term mean? What is the Cellebrite
4 software?

5 A The Cellebrite software is a system that essentially
6 takes a cell phone and plugs into it and pulls what it can
7 from a cell phone, which can be different for every cell
8 phone.

9 Q And is that Cellebrite software used by various law
10 enforcement agencies across the nation?

11 A Yes, ma'am.

12 Q Does that include the State Law Enforcement
13 Division, or SLED?

14 A Yes, ma'am.

15 Q Does that include South Carolina Department of
16 Corrections?

17 A Yes, ma'am.

18 Q Does it include many local law enforcement agencies
19 such as the Lexington County Sheriff's Department?

20 A I believe they do, yes, ma'am.

21 Q So Cellebrite software is used by various law
22 enforcement agencies across the country?

23 A It's one of the largest, yes, ma'am.

24 Q And can you tell us whether the United States Secret
25 Service is also [indiscernible] not only in the use of

1 that software but in training?

2 A Yes, ma'am.

3 Q Where did you go to receive the certifications that
4 you told us about?

5 A I believe they were at the South Carolina Department
6 of Corrections.

7 Q Okay. And on that training, you mentioned two types
8 of certifications.

9 A Yes, ma'am.

10 Q Again, for the record, start with your first
11 certification.

12 A The CCO, which is the Cellebrite Certified Operator
13 certification. That would just certify me to use the
14 software to extract the cell phone.

15 Q Okay. And is it possible for you to estimate,
16 during your time as a criminal analyst, how many cell
17 phone extractions you conducted?

18 A With the Department of Corrections? Over 150.

19 Q Okay. And, again, does your training involve
20 various law enforcement agencies and the Secret Service?

21 A I'm not sure about Secret Service, but there were
22 other law enforcement agencies there, yes, ma'am.

23 Q And then your second certification, what can you
24 tell us about that?

25 A That one is a CCPA, so the Cellebrite Certified

1 Physical Analyst. That one allows us to take the
2 information that was extracted and actually read it.

3 Q And when you say "actually read it," you have now
4 extracted a phone ---

5 A Yes.

6 Q --- but you're going to interpret the data that is
7 located within the extraction?

8 A Yes, ma'am.

9 Q And how many times would you say throughout your
10 career as a criminal analyst have you had the opportunity
11 to actually interpret the data from an extraction?

12 A I would say at least half of the 150 because
13 sometimes you can extract a phone and nothing comes out,
14 so...

15 Q And so you had special training in both extractions
16 and the interpretation of that data?

17 A Yes, ma'am.

18 Q Now, can you tell us whether or not you had the
19 opportunity to conduct extractions on phones recovered
20 pursuant to the uprising on December 27th of 2020 at the
21 McCormick Correctional Institute?

22 A I did, yes, ma'am.

23 Q And does that include a specific phone in this case
24 that is marked as State's 29 and that being a Motorola XT
25 model?

1 A An E6?

2 Q Yes.

3 A Yes, ma'am.

4 MS. MAYES: Your Honor, at this time, the State
5 offers Katlyn Poole as an expert in the field of phone
6 extractions.

7 THE COURT: Any objection?

8 MR. CHEHOSKI: Your Honor, may I have some voir dire
9 for this witness?

10 THE COURT: You may.

11 VOIR DIRE EXAMINATION

12 BY MR. CHEHOSKI:

13 Q Ms. Poole, you said that this training took up --
14 the training to become a certified analyst and to be a
15 Cellebrite [indiscernible] was a five-day training; is
16 that right?

17 A Yes, sir.

18 Q And is this training available to anybody that does
19 law enforcement?

20 A I'm not 100 percent sure.

21 Q Now, it's actually the training as to how to use the
22 software; is that right?

23 A Which one?

24 Q Again, that's what I'm trying to figure out.

25 A Mm-hmm.

1 Q Is this training more involved than just learning
2 how to use the software?

3 A Yes, sir.

4 Q All right. Because you -- I mean, what you have
5 testified to is earlier is that you kind of plug in the
6 phone and then -- then the software pulls everything off
7 of it?

8 A It is not 100 percent plug and play.

9 Q All right. What else is involved that requires
10 specialized training?

11 A Making sure that the information that came from the
12 phone is the same information from the phone -- the coding
13 aspect of it.

14 Q Does the coding aspect -- and is that coding aspect,
15 is that part of your training?

16 A Yes.

17 MR. CHEHOSKI: No further --

18 BY MR. CHEHOSKI:

19 Q And have you ever been certified as an expert in the
20 past?

21 A No, sir.

22 Q Is this your first time testifying?

23 A Yes, sir.

24 Q Congratulations.

25 MS. MAYES: Judge, I do have a couple of follow-up

1 questions.

2 THE COURT: If you would, please.

3 CONTINUING DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q Can you tell us whether or not the use of this
6 Cellebrite software is generally accepted among your peers
7 in law enforcement?

8 A Yes, ma'am.

9 Q Is there a -- not just a training but the scientific
10 basis involved in the coding and other aspects of the use
11 of this software?

12 A Yes, ma'am.

13 Q Can you tell us whether or not this type of work is
14 subject to peer review within the Department of
15 Corrections?

16 A I'm --

17 Q Do you have other colleagues that are also doing
18 this type of work?

19 A Yes, ma'am.

20 Q Are those colleagues available for you to consult
21 with you were to approach any problems or questions
22 involved in the extraction process?

23 A Yes, ma'am.

24 Q And can you tell us whether the use of the
25 Cellebrite software is generally accepted among law

1 enforcement agencies, including the Department of
2 Corrections?

3 A Yes, ma'am.

4 MS. MAYES: At this time, Your Honor, we do offer
5 Agent Poole as an expert.

6 MR. CHEHOSKI: Again, one follow-up question.

7 FURTHER VOIR DIRE EXAMINATION

8 BY MR. CHEHOSKI:

9 Q You have access to peer review. Is there any
10 requirement to use peer review?

11 A No, sir.

12 MR. CHEHOSKI: That's all.

13 THE COURT: Anything objection?

14 MR. CHEHOSKI: No, Your Honor.

15 THE COURT: Okay. I'm going to tell the jury I'm
16 going to find this witness, Ms. Poole, an expert in cell
17 phone extractions. It appears she has the sufficient
18 education and knowledge. But I'm going to tell you,
19 that's up for you to decide to give her testimony the
20 weight you think it deserves. She's going to be allowed
21 to give her opinion in this case.

22 Go ahead, Ms. Mayes.

23 CONTINUING DIRECT EXAMINATION

24

25

1 BY MS. MAYES:

2 Q I'm going to show you what is State's 29. And do
3 you have a pair of gloves with you?

4 A I do not.

5 Q Okay. I'm going to show you State's 29 for
6 identification only at this time and also State's 1 also
7 for identification only at this time. Go ahead and --

8 (State's Exhibit No. 1, Phone Extraction, was marked
9 for identification only.)

10 MS. MAYES: Your Honor, with your permission, may
11 she unseal State's 29?

12 THE COURT: She may.

13 THE WITNESS: May I have gloves? Thank you.

14 BY MS. MAYES:

15 Q Go ahead and take a moment.

16 THE COURT: Right now, 29 is only until as a Court
17 ID.

18 MS. MAYES: Correct, Your Honor.

19 THE COURT: Okay. Just want to make sure.

20 Buffy, do we have any scissors?

21 THE CLERK: Yes, ma'am.

22 THE COURT: If you need these. How about that?

23 THE WITNESS: Thank you so much.

24 MS. MAYES: And with your permission, Your Honor,
25 may she open the seal?

1 THE COURT: She may.

2 THE WITNESS: Thank you.

3 You want it out of the bag as well?

4 MS. MAYES: Yes.

5 BY MS. MAYES:

6 Q And first I'm going to ask you what type of markings
7 are on the exterior package for State's 29. Can you tell
8 us whether or not there is any identifying information?

9 A There is an IMEI number.

10 Q And for the record and slowly enough for the court
11 reporter, what is that IMEI number?

12 A 352176101055004.

13 Q And, again, the last five digits of that IMEI number
14 on that packaging?

15 A 55004.

16 Q All right. What is an IMEI number?

17 A An IMEI number is essentially a serial number for a
18 phone or an identifying number.

19 Q So like we're used to serial numbers for guns or
20 other unique items, an IMEI number is the serial number
21 for that specific phone?

22 A Yes.

23 Q Now, should there be any other Motorola E6's with
24 that same IMEI number?

25 A No, ma'am.

1 Q So it is unique to that one phone?

2 A Yes, ma'am.

3 Q So you identified that that is on the outer
4 packaging. What other identifying information is on this
5 outer packaging for the type of phone?

6 A A black Motorola XT 2005-1PP Motorola -- yes,
7 Motorola XT.

8 Q Okay. And does it also show you the date in which
9 this item was packaged as evidence?

10 A 12/28/2020.

11 Q All right. So would that be consistent with the
12 early morning hours of December 28, 2020, following the
13 uprising at the McCormick Correctional Institute?

14 A Yes, ma'am.

15 Q Now, you have unsealed this package, and I'm going
16 to ask you about the inner packaging in which this phone
17 was sealed. Can you tell us from who you received this
18 phone?

19 A Agent Daniel Cotter.

20 Q Agent Daniel Cotter. Do you know who he is?

21 A I do.

22 Q Who is he?

23 A He is the investigator on the case.

24 Q All right. And does it have an approximate time in
25 which this phone was originally seized as evidence,

1 looking here at the outer packaging?

2 A 12/27/2020 at 19:30.

3 Q Okay. 19:30 would be roughly...

4 A 7:30.

5 Q So 7:30 on the night of December 27th, 2020.

6 And does it identify the original officer?

7 A Agent Cox.

8 Q Can you tell us whether or not it appears it is

9 seized on the 27th from Agent Cox?

10 A Yes.

11 Q Transmitted to Agent Cotter?

12 A Yes.

13 Q And then, ultimately, you received it from Agent

14 Cotter?

15 A Yes.

16 Q How was it packaged when you received it?

17 A I'm not 100 percent sure.

18 Q Okay. Can you tell us whether or not it was in some

19 type of packaging?

20 A It would have been in a bag much like this.

21 Q Okay. Was there any indication to you that the

22 phone had been cut on or altered or tampered with in any

23 way?

24 A No, ma'am.

25 Q You had no concerns in that regard?

1 A No, ma'am.

2 Q It appeared consistent with how you always receive
3 evidence for a phone extraction?

4 A Yes, ma'am.

5 Q And what did you do next?

6 A Normally, what I would do then is open the phone,
7 make sure that Wi-Fi is off, Bluetooth is off, anything to
8 remotely connect to the phone was off, and, from that
9 point, I would move forward in my extraction process.

10 Q And throughout all of this, was there any indication
11 to you that the phone had been cut on or altered in any
12 way by any previous agent who had possession of the phone
13 prior to you?

14 A No, ma'am.

15 MS. MAYES: Your Honor, at this time, State's 29 for
16 evidence.

17 THE COURT: Any objection?

18 MR. CHEHOSKI: Yes, Your Honor, subject to chain of
19 custody.

20 MS. MAYES: May we approach?

21 THE COURT: You may.

22 BENCH CONFERENCE

23 (A bench conference was held off the record and
24 outside of the hearing of the jury.)

25 (Open court resumes as follows:)

1 THE COURT: Okay. Let's take, like, a 10-minute
2 break. I need to discuss some legal matter with the
3 lawyers so I'm going ask the jury to go back to their jury
4 room for about a 10-minute break, if you don't mind.

5 Remember, no talking about this case.

6 (The jury exited the courtroom at 2:09 p.m.)

7 THE COURT: All right. You can stay seated.

8 I'm going to keep you on the witness stand.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Unless you need a restroom break or
11 something. You're just not allowed -- you're still under
12 oath and you can't talk to anybody.

13 THE WITNESS: Yes, ma'am.

14 (A recess was taken from 2:11 p.m. to 2:25 p.m.)

15 THE COURT: Okay. Y'all, she didn't put it on the
16 record. Okay.

17 MS. MAYES: Okay. State v. Carter, 544 S.C. S.E.2d
18 835 (2001) and about the chain of custody only being
19 required as far as practicable. And going back, Your
20 Honor, to the original citation, State v. Taylor, for the
21 record, was 598 S.E.2d 735, "If the identity of each
22 person in the chain handling the evidence is established
23 and the manner of handling is reasonably demonstrated,
24 there is no abuse of discretion in admitting it absent
25 proof of tampering."

1 And as stated previously, Your Honor, there is no
2 proof of tampering or no reason to believe that tampering
3 has occurred in this case. As indicated, this was seized
4 that night and remained in the possession of the South
5 Carolina Department of Corrections personnel until the
6 exhibits [indiscernible].

7 THE COURT: And to make sure -- I'm not sure that
8 all of this got on the record, but, again, this is a
9 three-person chain of custody. It's been testified for
10 the record where the phone was found and who picked it up.
11 That's Agent Cox. It was given to Agent Cotter, who then
12 turned it in, and Ms. Poole received it and extracted the
13 telephone. That is the chain of custody.

14 Two of those have testified, Cotter and Agent Poole.
15 There is, again, a unique identifier. This is nonfungible
16 evidence; I understand it's a cell phone, but it's -- it
17 had its specific, unique serial number on it that's been
18 testified not once but twice and ID'd the cell phone for
19 Court only by Agent Cotter. And, now, Agent Poole has
20 just identified it by the same serial number. I don't see
21 why it's not admissible. And the Court is going to hold
22 it admissible for all the case law that Ms. Mayes was
23 stating. I just want to make sure all of this got on the
24 record because I think the court reporter's machine cut
25 off. And under Brockmeyer and Terry -- Taylor, the Court

1 is allowing the testimony to continue.

2 Now, the defendant has objected. I have noted that
3 objection for the record. His objection is that is not a
4 full chain.

5 Now, this ruling might be moot. I don't know. The
6 person who picked up the phone is supposed to be here at
7 4:00, and we might be going out of turn in testimony.
8 But, right now, I'm ruling that, regardless if Agent Cox
9 makes it here or not, I think the phone is still
10 admissible. I'm noting the defense's objection for the
11 record.

12 Anything else you'd like to add?

13 MR. CHEHOSKI: Your Honor, I think, just for the
14 sake of the record, I'm repeating myself. My argument is
15 that this particular witness, the person who seizes
16 evidence, is unique in the chain, is essential to the
17 chain. It is not someone who is -- he's one of the end
18 points of the chain. I cannot think of a more essential
19 witness. Only this witness can testify as to the manner
20 and circumstances if he came into possession of the
21 evidence. And so, therefore, my objection is, without
22 this witness, there is not a chain of custody and without
23 this witness, the evidence cannot be admitted. Again, I
24 understand the Court's ruling; this is just an argument
25 that's in the record.

1 THE COURT: Right. And, you know, I'm going to tell
2 you, Mr. Chehoski, there was testimony about where that
3 phone was found and who it was given to from Agent Cotter.
4 I remember that testimony.

5 And, you know, I haven't heard anything about any
6 kind of tampering with the cell phone or that it's not in
7 the same shape. As a matter of fact, she just opened the
8 seal on it.

9 So, anyway, I'm going to allow the testimony.
10 Again, this ruling might be moot when this other witness
11 gets here; we'll be taking it out of turn, Ms. Mayes, but,
12 for right now, this Court's ruling, we're going forward.

13 MS. MAYES: The State's ready to proceed, Your
14 Honor.

15 THE COURT: All right. Let's bring the jury back
16 in.

17 (The jury entered the courtroom at 2:30 p.m.)

18 THE COURT: Mr. Foreman, is the jury ready?

19 JURY FOREMAN: The jury is ready.

20 THE COURT: All right. Please be seated.

21 Agent Fuller, come over. I'll remind you that
22 you're still under oath.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Thank you.

25 CONTINUING DIRECT EXAMINATION

1 BY MS. MAYES:

2 Q All right. So going back to your testimony
3 regarding the extraction itself, you have identified that
4 object, State's 29.

5 MS. MAYES: And, Your Honor, I believe that we had
6 offered this into evidence, including the packaging that
7 had also been identified by the witness, the outer
8 packaging for the phone and then the golden envelope
9 containing the phone, all these State's 29. We had
10 offered that just prior to that break.

11 THE COURT: You did.

12 And I think the State objected.

13 MR. CHEHOSKI: The defense objected, Your Honor.

14 THE COURT: Oh, I'm sorry. The defense objected.

15 MR. CHEHOSKI: If the State wants to object to their
16 offering, I'm not going to [indiscernible] that, too.

17 THE COURT: And it's so noted for the record, but
18 it's admitted.

19 (State's Exhibit No. 29, Cell Phone, having been
20 premarked for identification, was received into evidence.)

21 BY MS. MAYES:

22 Q All right. So looking here, I'm going to move at
23 this time -- if I can just briefly --

24 A Sure.

25 Q -- this way. And I'm going to show you another

1 document, which is State's 34, and ask you whether or not
2 you recognize this document.

3 A I do, yes, ma'am.

4 Q Now, looking here at the outer packaging of State's
5 29, what date is reflected here at the bottom of the
6 packaging?

7 A 12/28/2020.

8 Q Okay. And what is the name of the agent who was
9 noted for recovering this item?

10 A Roy Cox.

11 Q And what is the location which the item was
12 discovered?

13 A Perry Correction institution.

14 Q Well, let me ask you this: Why is -- why is the
15 Department of Corrections noted on this and what is meant
16 by that -- that term?

17 A Recovery -- "rec lock" is recovery location.

18 Q Okay. So if it says "Perry," that would not be
19 accurate?

20 A I don't know.

21 MS. MAYES: All right. May we approach?

22 THE COURT: You may.

23 BENCH CONFERENCE

24 (The following bench conference was held outside the
25 hearing of the jury and others.)

1 THE COURT: You have explained it away. You're
2 exactly right.

3 MR. CHEHOSKI: Yeah, that's not clear.

4 THE COURT: Okay. So, wait a minute, y'all. Come
5 here for a second. What y'all want to do?

6 MR. CHEHOSKI: So [indiscernible].

7 MS. MAYES: We [indiscernible].

8 MALE SPEAKER: Oh, I think so too. So, I mean, but
9 we all [indiscernible]. How do y'all want to handle this?
10 [Indiscernible].

11 MR. CHEHOSKI: I think my objection at this point
12 [indiscernible]. I don't think anything can be
13 [indiscernible] to this jury [indiscernible].

14 THE COURT: I'm kind of scared, too, until I know.

15 MS. MAYES: Okay.

16 MR. CHEHOSKI: Thank you.

17 THE COURT: All right. Well, let me ask y'all
18 this -- Jason and Suzanne, let me ask y'all one other
19 thing. [Indiscernible].

20 (Open court resumes as follows:)

21 THE COURT: All right, Mr. Foreman. I apologize but
22 I'm going to have to send y'all back to the jury room
23 while I take up a legal issue with the lawyers.

24 Remember, no talking about this case.

25 (The jury exited the courtroom at 2:38 p.m.)

1 THE COURT: All right. Court's going to be in
2 recess.

3 If you need to go to the ladies room, just let us
4 know. You're more than welcome to go. You just can't
5 speak with anybody. You're still under oath.

6 (A brief recess was taken from 2:39 p.m. to 3:50
7 p.m.)

8 THE COURT: All right, Mr. Foreman. Jury ready?

9 JURY FOREMAN: We're ready.

10 THE COURT: Okay. Please be seated.

11 All right. Continue on, Ms. Mayes.

12 MS. MAYES: Thank you, Your Honor. May it please
13 the Court?

14 THE COURT: Yes, ma'am.

15 CONTINUING DIRECT EXAMINATION

16 BY MS. MAYES:

17 Q And, Agent Poole, you had previously indicated that
18 the phone that was submitted to you was submitted for the
19 purpose of an extraction?

20 A Yes, ma'am.

21 Q And that is State's 29?

22 A Yes, ma'am.

23 Q And did you conduct an extraction on this phone?

24 A Yes, ma'am.

25 MS. MAYES: Your Honor, with that said, the State at

1 this time would recall the testimony of Agent Poole and we
2 would request that she be subject to recall for the
3 purposes of her direct examination.

4 THE COURT: Okay. Mr. Chehoski, any cross?

5 MR. CHEHOSKI: Very -- again, Your Honor, I
6 [indiscernible] with my cross.

7 CROSS-EXAMINATION

8 BY MR. CHEHOSKI:

9 Q Ms. Poole, when you do an extraction, you're able to
10 find out the last time the phone was accessed; is that
11 correct?

12 A Only sometimes.

13 Q Only sometimes?

14 A Mm-hmm.

15 Q So am I mistaken in saying that it would be possible
16 that, at some point between the time when the phone was
17 seized and when it got to you, it had been accessed?

18 A Was it possible?

19 Q Is that your understanding? Is what you're saying,
20 that it would be possible for the phone to be accessed
21 after it had been seized before it got to you and you
22 wouldn't be able to know?

23 A If it wasn't in my possession, I wouldn't know.

24 Q All right. Okay. And that's what I'm saying,
25 though.

1 A Yes.

2 Q It's been a long day.

3 Maybe I can break it down a little more.

4 A Sorry.

5 Q You're saying that there would be no way of telling
6 the last time the phone was accessed prior to -- there may
7 be no way of telling the last time the phone was accessed
8 prior to getting to you; is that correct?

9 A Sometimes, no. So sometimes you --

10 Q So there may be some times no way of telling -- see
11 [indiscernible] more complicated.

12 There may be -- there -- you may not know the last
13 time the phone was accessed?

14 A Correct.

15 MR. CHEHOSKI: Subject to cross-examination, subject
16 to recall.

17 THE COURT: Okay. Go ahead.

18 MS. MAYES: The State calls Agent Travis Cox.

19 THE COURT: Agent Poole, you're not excused. Okay?
20 You're subject to recall so don't go anywhere.

21 THE CLERK: Raise your right hand and place your
22 left hand on the Bible.

23 AGENT TRAVIS COX,

24 after having been duly sworn, was examined and
25 testified to as follows:

1 MS. MAYES: Your Honor, may I proceed?

2 THE COURT: You may.

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q If you would speak directly into the microphone.

6 Tell us about yourself. Where are you employed?

7 A Yes, ma'am. I am currently employed for the South
8 Carolina Department of Corrections Office of Inspector
9 General. Been there since 2018. Currently, first-line
10 supervisor for our public corruption, major crime team.
11 Prior to that, I worked for Greenwood Sheriff's Office for
12 roughly ten years.

13 Q Okay. And where were you this morning prior to your
14 arrival here in McCormick County?

15 A This morning, I was at Isle of Palms with my family,
16 yes.

17 Q So on a family vacation?

18 A Yes, yes.

19 Q And you returned from Isle of Palms for the purpose
20 of testifying in this case?

21 A Yes, ma'am.

22 Q Well, with that said, I want to take you back to
23 December 27th of 2020, and I specifically want to show you
24 a photograph and let you look at this up close. This is
25 State's 12, being an aerial photograph and now on the

1 overhead.

2 Were you present as part of the SCDC response team
3 following the riot or uprising at the McCormick
4 Correctional Institute back in December of 2020?

5 A Yes, ma'am.

6 Q Specifically on the night of December 27th, 2020?

7 A Yes, ma'am.

8 Q Tell us what your role was as a member of that
9 response team.

10 A So, being that I didn't live too far away from the
11 institution, I was one of the first ones there, myself and
12 Assistant Chief Cotter. We were the first ones on the
13 scene. We were cleared to go in with our weapons due to
14 the nature of the threat and SCDC policy.

15 When we entered, we held our position until we had a
16 few more people to enter the institution safely to -- I
17 guess to further enter the institution; we were inside.
18 And then, at that time, we slowly started finding
19 individuals outside the inner fence of the institution, if
20 that makes sense.

21 Q Okay. And when you say "inner fence," let me ask --
22 I'm going to show you this document, State's 19. Had they
23 made it over the first fence, if you know?

24 A Oh, I remember. Yes, ma'am.

25 Q Okay.

1 A They made a makeshift ladder to get over the first
2 fence.

3 Q Okay. And then, after the first fence, there was
4 still yet another fence ---

5 A Mm-hmm.

6 Q --- within the institution?

7 A Yes, ma'am.

8 Q So you were -- and, again, I'm going to ask you to
9 explain. You're finding them between both of those
10 locations?

11 A Yes, ma'am.

12 Q So between the first fence and then the second
13 fence?

14 A The largest second fence, yes, ma'am.

15 Q And looking here at State's 19 in evidence, do you
16 remember if there were items strewn about in the area
17 where the individuals were recovered?

18 A Yes, ma'am. Items that he brought over in a pillow
19 case, I believe it was, or some kind of sheet.

20 Q Okay. So looking here at State's 19, is all of that
21 consistent with how you remember it?

22 A Yes, ma'am, very much so.

23 Q Including, as you said, a ladder being used to cross
24 over?

25 A Yes, ma'am. It's made out of magazines and, again,

1 appeared to be, like, sheets, I believe.

2 Q So looking here at State's 17, can you tell us
3 whether or not that's the ladder that you were
4 referencing?

5 A Yes, ma'am.

6 Q Now, you mentioned that multiple individuals were
7 apprehended. Were you a part of that?

8 A Yes, ma'am.

9 Q I'm going to show you an item and ask you whether or
10 not you recognize it. Looking first here at the
11 packaging, this is State's 29 for evidence. I'm going to
12 ask you to take a look at this, please, sir.

13 A Is it okay if I turn the bag over?

14 Yes, ma'am, I do recall. I do recall that item.

15 Q And looking at the bag itself, if you could take a
16 moment.

17 A Yes, ma'am. I do recall that bag.

18 Q Okay. What do you remember about the recovery of
19 this item, being State's 29?

20 A It was just out of arm's reach of the inmate. He
21 had broken his ankle. And the back had came off of it. I
22 didn't want him to either break it or to be damaged by the
23 weather, so I secured it -- put it back together and
24 secured it in my pocket and turned it over once things had
25 been settled.

1 Q Okay. So I want to ask you a few more questions
2 about that. You said that there were multiple individuals
3 in the area.

4 A Mm-hmm.

5 Q And you mentioned that one of those individuals had
6 broken their ankle?

7 A Mm-hmm, yes, ma'am.

8 Q And there were other individuals within that group
9 who were uninjured?

10 A Yes, ma'am. There was some that had injuries and
11 some that had not, yes.

12 Q Okay. And among all of those individuals, was
13 anyone holding the phone, or was it on the ground?

14 A It was on the ground.

15 Q Okay. So the phone was actually found on the ground
16 and you had concerns about possibly being within proximity
17 to an inmate who could pick a phone up and possibly delete
18 evidence?

19 A Yes, ma'am. It wasn't so far that he couldn't have
20 crawled over there and grabbed it or even the weather
21 could have damaged it.

22 Q Okay. So because you had concerns about one of
23 those inmates potentially having proximity or the ability
24 to reach the phone, what did you do?

25 A I secured it.

1 Q Okay. And what do you mean by "secured it"?

2 A I put the back back onto the phone, and I placed it
3 in my pant's pocket.

4 Q So when you found it, it actually was found apart?

5 A Yes, ma'am. The back cover of the phone was -- had
6 come off of it. As you see on the ground, there's a lot
7 of stuff that's in disarray.

8 Q I'm going to show you what is State's 18, which
9 shows various items on the ground. I'm going to give you
10 the chance to look at that photograph as well with the
11 naked eye.

12 Looking here at State's 18, does that all appear
13 consistent with various items along the ground ---

14 A Yes, ma'am.

15 Q --- over the fence?

16 A That's correct, yes, ma'am.

17 Q And now I'm going to show you what is State's 19.
18 In addition to what we're looking at here, State's 17, I
19 know that it's not possible to estimate exactly the height
20 of that fence, but what would you approximate to be the
21 height of the fence? Would that be greater than 12 feet?

22 A That's probably fair to say. I'm five-six and it's
23 much taller than I am.

24 Q In looking at Exhibit 17 -- so the act of going over
25 the fence with items could potentially cause damage to

1 those items?

2 A Yes, ma'am.

3 Q And somewhere on the other side of the fence, that
4 phone is found?

5 A Correct.

6 Q And can you tell us if the damage that you observed
7 being that it's got a top part that's come across and
8 falling apart, can you tell us whether or not that would
9 be consistent with falling from a height?

10 A Yes, ma'am.

11 Q So among those five individuals, when it was
12 initially seized, you wouldn't have had the ability to
13 know which of those individuals the phone actually
14 belonged to?

15 A Correct.

16 Q And you secured it by doing what to it?

17 A I placed it in my pocket for the time being.

18 Q After putting the top back on it?

19 A Yes, ma'am.

20 Q Now, tell us about the packaging. Whose name is
21 noted on the packaging?

22 A I see my name where I signed it from myself to Agent
23 Cotter. And you see, "Recovered by Agent Travis Cox."

24 Q All right. And who was Travis Cox?

25 A That would be my name.

1 Q Okay. What is your legal name that is also
2 sometimes noted on documents?

3 A Yes, ma'am. Per the government, it's Roy Cox, but a
4 lot of people know me as Travis.

5 Q So Roy Cox, Travis Cox, you are the same person?

6 A Yes, ma'am. One and the same.

7 MS. MAYES: So, at this time, Your Honor, the
8 State -- well, let me cover one more thing.

9 BY MS. MAYES:

10 Q You mentioned that you actually recovered this
11 phone. What is the name of the facility from which it was
12 recovered?

13 A That is McCormick Correctional Institution.

14 Q All right. So it's recovered at McCormick
15 Correctional Institute. And do you have a time associated
16 with the recovery of that item?

17 A It says the time of recovery is December 27th, 2020,
18 at 19:30, 7:30.

19 Q Roughly 7:30 p.m.?

20 A Yes, ma'am.

21 Q I'm going to show you another document and ask you
22 whether or not you're familiar with this document.

23 A Yes, ma'am.

24 Q Okay. Who did you sign the phone over to?

25 A Dan Cotter was the one who received that -- the item

1 from me.

2 Q And does that document also reflect the location in
3 which the phone was recovered?

4 A Yes, ma'am. I believe it says McCormick
5 Correctional, yes.

6 Q And is that information accurate?

7 A Yes, ma'am, it is.

8 Q So 7:30 at night on the night of the 27th. And did
9 you remain there on-scene after seizing this phone?

10 A Yes, ma'am. There's still several inmates that were
11 released from their cells.

12 Q Okay. So you stayed until the entire operation was
13 complete?

14 A Yes, ma'am.

15 Q And for some, did that include on into the early
16 morning hours of the 28th?

17 A Yes. It was a long night.

18 Q All right. So according to this chain of custody,
19 you seized it on the night of the 27th. Who ultimately
20 did you sign this phone over to?

21 A The case agent, Dan Cotter.

22 Q Okay. And it was turned over to Agency Cotter for
23 the purpose of what?

24 A To submit to Evidence and, I guess, for extraction
25 ultimately.

1 Q And when you say "extraction," you mean an actual
2 physical extraction from the phone?

3 A Yes, ma'am. Data extraction, yes.

4 Q So was that all consistent with your chain of
5 custody procedures?

6 A Mm-hmm, yes, ma'am.

7 Q Now, did you do anything to alter or change or
8 tamper with the contents of this phone while it was in
9 your possession?

10 A No, ma'am.

11 Q Did you observe Agent Cotter do anything to alter,
12 tamper with, or change the content of this phone?

13 A No, ma'am.

14 MS. MAYES: Your Honor, at this time, the State
15 offers 29 as evidence.

16 MR. CHEHOSKI: Subject to prior objections, Your
17 Honor.

18 THE COURT: So noted for the record. I assume the
19 prior objection is your chain of custody.

20 MR. CHEHOSKI: Chain of custody and [indiscernible],
21 Your Honor.

22 THE COURT: Thank you. Go ahead.

23 MS. MAYES: Is 29 in evidence, Your Honor?

24 THE COURT: It's admitted, yes.

25 BY MS. MAYES:

1 Q All right. So I am going to publish at this time,
2 Agent Cox, the outside of this bag. So looking here, the
3 agency is who?

4 A That would be SCDC.

5 Q And the time and date of recovery is what?

6 A December 27th, 2020. And that's 19:30
7 approximately.

8 Q 7:30 p.m.?

9 A Yes, ma'am.

10 Q And it says, "Suspect unknown." Again, where is the
11 phone actually found?

12 A Within that area of those several individuals that
13 made it over the first fence.

14 Q But is it on the ground?

15 A Yes, it's on the ground. Yes, ma'am.

16 Q Okay. So it's found on the ground. And, at this
17 point in time, you wouldn't know actually who it's
18 attributed to; is that correct?

19 A That's correct.

20 Q All right. Recovered by who?

21 A Myself, Travis Cox.

22 Q All right. And does it also contain what is known
23 as an IMEI number?

24 A Yes, ma'am.

25 Q And then, beyond that, who actually is assisting in

1 sealing of the evidence?

2 A That would have been Agent Daniel Cotter.

3 Q All right. And does it show who the phone is being
4 transferred to?

5 A Yes, ma'am.

6 Q Who is that?

7 A That is being transferred from myself to Agent
8 Cotter.

9 Q And that would be Daniel Cotter who also -- again,
10 you weren't present in the courtroom, but also the same
11 Daniel Cotter with SCDC that's been a witness in this
12 case?

13 A Yes, ma'am. The case agent.

14 Q Just want to ask you about the packaging here on
15 State's 29. Looking here at this packaging, when it says
16 "recovered by," who is that person?

17 A Recovered by Roy Cox.

18 Q So Roy Cox is, you testified, that is your legal
19 name?

20 A Yes, ma'am.

21 Q All right. Now, here, it says R-E-C L-O-C. Would
22 that be location?

23 A Yes, ma'am.

24 Q All right. And, here, it says, "Perry." What is
25 Perry?

1 **A** Perry Correctional is another one of our facilities
2 not far from McCormick.

3 **Q** Okay. Would that be accurate where it was recovered
4 or is that ---

5 **A** No.

6 **Q** --- not accurate?

7 **A** I would say that's not accurate. That label was
8 printed in our Evidence -- our evidence tech would have
9 printed that off. That's not accurate.

10 **Q** Okay. So that some type of typo?

11 **A** Yes, ma'am.

12 **Q** Or typographical error?

13 **A** Yes, ma'am. Certainly.

14 **Q** With that said, looking here at the original
15 packaging, where were you on the night of December 27th at
16 7:30 p.m.?

17 **A** McCormick Correctional Institution.

18 **Q** By the fence?

19 **A** Yes, ma'am.

20 **Q** And you were present when all five of those suspects
21 were apprehended ---

22 **A** Yes, ma'am.

23 **Q** --- over that fence?

24 **A** Yes, ma'am, correct.

25 **Q** And the phone is found on the ground?

1 A Yes, ma'am.

2 Q Thank you. Nothing further.

3 THE COURT: Mr. Chehoski?

4 CROSS-EXAMINATION

5 BY MR. CHEHOSKI:

6 Q Perry Correctional Department is not in McCormick,
7 is it?

8 A That is correct.

9 Q It's in Greenville County; isn't that correct?

10 A Yes, sir.

11 Q Okay. And now you're saying that -- did you produce
12 that envelope?

13 A I didn't produce it.

14 Q You did not produce that label?

15 A I didn't make that, no, sir.

16 Q But it has your name on it?

17 A Well, yeah, because I recovered the device.

18 Q It has your name on it. Did you sign off on that
19 label at all?

20 A Uh-uh, no, sir.

21 Q You don't know why someone wrote "Perry Correctional
22 Institution" on there?

23 A No, sir, I do not. I assume it's a typo.

24 Q You had no hand in that?

25 A No, sir.

1 Q You had testified that -- that the body of -- that
2 the body of State's Evidence 29 is exactly the same way
3 you found it; is that correct?

4 A I'm sorry?

5 Q That this phone -- that this phone is in the same
6 manner that you found it; is that correct?

7 A Well, when I found it, the back had come off of it.

8 Q Yeah, the back had come off. It was actually in two
9 pieces when you found it?

10 A By the back off the phone, yes, it was in two
11 pieces.

12 Q And now it's one piece?

13 A Correct, because I didn't want damage to happen to
14 the device. It was -- there was a lot of dew out there.
15 It's to protect whatever is inside that device. There's a
16 battery. Often there's a SIM card, SD card.

17 Q I guess the question is now this phone is actually
18 in a different condition than it was found; is that
19 correct?

20 A I guess the way you're putting it, then, I suppose.

21 Q You found it in two pieces and now it's in one.

22 A Well, to preserve evidence, yes.

23 Q I take that as a yes.

24 And what time were you supposed to be here today?

25 A I was told to be here when I could be here.

1 Q Okay. Did you come straight from Isle of Palms to
2 McCormick?

3 A No ---

4 MS. MAYES: Objection to relevance, Your Honor.

5 A --- I did have to stop ---

6 THE COURT: Don't answer when there's an objection.

7 THE WITNESS: I had to stop and let my --

8 THE COURT: Don't answer when there's an objection.

9 THE WITNESS: I'm sorry.

10 MS. MAYES: Objection to relevance.

11 THE COURT: Mr. Chehoski, I agree on the relevance.

12 THE WITNESS: Apologies.

13 MR. CHEHOSKI: No further questions.

14 THE COURT: Thank you.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 Q Okay. So just to clarify, when you put the back on
18 this phone, are you altering or changing the content of
19 the phone itself?

20 A No, ma'am. Nothing touched the data.

21 Q Are you cutting the phone on?

22 A No, ma'am.

23 Q Are you changing or deleting data?

24 A No, ma'am.

25 Q The act of putting the back of the phone back on the

1 phone, to your knowledge, would that still preserve the
2 content of the phone?

3 A Yes, ma'am.

4 Q Thank you. Nothing further.

5 THE COURT: Mr. Chehoski?

6 MR. CHEHOSKI: No recross.

7 THE COURT: May I excuse this witness?

8 MS. MAYES: Yes, Your Honor. We ask that he be
9 excused.

10 At this time, the State recalls Agent Katlyn Poole.

11 THE COURT: I'm going to get you sworn in again.

12 AGENT KATLYN POOLE,

13 after having been duly resworn, was continued to
14 be examined and testified to as follows:

15 THE COURT: Agent Poole, you're under oath. You're
16 still an expert. You have been recalled and answer
17 accordingly.

18 THE WITNESS: Thank you.

19 THE COURT: Thank you, Ms. Mayes.

20 RECALLED DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q Agent Poole, I'm going to ask you specifically as to
23 State's 29. Where did you retrieve that item for the
24 purpose of your extraction?

25 A Where?

1 Q Mm-hmm.

2 A From Agent Cotter.

3 Q Okay. So it is collected by Agent Cotter and then
4 it is transferred to you for the purpose of the
5 extraction?

6 A Yes, ma'am.

7 Q Do you also have an evidence custodian who also
8 monitors or preserves evidence following the extraction?

9 A Yes, ma'am.

10 Q And do you know the identity of that evidence
11 custodian?

12 A Jennifer Aycok.

13 Q Okay. And, again, that is all for maintaining the
14 phone itself prior to today's court appearance?

15 A Yes, ma'am.

16 Q But in terms of your extraction, was there ever any
17 evidence of tampering with the phone in any way prior to
18 your extraction?

19 A Not that I'm aware of, no.

20 Q Now, you talked earlier about an extraction and what
21 is involved and that it can also include the recovery of
22 photographs?

23 A Yes.

24 Q Tell us about your role within the Department of
25 Corrections and your knowledge as a criminal analyst, is a

1 cell phone considered contraband?

2 A It is, yes, ma'am.

3 Q And so the term "contraband" means what?

4 A Something illegal in the prison or should not be
5 present in the prison.

6 Q So phones themselves are not permitted within the
7 prison?

8 A That's correct.

9 Q And with that being said, this particular phone, did
10 it require a search warrant?

11 A No, ma'am.

12 Q And is that because it is contraband?

13 A Yes, ma'am.

14 Q And the circumstances under which it was recovered?

15 A Yes, ma'am.

16 Q So you were able to go right into your extraction
17 and begin that process?

18 A Yes, ma'am.

19 Q Tell us what your initial responsibility was in
20 conducting the extraction.

21 A My initial responsibility is to receive the phone,
22 take off the back, take out the SIM card, and do -- make
23 sure the IMEI -- write down the IMEI and make sure it
24 matches with all the paperwork and then begin the
25 extraction process on the phone.

1 Q All right. So that IMEI, I want to talk with you
2 about that.

3 A Okay.

4 Q Do you have with you a copy of that document in your
5 report that reflects the IMEI?

6 A Yes, ma'am.

7 Q State's 34, I believe you previously testified about
8 this, but I'm going to ask you again: Do you recognize
9 this item?

10 A Yes, ma'am.

11 Q What is this?

12 A That is the front screen of my extraction.

13 Q And does it reflect the IMEI number?

14 A Yes, ma'am.

15 MS. MAYES: All right. State's 34 for evidence,
16 Your Honor.

17 THE COURT: Any objection?

18 MR. CHEHOSKI: Subject to previous objections, Your
19 Honor, regarding chain of custody and case arguments.

20 THE COURT: The chain of custody of the IN
21 [verbatim] number?

22 MR. CHEHOSKI: [Indiscernible] and the regarding the
23 phone, Your Honor.

24 THE COURT: Okay. So noted for the record.

25 (State's Exhibit No. 34, Front Screen of Phone

1 Extraction, having been premarked for identification, was
2 received into evidence.)

3 BY MS. MAYES:

4 Q All right. Agent, looking here, I'm going to go
5 down to the phone activation time. What is meant by that?

6 A That could mean the time that the phone was
7 initially activated.

8 Q Okay. So if I go out right now and I buy me a new
9 cell phone, for example, and then I activate it, is that
10 something that is potentially recovered from your
11 extraction?

12 A Yes.

13 Q Can you tell us whether or not that would be
14 consistent with the original activation of this phone?

15 A Yes.

16 Q So that would be October 9th of 2020?

17 A Yes, ma'am.

18 Q Now, what does this over here mean, the UTC plus
19 zero?

20 A I forget what it stands for.

21 Q Well, let me ask you this: When we're talking about
22 a time conversion with a plus zero ---

23 A Mm-hmm.

24 Q --- does that indicate that it has not yet been
25 converted ---

1 **A** Yes, ma'am.

2 **Q** --- to zero standard time?

3 **A** Yes, ma'am.

4 **Q** All right. And back in December of 2020 -- we're in
5 Eastern Standard Time -- can you tell us whether or not
6 that would be five hours?

7 **A** Yes, it is.

8 **Q** So where you're standing, the UTC plus zero, that
9 would require a conversion there of five hours; is that
10 correct?

11 **A** I believe so, yes, ma'am.

12 **Q** And then looking here at the IMEI number, can you
13 state for the record -- and I can hand you this document
14 if needed -- or do you have a copy of this report with
15 you?

16 **A** I have a copy.

17 **Q** Okay. State, please, for the record, the IMEI
18 number.

19 **A** It is 352176101055004.

20 **Q** All right. Is that consistent with the item that is
21 29 originally submitted to you, being the cell phone?

22 **A** Yes, ma'am.

23 **Q** And this is the phone that you did the extraction
24 on?

25 **A** Yes, ma'am.

1 Q Now, what is the first step in your analysis of the
2 results of your extraction to potentially identify who the
3 phone may belong to?

4 A I go through the photos.

5 Q And this being contraband, was there any specific
6 information such as name or user activity? In other
7 words, does the owner have their own name in the phone?

8 A No, ma'am.

9 Q So you're trying to identify the phone based on
10 photographs?

11 A Yes, ma'am.

12 Q I'm going to show you State's 24 and ask you whether
13 or not you're familiar with this document.

14 A Yes, ma'am.

15 Q And can you tell us whether or not this was found on
16 the phone?

17 A It was found on this phone, yes.

18 Q What is meant by the term "metadata"?

19 A Metadata is just the small data within the phone
20 that stores -- sometimes it stores when photos are taken,
21 stores when messages are sent, when messages are received,
22 when phone calls are answered, things of that nature.

23 Q Okay. And do you normally expect to find
24 "met-a-data" or "may-ta-data" on any image within the
25 phone?

1 A You can, yes.

2 Q Unless that image has been deleted?

3 A Yes.

4 Q And so were you able to recover metadata associated
5 with various images in this phone?

6 A I was, yes, ma'am.

7 Q Does that include the images here in State's 24?

8 A Yes.

9 Q What is the date for these images?

10 A The capture time is December 5th, 2020, at 9:59 a.m.

11 Q Okay. So on December 5th of 2020, you were able to
12 recover selfies?

13 A The selfies were taken this day, yes.

14 Q And they were found on the phone?

15 A Yes.

16 Q Now, did you also have the ability to examine
17 photographs within the Department of Corrections' database
18 for Chavis Cox?

19 A Yes.

20 Q And upon your review and comparison of the
21 photograph between the selfies on this date and your
22 database photograph of Chavis Cox, what can you tell us in
23 that regard?

24 A That I confirmed that the person in the selfies was
25 the person from the database photos.

1 Q Okay. In looking here at this selfie that is taken
2 on December 5th, were you able to reach a confirmation as
3 to identity for this person?

4 A I was, yes.

5 Q And who did you determine that person to be?

6 A Chavis Cox.

7 Q Did that person have a neck tattoo?

8 A According to the photo, yes.

9 Q And can you tell us whether or not that is
10 consistent with the photograph of Chavis Cox, which is
11 State's 35, taken on the night of December 27th?

12 A Yes.

13 MS. MAYES: For ID only at this time, Your Honor,
14 that being State's 24.

15 THE COURT: Any objection?

16 MR. CHEHOSKI: Just -- no new objections, Your
17 Honor.

18 THE COURT: Okay. It's admitted.

19 (State's Exhibit No. 24, Selfie Photograph, having
20 been premarked for identification, was received into
21 evidence.)

22 BY MS. MAYES:

23 Q All right. So that selfie dates back to December
24 5th; is that correct?

25 A Yes.

1 Q Now, I want to move forward to the date of December
2 24th, Christmas Eve. I want to show you two documents,
3 this being State's 25 and State's 26 and have you took a
4 look at these photographs as well as the metadata
5 associated with them. Was this information and these
6 photographs recovered from the phone?

7 A Yes, ma'am.

8 Q And State's 25, was that recovered from the phone as
9 well?

10 A Yes, ma'am.

11 Q And were you able to determine, looking at State's
12 25, whether that appeared to be a selfie?

13 A It looks like a selfie, yes.

14 Q And were you able to determine the identity of this
15 individual?

16 A I was, yes.

17 Q And who did you determine that to be?

18 A Chavis Cox.

19 Q Again, is that based on comparison with the South
20 Carolina Department of Corrections database photograph?

21 A Yes, ma'am.

22 Q And specific identifying information?

23 A Yes, ma'am.

24 Q And can you tell us whether or not that's also
25 consistent with the photograph that I showed you a few

1 moments ago?

2 A It is, yes, ma'am.

3 Q Now, I'm going to show you what is State's 26 and
4 ask you whether or not you recovered from the phone any
5 evidence or information related to an escape or attempted
6 escape?

7 A I did. I recovered photos that looked to be like a
8 plan.

9 Q Including maps?

10 A Including maps of McCormick Correctional
11 Institution.

12 Q And what is the date in which these items were
13 originally preserved on the phone according to the
14 metadata?

15 A 12/24/2020.

16 Q So Christmas Eve of 2020?

17 A Yes.

18 Q Approximately three days before the riot?

19 A Yes.

20 Q And looking here at this particular photograph that
21 you identified as a selfie, what is the time of that
22 photograph?

23 A 12/24/2020 at 7:32 a.m.

24 Q Okay. Again, so roughly three days before the
25 attempted escape and riot?

1 **A** Yes.

2 MS. MAYES: State's 25 and 26 for evidence at this
3 time.

4 THE COURT: Any objection?

5 MR. CHEHOSKI: No new objections, Your Honor.

6 THE COURT: Okay. It's admitted and your
7 objection's noted for the record.

8 MR. CHEHOSKI: Thank you.

9 (State's Exhibit Nos. 25 and 26, Photo from Phone,
10 having been premarked for identification, was received
11 into evidence.)

12 BY MS. MAYES:

13 **Q** So you have indicated that a selfie on December 4th
14 was consistent with Chavis Cox?

15 **A** It was, yes.

16 **Q** And you have indicated that a selfie on Christmas
17 Eve, or December 24th, is also consistent with Chavis Cox?

18 **A** It was, yes.

19 **Q** Did you ever see any evidence of selfies on that
20 phone attributed to any other individual?

21 **A** No, ma'am.

22 **Q** Only this individual that you have identified as
23 Chavis Cox?

24 **A** Yes.

25 **Q** I'm going to show you what is State's 25 in

1 evidence. And December 28th of 2020 [indiscernible] for
2 what reason?

3 A That was, I believe, the day of the escape.

4 Q Well, let me ask you this: So what is -- if you can
5 refer -- can you see or do you need to come down here?

6 A I can't see.

7 MS. MAYES: Your Honor, may she ---

8 THE COURT: Yes.

9 MS. MAYES: --- step down.

10 MR. CHEHOSKI: Without objection, Your Honor, of
11 course.

12 BY MS. MAYES:

13 Q Okay. And if you can just position yourself so that
14 each members of the jury can see you. All right. So what
15 is this column here?

16 A Extractions start date and time.

17 Q Okay. What is the date and time of your extraction?

18 A 12/28/2020 at 3:28 p.m.

19 Q Okay. So that's the day you actually have begun
20 your extraction of the phone?

21 A Yes, ma'am.

22 Q Now, what is all this information that we're looking
23 at over other, file information and things of that nature?

24 A That is the metadata.

25 Q Okay. So all of this would tell us when and how

1 essentially the photograph is captured?

2 A Sometimes.

3 Q But the metadata for this particular group of photos
4 indicates what date?

5 A 12/24/2020.

6 Q And this particular photograph, can you tell us
7 whether that's the same photograph that we just saw that
8 metadata for?

9 A Yes.

10 Q And can you tell us whether or not the individual in
11 this photograph does appear to have a neck tattoo?

12 A It does appear that way, yes.

13 Q And you were working at the Department of
14 Corrections at the time?

15 A I was.

16 Q You're familiar with clothing items issued to
17 inmates?

18 A For the most part, yes, ma'am.

19 Q Can you tell us whether or not this clothing appears
20 consistent with clothing items issued to an inmate?

21 A I believe so, yes.

22 Q And now looking at this particular photograph of
23 State's 35 taken following the escape, can you tell us
24 whether or not Chavis Cox has a neck tattoo in this
25 photograph?

1 **A** He does, yes.

2 **Q** And next I'm going to ask you about this group of
3 photographs and whether or not there is metadata also
4 associated with this group.

5 **A** There is, yes.

6 **Q** And does this include the specific capture time?

7 **A** It does. 12/24/2020 at 3:28 p.m. I'm sorry.
8 3:30 p.m.

9 **Q** And can you tell us whether or not this showing the
10 UTC 5, would that mean it's already been converted to
11 Eastern Standard Time?

12 **A** Yes, ma'am.

13 **Q** So all time conversions would be accurate and
14 consistent with Eastern Standard Time for this exhibit?

15 **A** They should be, yes, ma'am.

16 **Q** And, again, that capture time would be Christmas
17 Eve?

18 **A** Yes.

19 **Q** Do we have the ability to have enlargements made for
20 these attachments?

21 **A** Yes.

22 **Q** I'm going to begin by asking you about this
23 particular photograph. Is this how it was recovered on
24 the phone itself?

25 **A** Yes.

1 Q And what do you recognize that to be?

2 A McCormick Correctional Institution.

3 Q So an aerial map?

4 A Yes, ma'am.

5 Q Now, did you put this information on the photograph?

6 A No, ma'am.

7 Q So it's recovered from the phone in the exact
8 condition it would have been saved on the phone?

9 A Yes, ma'am.

10 Q I'm going to ask you about the next photograph.
11 Looking at it from the top, does that -- can you tell us
12 what is shown here in the foreground?

13 A Looks to be McCormick.

14 Q Is that all consistent with the previous aerial map
15 of the McCormick Correctional Institute that we just saw?

16 A Yes, ma'am.

17 Q And this writing that is on the photograph, did you
18 put that on there?

19 A No, ma'am.

20 Q So the image was saved to the phone in this format?

21 A Yes, ma'am.

22 Q What does that say?

23 A "This is an alternate exit in case of
24 [indiscernible]" with an arrow. "Grab the pole and use
25 that."

1 Q Again, at the bottom, it says, "Grab the pole and
2 use that" and there's an arrow?

3 A Yes, ma'am.

4 Q And does this appear to be near the fence area of
5 the aerial photograph?

6 A I believe it's [indiscernible] the fence, yes.

7 Q Again, did you put that writing on there?

8 A No, ma'am.

9 Q So that is the image in its original format?

10 A From the phone, yes.

11 MS. MAYES: Beg the Court's indulgence.

12 THE COURT: Take your time.

13 BY MS. MAYES:

14 Q I'm going to next show you what is State's 36 and
15 have you take a look at this one moment and ask you
16 whether or not you're familiar with that item, as well as
17 State's 27.

18 A I am, yes.

19 Q Are all of those items from this phone in which you
20 conducted the extraction?

21 A Yes, they are.

22 Q The phones in which you found the selfies you have
23 identified as Chavis Cox?

24 A Yes.

25 MS. MAYES: This would be State's 27 and 36 for

1 evidence, Your Honor.

2 THE COURT: Any objections?

3 MR. CHEHOSKI: Subject to previous objections. No
4 new objections, Your Honor.

5 THE COURT: So noted for the record and it's
6 admitted.

7 (State's Exhibit Nos. 27 and 36, Items from Phone,
8 having been premarked for identification, was received
9 into evidence.)

10 BY MS. MAYES:

11 Q All right. And if you could remain there. I'll
12 bring you one. Looking here at State's 36, I'm going to
13 ask you the same series of questions. Again, your
14 extraction, the date and time?

15 A Was 12/28/2020 at 3:28 p.m.

16 Q So all of this information is found pursuant to that
17 same extraction that you did?

18 A Yes.

19 Q And you only did one extraction?

20 A That's correct.

21 Q And up here, does it indicate that it has been
22 converted to New York or Eastern Standard Time?

23 A Yes.

24 Q From the UTC original time?

25 A Yes, ma'am.

1 Q Is there metadata associated with each photograph on
2 this phone?

3 A Yes, there is.

4 Q . And that metadata -- again, we're talking about an
5 actual capture time. What is the capture time for some of
6 this metadata?

7 A For that photo, the capture time was 12/26/2020 at
8 1:30:50.

9 Q So if the riot occurred on December 27th, this would
10 be approximately the day before?

11 A Yes.

12 Q And did you have the ability or do you have the
13 ability to enlarge some of those photographs that are
14 found?

15 A Yes.

16 Q I'm going to turn this around.

17 What are we looking at here?

18 A An aerial map of State Road [indiscernible]
19 Redemption Way and [indiscernible].

20 Q And Redemption Way is also shown on this photograph?

21 A Yes.

22 Q And are you familiar with whether or not that is the
23 address of McCormick Correctional Institute?

24 A I do not know.

25 Q Now, looking at this photograph, again, that would

1 be an aerial?

2 A Yes.

3 Q What is shown in that area?

4 A McCormick Correctional Institute.

5 Q And now another aerial photograph also found on the
6 phone?

7 A I believe so, yes.

8 Q And can you tell us whether or not this also appears
9 to be a roadmap?

10 A It is, yes.

11 Q Another roadmap?

12 A Yes.

13 Q Another roadmap depicting the location of a church?

14 A Yes.

15 Q Another aerial map?

16 A Yes.

17 Q Now, this particular photograph?

18 A A map with a dotted line.

19 Q And did you put that dotted line on there?

20 A I did not.

21 Q And that's how you found it?

22 A Yes, ma'am.

23 Q What is noted on this particular photograph?

24 A The officer booth and an entrance to it and then an
25 aerial to open [indiscernible].

1 Q So this word "opens in the area," did you add that
2 or is was the format in which the photo was saved?

3 A That is how I found it.

4 Q And the word "date" and the words "officer booth,"
5 did you add that language or was it the way it was saved
6 in that format?

7 A It was already like this.

8 Q And some type of drawing here for this aerial map as
9 well?

10 A Yes.

11 Q Was it saved in that format?

12 A That is how I [indiscernible], how I
13 [indiscernible].

14 Q And now State's 27. Again, does it have all the
15 same information related to that original extraction that
16 you did?

17 A Yes, ma'am.

18 Q And did it contain photographs as well?

19 A Yes.

20 Q What is the date and time associated with some of
21 the metadata that was recovered from this portion?

22 A Looks like 12/27/2020 at 6:44 [indiscernible] the
23 top.

24 Q Were you able to identify any of the selfies
25 associated with these photographs?

1 **A** In these photographs?

2 **Q** Yes.

3 **A** [Indiscernible].

4 **Q** Looking at the photographs, were you able to make
5 any determination as to what type of location or area
6 those photographs were taken in?

7 **A** There is one photo that has metadata about the phone
8 that took the photo and it is a Motorola E6, which is this
9 one.

10 **Q** So this same phone, according to the metadata, took
11 these photos that are depicted. And, here, we're looking
12 at small or thumbnail versions of those photographs?

13 **A** Yes.

14 **Q** What is the date associated with the individual
15 photograph?

16 **A** The top one, 12/27 at 6:39 a.m.

17 **Q** And, again, has that been converted to Eastern
18 Standard Time with the minus five?

19 **A** Yes.

20 **Q** So this would be accurate or consistent with
21 McCormick County time?

22 **A** Yes.

23 **Q** So that would be the morning of December 27th at
24 6:39 a.m.?

25 **A** [Indiscernible], yes.

1 Q So the same date as the event?

2 A Yes.

3 Q Next, we have December 27th, 6:39 a.m. Does this
4 all appear to be the same series of photographs?

5 A Yes.

6 Q So one shows 6:39 and 35 seconds. The next, 6:39
7 and 40 seconds. And then you have capture time as well?

8 A Yes.

9 Q And the capture time is what?

10 A Is 12/26/2020 at 2:15 a.m., the top one.

11 Q So all consistent with the date of December 26 or
12 December 27th?

13 A Yes.

14 Q Now, down here, are there additional photographs?

15 A There are, yes.

16 Q And what is the time associated in the metadata?

17 A 12/27/2020 at 6:40 a.m. And same for the second
18 one.

19 Q Did you have the ability to create a large version
20 of these photographs as well?

21 A Yes.

22 Q And then looking here at the second page, do these
23 photographs continue on in terms of being recovered from
24 your extraction?

25 A Yes.

1 Q Were all of them consistent with the date of
2 December 26 or the morning hours of December 27th?

3 A Yes.

4 Q All prior to the event ---

5 A Yes.

6 Q --- leading to the escape?

7 A Yes.

8 Q And, again, another page?

9 A Yes.

10 Q All consistent with that same period, the morning of
11 December 27th?

12 A Yes.

13 Q Or the day before on the 26th?

14 A Yes.

15 Q Now, at the time that you were doing this
16 extraction, were you part of that team out there that
17 would have been the response team that actually recovers
18 evidence from around the fence?

19 A No, ma'am.

20 Q So, at the time, would you have even known that Slim
21 Jims had been recovered from the prison yard?

22 A No, ma'am.

23 Q Over the fence?

24 A No, ma'am.

25 Q You would have had no knowledge of that evidence

1 been recovered?

2 **A** No, ma'am.

3 **Q** But in the course of the phone extraction for the
4 phones in which you indicated Chavis Cox had photographed
5 was recovered, what, if anything, of significance did you
6 observe?

7 **A** I observed some type of [indiscernible] wrapped
8 around [indiscernible] in a prison cell, it looks like.

9 **Q** And, now, this particular photograph, can you tell
10 us whether your observations of the individual in these
11 photographs taken on the morning of the 27th, whether or
12 not that was consistent with the photograph you previously
13 identified as Chavis Cox, being State's 25, at least in
14 terms of the goatee and the clothing?

15 **A** Can I see the other photo ---

16 **Q** Yes.

17 **A** --- one more time, please. Sorry, the one behind
18 it.

19 **Q** This being State's 25, previously identified?

20 **A** Yes.

21 **Q** Does the clothing appear consistent as well?

22 **A** Yes.

23 **Q** Now, there is an item shown here in the photograph.

24 **A** It looks like a navy cardboard wrapped around a
25 forearm.

1 Q Okay. At that point in time in which you were doing
2 your phone extraction, did you have any knowledge of what
3 CSI had found when they searched Cell 144 belonging to
4 Chavis Cox?

5 A I did not.

6 Q Did you have any knowledge that this item had been
7 found in the cell?

8 A I did not.

9 Q But this is the photograph as you found it during
10 this phone extraction?

11 A Yes.

12 Q And, again, that photo is consistent with the time
13 period of December 26 through the early morning hours of
14 December 27th?

15 A Yes.

16 Q Does this photograph appear to be part of the same
17 series?

18 A Yes.

19 Q Do these -- can you tell us what the meant by the
20 term "selfie"?

21 A When you turn a phone camera facing you and take a
22 photo of yourself, a selfie.

23 Q Can you tell us whether all of these series of
24 photographs appear to be consistent with some type of
25 selfie?

- 1 A Some type of selfie, yes.
- 2 Q And can a phone also have a timer on it ---
- 3 A It can, yes.
- 4 Q --- to take a selfie from several feet away?
- 5 A It can, yes.
- 6 Q Now, what is this item?
- 7 A Appears to be [indiscernible] and [indiscernible].
- 8 Q And this particular photograph was recovered from
- 9 where?
- 10 A From his cell phone.
- 11 Q Were you able to determine, from looking at the
- 12 phone, who had sent this photograph to the phone?
- 13 A I was not.
- 14 Q So it's merely a photograph found on the phone?
- 15 A Yes.
- 16 Q Was this photograph -- can you tell us whether or
- 17 not this photograph appears consistent with someone on the
- 18 outside sending it? Or does it appear consistent with a
- 19 prison cell?
- 20 A It does not seem like a prison cell to me.
- 21 Q But, again, were you able determine who had sent
- 22 this to the phone?
- 23 A No, ma'am.
- 24 Q But that appears to be numerous first aid kits?
- 25 A Yes, ma'am.

1 Q How many first aid kits can you count in this
2 particular photograph?

3 A Five.

4 Q Five?

5 A Yes.

6 Q And was that also found on the phone?

7 A It was, yes.

8 Q All consistent with that same time period of
9 December 26 through the early morning hours of December
10 27th?

11 A I would have to look back at the data.

12 Q Okay. And I'll give you this exhibit in just a
13 moment.

14 Now, what are we looking at here?

15 A What appears to be cut protection gloves.

16 Q And there is writing down here for this particular
17 item?

18 A Yes.

19 Q And that writing says what, for the record?

20 A "Cut protection resistance sleeve."

21 Q So cut protection resistance sleeve?

22 A Yes.

23 Q And that one or numerous?

24 A Four pairs of gloves and maybe that (indiscernible)
25 of sleeves.

1 Q Where did you find this photograph?

2 A In the cell phone.

3 Q And what does it appear to be?

4 A A bullet-proof vest.

5 Q And where did you find this photograph?

6 A In this phone.

7 Q What does it depict?

8 A There are bolt cutters on top of a black box as well
9 as --

10 Q I'm going to ask -- sorry; I'm going to ask you to
11 stand down over here ---

12 A Sure.

13 Q --- and show us exactly what you have identified in
14 the photograph.

15 A These are the gloves, I believe, that were
16 [indiscernible] in the photos, [indiscernible] able to be,
17 like, bolt cutters or wire cutters. These look like they
18 could be brass knuckles with [indiscernible] connected
19 because there's a [indiscernible] right here. As well as
20 some duffel bags and various shoes back here and a ladder
21 down here.

22 Q So the escape ladder?

23 A Yes.

24 Q Or wood ladder? And you got [indiscernible] brass
25 knuckles that appear to be the [indiscernible] brass

1 knuckles and bolt cutters. And can you tell us if the
2 carpeting here is consistent with the carpeting of those
3 other photographs where we first saw the gloves and the
4 first aid kits?

5 A It seems to be, yes.

6 Q And where did you find this photograph?

7 A In the cell phone.

8 Q And what does it depict?

9 A Orange and black duffel bags.

10 Q And how many duffel bags?

11 A Maybe four.

12 Q And can you tell us whether the carpeting there
13 appears to be consistent with the other photograph?

14 A It is.

15 Q And, again, where was this photograph found?

16 A In the cell phone.

17 Q So now I'm going to show you this entire exhibit,
18 State's 27, for a chance for you to examine, including the
19 metadata. And can you tell us whether the metadata for
20 each paragraph is consistent with the time frame of
21 December 26th into the early morning hours of December
22 27th?

23 A They are, yes.

24 Q And, finally, as to State's 26, depicting McCormick
25 Correctional Institute aerial map and instructions that

1 you have already identified for the record, this is an
2 alternate exit in case of fail?

3 A Yes.

4 Q Can you tell us, based upon your education and
5 training as an SCDC criminal analyst, does this appear
6 consistent with an escape plan?

7 A It does, yes.

8 Q You may return.

9 MS. MAYES: I believe, Your Honor, there was one
10 marked for identification.

11 THE WITNESS: Is it 24?

12 MS. MAYES: Yes. State's 24.

13 BY MS. MAYES:

14 Q Now, going back again to this particular group of
15 items from December 5th, again, you indicated a selfie.
16 I'm going to ask you to take a look at that, marked for
17 identification. Does that image appear consistent with
18 the other selfies that you observed?

19 A In the phone, yes.

20 Q Okay. And, again, any indication of selfies of any
21 other individual other than the one depicted there in this
22 particular exhibit, State's 24?

23 A No.

24 Q And looking here at State's 35, does State's 35
25 appear consistent with this image?

1 **A** Yes.

2 **Q** Including the neck tattoo?

3 **A** Yes.

4 MS. MAYES: State's 24 for evidence, at this time,
5 Your Honor, being from December 5th.

6 MR. CHEHOSKI: No, no objections, Your Honor.

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

8 BY MS. MAYES:

9 **Q** So, again, all photographs appear consistent with
10 this one individual?

11 **A** Yes.

12 **Q** And the neck tattoo for this individual and the
13 selfies, all consistent with the defendant, Chavis Cox?

14 **A** To my knowledge, yes.

15 **Q** And all other physical characteristics that you were
16 able to observe?

17 **A** Yes.

18 **Q** And do you feel confident in making a positive
19 identification between the photographs that you observed
20 and the photographs that the SCDC database or Chavis Cox?

21 **A** Yes, ma'am.

22 **Q** Including what we're looking at now, State's 35?

23 **A** Yes.

24 **Q** Thank you. Nothing further.

25 THE COURT: Mr. Chehoski?

CROSS-EXAMINATION

BY MR. CHEHOSKI:

Q Ms. Poole, for starters, in running extractions, there are different kind of extractions; is that correct?

A There are, yes.

Q And there are three different types of extractions; is that right?

A I'm not sure about currently. I don't know.

Q All right. But you're aware of one called the last full extraction?

A I am, yes.

Q And that's -- and, from what I understand, that takes the existing data and some deleted data; is that correct?

A I'm not 100 percent sure.

Q But you're aware of something called a --

A I am aware of it, yes.

Q And you're also aware of something called a file system extraction; correct?

A I am aware of it, yes.

Q Okay. And there's also something called a physical extraction?

A Yes.

Q Is that correct?

A Mm-hmm.

1 Q Of those three, isn't it the physical extraction
2 that's the most comprehensive; is that correct?

3 A I'm not 100 percent sure.

4 Q But on the phone that you -- the phone that we're --
5 you have been discussing this afternoon, this was a file
6 system extraction; is that correct?

7 A It was, yes, sir.

8 Q [Indiscernible] more questions. With regard to --
9 get the numbers right. With regard to State's 26, again,
10 you have -- I think you testified that these pictures were
11 on the phone; is that right?

12 A That is correct. Those photos.

13 Q You can't testify as to who took those pictures and
14 you can't testify as to how they got on the phone; is that
15 right?

16 A That's correct.

17 Q Similarly with some of the others -- [indiscernible]
18 was pretty much [indiscernible]; right? And you don't
19 know who took them and you don't know how they got on the
20 phone?

21 A Some of them; that's correct.

22 Q Right. You just know that you were able to pull --
23 they were on the phone when you did the extraction?

24 A Yes, sir.

25 MR. CHEHOSKI: No further questions, Your Honor.

1 THE COURT: Thank you, Mr. Chehoski.

2 Any redirect?

3 MS. MAYES: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. MAYES:

6 Q Again, I think one of the questions was you don't
7 know how the photos got on the phone?

8 A Correct.

9 Q When evidence is deleted from the phone, does that
10 sometimes include deletion of metadata?

11 A Yes.

12 Q And if it's a text message that's deleted, does that
13 include deletion, potentially, of the person -- the
14 identifying information of the person that even sent the
15 photo to begin with?

16 A It could, yes. Some extractions do pull that
17 information. This one did not.

18 Q Going to ask you a few more questions about that.

19 So a photograph such as this one, the photograph of
20 all of the gear ---

21 A Mm-hmm.

22 Q --- you indicated you were not able to determine who
23 actually sent that photograph?

24 A I was not, no.

25 Q And is there any way to recover that type of

1 information once it's deleted based on the type of
2 extraction that was done in this case?

3 A Sometimes extractions do pull deleted information
4 and sometimes it doesn't. It depends on the phone.

5 Q And this particular phone, being the Motorola, was
6 there any guarantee that the Cellebrite extraction was
7 going to be able to recover all of the data, including
8 deleted data?

9 A No.

10 Q So sometimes you get it and sometimes you don't?

11 A Correct.

12 Q But as for the selfies, you did recover metadata
13 with those?

14 A There was, I believe, one selfie that said it was
15 taken with a phone that matched this phone.

16 Q So I'm going to go back to that. Looking here at
17 this metadata, do you see any information indicating the
18 actual phone that took those images?

19 A Yes. There are three images taken with a Motorola
20 Moto E6.

21 Q And is it these three images at the top?

22 A It is, yes.

23 Q And does it include that image with the Slim Jims?

24 A It does, yes.

25 Q So I know it's hard to see from where you are, so if

1 you need to step down again, let me know. But looking
2 here at these three thumbnails, it indicates the camera
3 make?

4 A May I step down?

5 MS. MAYES: Your Honor, she may?

6 THE COURT: You may.

7 MS. MAYES: With your permission.

8 BY MS. MAYES:

9 Q Okay. Go ahead and show us where the camera make is
10 noted.

11 A Camera make is Motorola and camera model is Moto E6.

12 Q Okay. So the Motorola and the Moto E6 is all
13 consistent with the type of phone that was recovered
14 pursuant to this extraction, State's 29?

15 A Yes, ma'am.

16 Q And that physical phone that you yourself did the
17 extraction on?

18 A Yes.

19 Q And then, regarding the actual capture time, what is
20 the capture time for each?

21 A The top one is 2:12 a.m. The second one is 2:58
22 a.m. And the third one is 3:00 a.m.

23 Q On what date?

24 A Each of them are 12/26/2020.

25 Q So the day before the event?

1 **A** Yes.

2 **Q** Being on the 27th?

3 **A** Yes.

4 **Q** And that includes this photo here?

5 **A** It does.

6 **Q** Depicting the Slim Jims?

7 **A** Yes.

8 **Q** And, again, based on the doors and the surroundings,
9 what type of environment do you believe that could be?

10 **A** A prison cell.

11 **Q** Thank you. You may return.

12 MS. MAYES: Nothing further.

13 MR. CHEHOSKI: Just one more question on recross.

14 THE COURT: Sure.

15 RE CROSS-EXAMINATION

16 BY MR. CHEHOSKI:

17 **Q** With regard to this one photo on State's Exhibit 27,
18 again, you don't know if this was a selfie or if this was
19 taken by somebody else; is that right?

20 **A** I do not know.

21 MR. CHEHOSKI: Thank you.

22 THE COURT: May I excuse Ms. Poole now?

23 MS. MAYES: No objection from the State, Your Honor.

24 MR. CHEHOSKI: None from defense.

25 THE COURT: You're excused.

DEFENDANT'S RIGHTS

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1 THE WITNESS: Thank you.

2 MS. MAYES: Beg the Court's indulgence.

3 May we approach?

4 THE COURT: You may.

5 BENCH CONFERENCE

6 (A bench conference was held off the record and
7 outside of the hearing of the jury.)

8 (Open court resumes:)

9 THE COURT: All right, Mr. Foreman, ladies and
10 gentlemen of the jury, I'm going to let you go. It's been
11 a long day.

12 Please don't talk about this case, watch TV, read
13 the newspaper. Don't do any research on this case.

14 I hope y'all have a great evening. I will see you
15 at 9:15 in the morning and we'll start promptly at 9:30.
16 Thank you.

17 (The jury exited the courtroom at 5:05 p.m.)

18 DEFENDANT'S RIGHTS

19 THE COURT: All right. It's my understanding that
20 the State will probably -- I'm not holding it to her --
21 them to it, but they will probably rest in the morning.

22 So, Mr. Cox, at this time, I think I'd like to read
23 you your right to testify or not to testify just so I can
24 give you the evening to think about it. I do it in every
25 trial that I do because I think it's a very important

1 right.

2 So if you'd stand for me, please. At this time, I'm
3 going to explain to you certain of your rights. If you do
4 not understand anything I say, please let me know. If you
5 want me to explain anything in more detail, just let me
6 know. Do you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: We have now reached the stage of the
9 trial where you may present your defense. You have the
10 right to claim the protections given to you by the Fifth
11 Amendment to the Constitution of the United States, which
12 states, in part, no person shall be compelled in any
13 criminal case to be a witness against himself. This means
14 you cannot be required to testify in this case. You have
15 the right to testify on your own behalf, however, no one
16 can make you testify. This is a personal right and no one
17 can waive this right except you.

18 If you decide to testify, you will be subject to the
19 same rules that govern other witnesses and you may be
20 examined and cross-examined on any relevant issues in the
21 case.

22 In addition, if you have any convictions involving
23 dishonesty or false statements or for crimes punishable
24 for more than one year and this Court determines that the
25 probative value of admitting this evidence outweighs its

1 prejudicial effect to you, the solicitor will be able to
2 introduce your record to attack your credibility.

3 Now, I know that you do have a prior record.

4 Could you tell me, Ms. Mayes, should he testify,
5 what is it that you would use to attack his credibility?

6 MS. MAYES: Your Honor, the State would intend to
7 use the conviction for murder. That murder conviction,
8 him being still incarcerated for that offense at the time
9 of this crime, which makes it, obviously, a crime that
10 falls under the rules.

11 THE COURT: Okay.

12 MS. MAYES: And in addition to -- in addition to the
13 murder, he has a burglary second degree, Your Honor, but I
14 believe he had completed that sentence, at least that's
15 the way that it's looking right now. But the murder and
16 the weapon or the murder charge, Your Honor, he was still
17 serving that sentence at the time of his conviction in
18 2010, still serving that sentence in 2020.

19 THE COURT: Okay. So your understanding --

20 MS. MAYES: Shall not be released from custody.

21 MR. CHEHOSKI: Yes, Your Honor, I believe the
22 burglary conviction falls [indiscernible]. We also have a
23 ten-year [indiscernible].

24 THE COURT: Okay. But the murder would --

25 MR. CHEHOSKI: The murder appears to be -- that

1 sentence is ongoing.

2 THE COURT: Right.

3 MR. CHEHOSKI: And doesn't expire to release until
4 2050.

5 THE COURT: Okay. Well, I just want to make sure
6 that Mr. Cox knows.

7 Do you understand, Mr. Cox?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Okay. So if you decide to testify, this
10 decision must be -- on your part, must be freely,
11 voluntarily, and intelligently made with the knowledge of
12 the protections given to you by the Fifth Amendment and
13 the consequences of your decision to testify.

14 If you decide not to testify, I will instruct the
15 jurors that they cannot give the fact that you did not
16 testify any consideration whatsoever and that there is to
17 be absolutely no prejudice to you because you did not
18 testify.

19 It is left up to you whether or not to testify. You
20 may talk to your attorney, your family, friends, or anyone
21 else, but the final decision will be left entirely up to
22 you.

23 Do you understand what I have explained to you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you have any questions?

DEFENDANT'S RIGHTS

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1 THE DEFENDANT: No, ma'am.

2 THE COURT: All right. I'm going to let you think
3 about what I have read to you. Again, I'm going to tell
4 you, I just think it's a really important right and it's a
5 tough decision. But you're going to have time to talk to
6 your lawyer.

7 Mr. Chehoski, I'm going to tell you, if there's any
8 family members that he needs to talk to, to help him
9 decide whether he wants to testify or not, I would allow
10 him the telephone to call them. Do you understand?

11 MR. CHEHOSKI: Yes, Your Honor.

12 THE COURT: Okay. All right. Mr. Cox, we'll go
13 back over it in the morning. I'm going to give you the
14 evening to think about it. Okay?

15 THE DEFENDANT: All right.

16 THE COURT: All right. Thank you.

17 Anything else from the State?

18 MS. MAYES: Your Honor, I would only add that the
19 State's position regarding the probative value is that,
20 given this case and the circumstances of this case, the
21 probative value is substantial.

22 THE COURT: Well, it is substantial. This is a life
23 without --

24 MR. CHEHOSKI: I would argue [indiscernible] is even
25 more substantial.

1 THE COURT: It's a life without parole case.

2 MR. CHEHOSKI: I understand, Your Honor, but, you
3 know, the State is going to argue probative value
4 [indiscernible] prejudicial.

5 THE COURT: I have got it. Well, I mean, there is
6 no doubt that it's -- like I said, it's a tough decision,
7 but that decision is up to Mr. Cox. There's a lot at
8 stake.

9 I will tell you, Mr. Cox, this is -- if you're
10 convicted, it's a life without parole. It's out of my
11 hands. I couldn't sentence you to anything less if I
12 wanted to. So, you know, testifying or not to testifying
13 is a big decision in this case. Okay?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Thank you.

16 Anything else from the State?

17 MS. MAYES: Nothing from the State, Your Honor.

18 THE COURT: Anything else from the defense?

19 MR. CHEHOSKI: Nothing, Your Honor. I assume that
20 we're going to -- when we reconvene, we'll also deal with
21 the stipulation that the -- I discussed at our bench
22 conference earlier today.

23 THE COURT: Yes. We need -- this is what I'd like
24 to do: The stipulation, I'm going to leave it to the
25 lawyers. If y'all could draw something up, I'll be happy

1 to read it to the jury. I will tell you, when I do my
2 jury charges, if there's any stipulation -- I always
3 re-read it to the jury during charges.

4 Have we emailed them a copy of the jury charges?

5 THE CLERK: Not [indiscernible] because I was
6 waiting on the stipulation but I can go ahead and send it
7 to them.

8 THE COURT: We're going to email you now a copy of
9 the jury charges. Please look over those. They're kind
10 of short. I will tell you they are my regular jury
11 charges. If you have tried cases in front of me, you know
12 them. Both of y'all know.

13 The only -- there's only two charges; I put those in
14 there. If there's any changes, I want to know about it
15 first thing in the morning. Y'all let me know. But I
16 think they're pretty straightforward, follows the law, and
17 to the point.

18 Anything else I'd like to -- if we finish tomorrow,
19 I'd like to go straight into closing and charging too. So
20 be prepared for that.

21 MS. MAYES: Your Honor, only in reference to that,
22 by stipulation, we do have the certified conviction, which
23 I'll mark as a Court's exhibit. And as the Court's
24 exhibit, it does indicate that Mr. Cox pled guilty to the
25 crime of murder that was -- he was sentenced November of

1 2010. So having that murder conviction and it being the
2 result of a guilty plea would have placed -- lawfully
3 placed Mr. Cox within the South Carolina Department of
4 Corrections. Specifically, in this case, assigned to the
5 McCormick County Correctional Institute. The stipulation
6 that we would draft is that he was, in fact, lawfully
7 detained so that is not a portion that needs to be
8 presented in front of the jury.

9 THE COURT: Absolutely. I agree. There's -- it
10 doesn't matter what he was there for. The purpose is is
11 was he there.

12 MR. CHEHOSKI: The purpose -- again, that
13 [indiscernible].

14 THE COURT: That's right. So if y'all will do that,
15 there's no need to mention anything about his prior record
16 or anything like that as to why he was detained.

17 Let's make that, though, for the record, a Court's
18 Exhibit No. 4, I think is what it would be. And, that
19 way, we'll have it for appellate purposes.

20 (Court's Exhibit No. 4, Stipulated Prior
21 Convictions, was marked for identification and received
22 into evidence.)

23 THE COURT: And I think that takes care of the
24 element on the escape -- attempted escape.

25 MS. MAYES: Yes, Your Honor.

1 THE COURT: I think we have -- there's been
2 testimony that, as far as the hostage, that it was the
3 McCormick County -- I mean, the McCormick prison system
4 that he was in.

5 MR. CHEHOSKI: [Indiscernible] of all witnesses who
6 testified ---

7 THE COURT: Testified to that. So I think we're
8 covered on that.

9 MS. MAYES: And, Your Honor, regarding that
10 stipulation, both the State and the defense, we had
11 discussed -- counsel and I had discussed this at length
12 earlier -- I believe it was this morning -- and agreed to
13 this stipulation. And, for that reason, we will put that
14 on the record tomorrow.

15 THE COURT: Okay. Do that and I'd read it to the
16 jury in the morning. Okay?

17 All right. I hope everybody has a great evening.
18 I'll see you. We'll start at 9:30 in the morning.

19 MS. MAYES: Thank you, Your Honor.

20 MR. CHEHOSKI: Right here at 9:30, Your Honor? Is
21 that what I heard? There was noise when you were saying
22 it.

23 THE COURT: No, 9:30.

24 (At 5:18 p.m, the trial adjourned until May 30, 2024,
25 at 9:30 a.m.)

1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Chavis Cox

3 2022-GS-36-00185, et al

4 DATE OF HEARING: May 29, 2024

5 COURT REPORTER/MONITOR: DCRP/Anna Foster

6 *****

7 I, Bobbi Fisher, do hereby certify that the
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11 recording and supporting information, and that I am
12 neither counsel for, related to, nor employed by any of
13 the parties to this case, and I have no interest,
14 financial or otherwise, in its outcome.

15
16 *Bobbi Fisher*17 /s/ Bobbi Fisher

18 Bobbi Fisher, RPR and Certified Transcriber

19 Date Submitted: 9/16/24

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1 STATE OF SOUTH CAROLINA * GENERAL SESSIONS
2 COUNTY OF McCORMICK * TRANSCRIPT OF RECORD

3 -----X
4 STATE OF SOUTH CAROLINA, *
5 State, *
6 vs. * Case No. 2022-GS-35-00184
7 CHAVIS LARANZO COX, * 2022-GS-35-00185
8 Defendant. * 2022-GS-35-00186
9 -----X

10 Trial Dates:
May 28-30, 2024

11 JURY TRIAL - VOLUME III
12 Wednesday, May 30, 2024
Pages 352-467

13 B E F O R E:

14 The Honorable Debra R. McCaslin, Presiding Judge; and
15 a jury.

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

17 Suzanne Mayes, Esq.
18 Douglas Fender, Esq.
Assistant Solicitors for the State

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Attorney for the Defendant

21
22
23 Recorded by: DCRP/Court Monitor Anna Foster

24 Transcribed by: Bobbi Fisher, RPR
25 SC Official Court Reporter III

I N D E X

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E X H I B I T S

(Exhibits on file in Clerk of Court's Office.)

State's Exhibit

No.	Description	ID.	REC'D
1	Phone Extraction - ID ONLY	268	---
2	Video Surveillance	85	85
3	Footage of Different Angle	189	189
4	Body-Worn Camera Video	184	185
5	Video Surveillance	85	85
6	Video Surveillance	85	85
7	Still Shot Photograph	101	101
8	Still Shot Photograph	101	101
9	Still Shot Photograph	101	101
10	Blueprint	77	77
11	Dorm Roster	84	84
12	Aerial Photograph	73	73
13	Photograph of the Incident Night	216	216
14	Photograph Adjacent to Stairs	220	220
15	Photograph Adjacent to Stairs	220	220
16	Photograph Adjacent to Stairs	220	220
17	Photograph Adjacent to Stairs	220	220
18	Photograph	228	228
19	Scene Photograph	228	228
20	Photograph of Items on Ground	228	228
21	Notation Photograph	228	228

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1	22	Photograph of Radio	228 228
2	23	Photograph of Crime Scene	216 216
3	24	Selfie Photograph	311 311
4	25	Photo from Phone	314 314
5	26	Photo from Phone	314 314
6	27	Items from Phone	320 320
7	28	Photograph of Ladder	228 228
8	29	Cell Phone	202 281
9	30	Homemade Ladder	229 229
10	31	*Omitted/Not Used*	-- --
11	32	Pictures of Items Found	243 243
12	33	*Omitted/Not Used*	-- --
13	34	Front Screen of Phone Extraction	306 306
14	35	Still Shot from Body Cam	258 258
15	36	Items from Phone	320 320
16	37	Video Disc	91 91
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1 Court's Exhibits

2 No.	Description	ID.	REC.
3 1	Defendant's Requested Voir Dire	20	20
4 2	Defendant's Motion/Memo in Support	45	45
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8 38	Jury Question/Note	455	455
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12 COURT REPORTER LEGEND

13 Dash (--)	Indicates an interruption in speech
14 Ellipses (...)	Indicates trailing off in speech
15 (ph)	Indicates phonetic word
16 [Verbatim]	Indicates the word is said as written
17 (Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

(The jury entered the courtroom at 9:54 a.m.)

THE COURT: All right. Mr. Foreman, jury ready?

JURY FOREMAN: The jury is ready.

THE COURT: Okay. Please be seated.

All right. Let me ask the jury my morning question:
Have you talked to anyone about this case? Has anyone
tried to talk to you about this case? Have you done any
research concerning this case or any of the witnesses that
have testified? If so, please raise your right hand.

(No response given.)

STIPULATION

THE COURT: Perfect.

All right. Let me talk to the jury just for a
moment. We have a stipulation, and when we stipulate,
that means the State and the defense have stipulated that
this fact is true and you are to treat it as true.

The stipulation reads as follows: The parties
stipulate and/or agree that, at the time of the alleged
offense, which was December the 27th of 2020, Chavis Cox
was an inmate lawfully confined at McCormick Correctional
Institute, which is a state correctional institution.

You are to treat that information as a true fact.
Okay?

All right. The State may call their next witness.

MOTION FOR DIRECTED VERDICT

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1 MS. MAYES: Your Honor, at this time, the State will
2 rest.

3 THE COURT: Okay. All right. Let me tell the jury
4 then.

5 Mr. Foreman, I'm going to ask y'all to go back to
6 the jury room for five minutes. The State has rested.
7 There's just a couple of legal things I need to take up
8 with the lawyers, and I'll have you back in. Okay? Thank
9 you.

10 (The jury exited the courtroom at 9:55 a.m.)

11 MOTION FOR DIRECTED VERDICT

12 THE COURT: Okay. Please be seated.

13 MR. CHEHOSKI: Your Honor, at this time, the defense
14 moves for a directed verdict of not guilty at the end of
15 the State's evidence, incorporating all prior motions, all
16 prior objections, specifically my motion to set aside the
17 parole provision, all prior objections to the introduction
18 and inclusion of the cell phone and all evidence
19 associated with it, and the existence of the evidence is
20 such that no reasonable juror could possibly or reasonably
21 find the defendant guilty at the close of the State's
22 evidence.

23 For those reasons, Your Honor, the State moves for a
24 directed verdict of not guilty.

25 THE COURT: Thank you, Mr. Chehoski.

1 Ms. Mayes?

2 MS. MAYES: Yes, Your Honor. Pursuant to both
3 charges, the evidence in this case is more than ample. It
4 has been established that the defendant is an inmate of a
5 state correctional facility pursuant to the taking of a
6 hostage statute. Whether acting alone or in concert with
7 others, we have had testimony from Sergeant Tawanna Harden
8 that he was one of the initial participants in taking her
9 into Cell 144, which is his cell, and that that occurred
10 by threats, coercion, intimidation, or physical force.

11 She has also testified that she was held within that
12 cell for the purpose of taking her keys. Your Honor, that
13 is also corroborated by videotape evidence.

14 Regarding the escape charge, 24-13-410, there has
15 been testimony that the defendant was found over the first
16 fence within the perimeter and in an area where no inmate
17 should be because, again, it is over the fence.

18 So pursuant to the escape or attempted escape
19 charge, there is more than sufficient evidence.

20 THE COURT: Okay. And the Court would agree. I
21 believe there is sufficient evidence in light of the
22 testimony that's been given, the video concerning both the
23 escape and the hostage taking. There's more than enough
24 for it to go to the jury.

25 So, Mr. Chehoski, I'm going to deny your motion.

DEFENDANT'S RIGHTS

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DEFENDANT'S RIGHTS

All right. Let me talk to Mr. Cox.

Mr. Cox, I spoke to you yesterday and went over all of your rights to testify, which concerns the Fifth Amendment. We went over your criminal history to know what the State would intend to use if you decided to testify to attack your credibility. I told you that this decision to testify must be on your own part; must be freely, voluntarily, and intelligently made; gave you the night to think about it. I explained to you it is a very important right. I asked if you wanted to speak to any of your family members, that your lawyer help you do that.

So let me ask you now: Have you discussed with your lawyer whether or not you should or should not testify?

THE DEFENDANT: [Indiscernible].

THE COURT: Do you wish to talk to your lawyer more about testifying at this time?

THE DEFENDANT: Yes.

THE COURT: Okay. I'll give you that time.

THE DEFENDANT: [Indiscernible].

THE COURT: Sure. I want you to have all the time. Again, I'm going to tell you, it's a very, very important right.

(A brief recess was taken from 10:00 a.m. to 10:08 a.m.)

1 THE COURT: Okay. Mr. Cox, have you had enough time
2 to speak with your lawyer about you testifying in this
3 case?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. Let me ask you: Do you wish
6 to testify?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. Perfect. All right. Thank you.

9 MOTIONS/MATTERS OF LAW

10 MS. MAYES: Judge, we spoke earlier this morning,
11 counsel and I, regarding the Cole factors, the five
12 factors pursuant to Cole, South Carolina 337 at 627 as
13 well as S.E.2d 525 at 248. Regarding the Cole factors,
14 Your Honor, specifically as to Factors 4 and 5, the
15 importance of the defendant's testimony and the centrality
16 of the credibility issue, the State certainly will have
17 arguments in that regard but we don't think we can even
18 articulate -- adequately articulate that argument until
19 he's testified. And once he's testified, we'll know more
20 about the centrality of credibility in this case because
21 we'll know exactly what any aspersions are.

22 We certainly anticipate that we'll have reply
23 testimony as well, potentially Sergeant Harden,
24 potentially Major Terry, potentially others. So I think
25 that we're going to have to hear the defendant's testimony

1 before that -- before there can truly be an argument on
2 the application of the Cole factors.

3 Obviously, the State's position is that it is highly
4 probative, the prior conviction, but I think we'll be able
5 to elaborate further.

6 MR. CHEHOSKI: Your Honor, I guess my -- I think
7 this is something that we have to decide now. I think --
8 you know, again, it -- you know, that's a consideration.
9 I mean, if we decided that it's admissible or if we -- if
10 we decide to go with the way that the State says that
11 they'd want to go, that necessarily precludes me from
12 trying to soften the blow to the jury at all because
13 now -- because it's -- if it's a possibility that it's
14 inadmissible because it's too prejudicial, then,
15 obviously, I don't need to soften the blow at all to the
16 jury. But, if so, then I'm going to seek this advantage.
17 If you decide there isn't [indiscernible] because then I'm
18 not allowed to -- then the State gets to immediately
19 cross-examine him on this, and it makes me look like I'm
20 hiding something from the jury.

21 So, Your Honor, I think one way or the other,
22 admissible or not admissible, we have to decide -- I think
23 we have to decide before he takes the stand.

24 MS. MAYES: Well, obviously, we have no idea, Your
25 Honor, about the content of the testimony but we know that

1 he has already made the decision to testify. So he's
2 making the decision to testify with us having already
3 given notice and certified copies of that murder
4 conviction. So he certainly knows that that's the State's
5 intent.

6 So, Your Honor, Factor No. 1 is the impeachment
7 value of the prior crime. Although not a crime of
8 dishonesty, Your Honor, it is a felony murder conviction.

9 As to Point 2, the point in time of the conviction
10 and the witness's subsequent history. Your Honor, there
11 has been no intervening time where he has been back into
12 the community since committing the murder. He pled guilty
13 to the murder. He went into confinement, and then this
14 crime happens while in confinement on that charge.

15 So we have no intervening time period of good
16 behavior for the Court to consider. He also has numerous
17 infractions while he was incarcerated even prior to this
18 event, but, obviously, this is a formal criminal charge.

19 As to No. 3, the similarity between the past crime
20 and the charged crime, Your Honor, that certainly weighs
21 in favor of the State. These are completely separate
22 types of offenses, so there is no unfair prejudice of
23 similarity. It's not a burglary first degree trial where
24 he has multiple prior convictions for burglary first
25 degree and we're offering that to somehow show conformity

1 with. Your Honor, in this case, it simply goes to the
2 matter of credibility.

3 And that brings us to Factor No. 4, the importance
4 of the defendant's testimony. Your Honor, he is the only
5 witness to this crime against the victim. And by that I
6 mean that we have two codefendants who are also involved
7 in this case: Jonathan Archie, Stanley Jones, and
8 multiple other persons charged in connection with this
9 riot, but the State cannot compel any of them to testify.
10 These defendants cannot be brought into this court and
11 compelled to testify.

12 So we're left with a situation where the defendant
13 versus the victim's testimony, that is one-on-one. We
14 don't have any other people who were in that cell other
15 than the two of them. Obviously, we have other witnesses
16 who are familiar with surrounding circumstances, but,
17 again, only the defendant can be offering testimony in
18 this case versus that of the victim.

19 Your Honor, there are no eyewitnesss to what
20 occurred in that cell other than codefendants, and there
21 are no other witnesses to refute any attempts to denigrate
22 the character of the victim other than the victim herself,
23 who will be present.

24 Finally, Your Honor, as to the fifth factor, the
25 centrality of the credibility issue, I can't imagine a

1 scenario where credibility is more at issue than in a case
2 like this where there is a situation where the defendant
3 would be testifying, the victim has testified, there are
4 no other eyewitnesses to the event who are laypersons who
5 can be compelled to testify. This is -- this is the very
6 essence of Factor No. 5, Your Honor, the centrality of the
7 credibility issue. This is certainly a case where his
8 credibility will be a key factor for the jury to consider
9 and the fact that he has the prior conviction, Your Honor,
10 is certainly extremely probative.

11 (Pause in the proceedings while the Court reviews
12 documents.)

13 THE COURT: I'm sorry; I'm reading right now.

14 (Pause in the proceedings while the Court reviews
15 documents.)

16 THE COURT: I just -- you know, Ms. Mayes, I'm not
17 real sure I know why I have got to hear his testimony
18 before I do a balancing test on these factors, and there's
19 other factors that I could consider: his age, the
20 circumstances, the length of his criminal record. I don't
21 know why I -- the Court can't determine that. I
22 understand what Mr. Chehoski is saying. You know, this
23 is -- this defendant wants to testify. It's the first
24 impression to the jury; I guess the first impression to
25 all of us, which first impression of him taking the stand

1 doesn't have anything to do with these -- the Cole
2 factors.

3 The impeachment value of the prior crime. All we
4 have is a murder -- right? -- that's going to be used.

5 MS. MAYES: Yes, Your Honor. He does have prior
6 convictions beyond that. I believe we spoke yesterday
7 about a burglary, but it is the murder conviction which he
8 is still under confinement for within the ten-year rule.
9 But, Your Honor, when we look at those factors, that was
10 the State's concern as well; Factor 4, the importance of
11 the defendant's testimony, and 5, the centrality of the
12 credibility issue. We can't predict that in advance. And
13 so --

14 THE COURT: Well, the importance of the defendant's
15 testimony, there is no doubt -- I mean, this is an LWOP
16 case. This is life without parole. The importance of his
17 testimony -- it's important. It's certainly important to
18 him when he's facing an LWOP.

19 Let me hear from you, Mr. Chehoski.

20 MR. CHEHOSKI: Yes, Your Honor. Under Rule 609 --

21 THE COURT: Right.

22 MR. CHEHOSKI: And, again, that's -- the Cole
23 factors are addressing that, but, again, we're talking
24 about whether or not those five factors in their entirety
25 and under [indiscernible] that the Court can prove, do

1 they outweigh the prejudicial impact of a jury hearing
2 that Chavis Cox has been convicted of murder. The moment
3 they hear that word, those jurors will now be looking at
4 Chavis Cox completely differently. Instead of just
5 looking at someone who might be in custody for a crime
6 that he's under a sentence for, they're now looking at him
7 as a murderer. They're now looking at him as maybe even
8 something less than a human being.

9 And, Your Honor, if that's not hugely prejudicial, I
10 don't know what is. It's the risk -- [indiscernible] risk
11 of stripping Chavis Cox of his basic dignity as a human
12 being. Because the moment they hear that word that he's
13 been convicted of murder, the impact is tremendous and 100
14 percent, it is prejudicial. And if I may add, unfairly
15 prejudicial.

16 THE COURT: And his credibility, Factor No. 5, I
17 guess we're not going to know until he gets on the stand;
18 you can impeach him.

19 MS. MAYES: Yes, Your Honor. In fact, to us,
20 appears to be the most central factor because, as I said,
21 this is a case where we don't have eyewitnesses to any of
22 the preceding events. We only have the testimony of the
23 victim and of course the potential reply testimony of the
24 victim.

25 But -- and this is a scenario where the other people

1 in that cell -- at least one of those, also a murder
2 defendant, the other also serving a lengthy sentence --
3 those defendants, Your Honor, are in a situation we cannot
4 compel them to testify. And so now we're left with the
5 defendant's word against the victim's word, and that is
6 the very essence of No. 5 and why credibility is so
7 probative.

8 And let me be clear: It is only and solely for the
9 purpose of credibility that this conviction is being
10 offered. Mr. Chehoski makes note of the fact that -- how
11 the jury may view him, but they know that he is in prison.
12 They know that he's an inmate. That part has already been
13 put forth to the jury, but they have to determine his
14 credibility on this issue, on his potential testimony, on
15 these charges. So, Your Honor, it is extremely probative.
16 Any time someone has a criminal conviction, it is
17 potentially prejudicial. That ---

18 THE COURT: Absolutely.

19 MS. MAYES: --- for the balancing test.

20 THE COURT: Right. It is.

21 So the impeachment value of the prior crime is
22 important to the State.

23 MS. MAYES: It is, Your Honor.

24 THE COURT: And there's absolutely no similarity
25 between the past crime and the charged crime, not that I

1 see.

2 I'll be glad to hear from you, though, Mr. Chehoski.

3 MR. CHEHOSKI: Your Honor, I don't have any -- any
4 information as to the facts and circumstances of the prior
5 charge. Again, only what has been provided to me --
6 provided to us from the State that -- you know, that this
7 was a murder involved -- murder by gunfire from November
8 of 2009. Obviously, there is -- I mean, you know, there's
9 no common elements between what he's charged with and what
10 he's being convicted of.

11 Again, Your Honor, we under -- we understand that
12 jury instructions are going to be given to -- instructions
13 are going to be given to the jury to -- if the Court feels
14 that the conviction comes in that the conviction only
15 comes in for the purposes of credibility and entirely --
16 credibility is entirely the province of the jury.

17 The impact and the danger of unfair prejudice, we
18 argue, is so great so as to, I would say essentially
19 nullify any jury instruction. The jury is not going to
20 know what to hear, not [indiscernible] expect to hear but
21 Mr. Cox's [indiscernible] and how we try to soften the
22 blow, to the extent that I can. Again, I don't even know
23 if I can, but I feel like this is one of those charges
24 among a very small -- a very small handful of charges.

25 THE COURT: Well, then, are you telling me that

1 everybody that's doing time for murder shouldn't -- if
2 they have to go to trial, that should never come up?
3 Because I have had it come up several times.

4 MR. CHEHOSKI: Again, I think -- Your Honor, I think
5 that -- I can't speak to the facts and circumstances of
6 each individual case.

7 THE COURT: Well, you're saying it's one of the --

8 MR. CHEHOSKI: [Indiscernible] is so great that
9 that's not -- that's not an unreasonable request. And,
10 again, I think that's where we stand, is that the danger
11 of unfair prejudice is so great that the moment that the
12 jury hears that word, we run the risk of stripping Chavis
13 Cox of his basic dignity as a human being in the eyes of
14 the jury.

15 MS. MAYES: And, again, Your Honor, the statute --
16 the rule is not designed to reward defendants for bad
17 crimes and prevent the State from being able to use it.
18 Obviously, we have addressed scenarios where, if it's a
19 repeat offender and it's the same crime over and over,
20 that there may be limitations here.

21 As to Factor 3, there is no similarity, no common
22 element. He used a firearm for the murder, but we go back
23 to the fact that it is a central issue of credibility, and
24 we can't be in a court of law looking to prohibit the
25 State from even being able to prohibit -- to impeach him

1 on the prior crime because --

2 THE COURT: Because it's such a bad crime.

3 MS. MAYES: And, Your Honor, that is not the intent
4 of the rule.

5 THE COURT: And I understand. And my point.

6 MR. CHEHOSKI: My last word, Your Honor, will be I
7 don't think you would have this balancing test if we
8 weren't concerned about the risk of this prejudice. For
9 any other witness, it doesn't matter. That's what the
10 rule states. There is no balancing test for any other
11 witness, but for the accused, it does matter.

12 THE COURT: Okay. I understand.

13 MR. CHEHOSKI: You can't have -- I don't think we
14 can run the risk of unfair prejudice. I think that's why
15 we have this balancing test. And, again -- and I think
16 even -- I think the point is the greater the prior crime,
17 the higher the risk of unfair prejudice because of what I
18 said about the potential impact on a juror looking at the
19 defendant -- at Mr. Cox as something less than human.
20 That's something that is sacred, and that's something that
21 we cannot run the risk of. And I think that's the reason
22 why we have this balancing test, and I think that's why,
23 with these crimes that are on the most serious list, that
24 it gets to the point that, yes -- yes, we cannot run that
25 risk because of the fact that it is so serious.

1 I appreciate and, you know, understand the State's
2 position, but this is the rule. And I think this is the
3 reason why we have the rule.

4 THE COURT: Okay.

5 MS. MAYES: So, Judge, I'll also cite State v.
6 Robinson, 426 S.C. 579 (2019) because that is an armed
7 robbery. That is a Supreme Court case. But that's an
8 armed robbery where a prior armed robbery was used. So
9 there was strong similarity there, obviously, because it
10 was the same crime and yet it's still admissible. And
11 when we talk about armed robbery, that is, again, a force,
12 a use of a weapon, very consistent with the murder charge
13 in regards of how Mr. Chehoski is describing a jury might
14 perceive it.

15 But we're not even at the Robinson level, Your
16 Honor, because our crimes are not even the same.

17 THE COURT: Okay. Give me one second.

18 (Pause in the proceedings.)

19 THE COURT: All right. I'm going to allow it. In
20 determining my decision, I have looked at the Robinson
21 case. I have also read the Cole case. I think the
22 impeachment value of the prior crime is significant. The
23 point in time of the conviction, I think this happened
24 back in 2010. It was a long time ago. And there is
25 absolutely no similarity between the past crime and the

1 charged crime here today.

2 While I understand, Mr. Chehoski, that murder is
3 probably one of the most -- well, it is the most serious
4 crime here in this state, you know, I can't pick and
5 choose somebody's history -- criminal history, and that is
6 what Mr. Cox is charged with.

7 Further, you know, the jury knows -- we have
8 stipulated that he's in there for a crime. I think
9 credibility is -- is essential in his -- in this case
10 because there's a video of the whole scenario or most of
11 it. So I think the issue of credibility is significant
12 for the State. I don't know how Mr. Cox is going to
13 testify to. I just have no earthly idea. But I believe
14 that -- I believe that it would be significant.

15 So, anyway, I find that the probative value, after
16 looking at all of this and listening to both the State and
17 the defense, outweighs its prejudicial effect, and I'm
18 going to allow it.

19 Let me ask the State: Is there anything else you'd
20 like me to put on the record or would the State like to
21 put on the record?

22 MS. MAYES: Your Honor, going -- going back to the
23 Cole factors -- and I know I had cited Robinson
24 previously, Robinson being a recent 2019 Supreme Court
25 case where an armed robbery was used in an armed robbery.

1 THE COURT: Right. I read that case.

2 MS. MAYES: Close, identical similarity there.

3 Here, as we have already addressed, we have, as to
4 Factor No. 2, the point in time of the conviction, he has
5 been in confinement since that time.

6 THE COURT: But it was 2010; right?

7 MS. MAYES: I believe it is 2011. But he has been
8 in confinement, and there's no significant period where he
9 would be under good behavior in the community and then
10 this would be looked at as an isolated event.

11 As to No. 3, the similarity between the past crime
12 and the charged crime, Your Honor has already put on the
13 record ---

14 THE COURT: Right. There's none.

15 MS. MAYES: --- that analysis.

16 And then, as to No. 4 and No. 5, Your Honor, I think
17 that the Court has significantly addressed that as well;
18 that, specifically as to No. 5, the centrality of the
19 credibility issue, that is the key factor in this case.
20 And if he testifies, then his credibility in this case
21 comes down to the jury's evaluation of his credibility,
22 the jury's evaluation of the victim's credibility, and
23 then potential reply testimony from the victim. It is the
24 very essence of a credibility case.

25 THE COURT: Okay. And the Court agrees.

1 But I'll be glad to hear from you, Mr. Chehoski.

2 MR. CHEHOSKI: Thank you, Your Honor. Mr. Cox was
3 convicted for an act that happened in 2009. He was
4 sentenced to 40 years. That's a 40 years, day per day.

5 THE COURT: Right.

6 MR. CHEHOSKI: So he's -- as the State stated, he's
7 not even eligible for any good time or good behavior
8 credits under the statutes and under the policies and
9 procedures. So he's -- again, we have stipulated that
10 he's involved with confinement.

11 Your Honor, again, the case of Cole has
12 [indiscernible] in court in determining whether or not
13 convictions come in under Rule 609. Obviously, Rule 609,
14 you know, separates or distinguishes the admissibility of
15 this kind of evidence between regular witnesses, lay
16 witnesses, and the defendant. And I think that this case
17 is important due to the fact that the gates of unfair
18 prejudice can lead to an unfair verdict or an unjust
19 verdict.

20 You know, again, Your Honor, I think that the risk
21 of an unfair or an unjust verdict is too great to risk at
22 this point and too great to risk for Mr. Cox, you know, to
23 have to openly admit to the charge as -- again, can hear
24 that word and run the risk of -- again, of being looked at
25 as something less than human, and that, at least from this

1 counsel's perspective ---

2 THE COURT: I got it.

3 MR. CHEHOSKI: --- is way out of bounds.

4 THE COURT: Okay. And so noted for the record. .

5 MR. CHEHOSKI: Thank you, Your Honor.

6 THE COURT: Thank you, Mr. Chehoski.

7 Okay. Is there anything else that I need to take up
8 before we bring the jury back in?

9 MS. MAYES: Nothing from the State, Your Honor.

10 MR. CHEHOSKI: Nothing from the defense.

11 THE COURT: Okay. Let's bring the jury in.

12 (The jury entered the courtroom at 10:39 a.m.)

13 THE COURT: All right. Mr. Foreman, the jury ready?

14 JURY FOREMAN: The jury is ready.

15 THE COURT: Please be seated.

16 All right. Mr. Chehoski, if the defendant would
17 like to present a defense, he may. I will remind you, he
18 does not have to, by law. So...

19 MR. CHEHOSKI: Your Honor, at this time, the defense
20 calls Chavis Cox.

21 THE COURT: Okay.

22 THE CLERK: Mr. Cox, if you would please raise your
23 right hand and place your left hand on the Bible.

24 CHAVIS COX,

25 after having been duly sworn, was examined and

1 testified to as follows:

2 DIRECT EXAMINATION

3 BY MR. CHEHOSKI:

4 Q Mr. Cox, please get as close to the microphone as
5 you can so we can all hear you.

6 Please state your name.

7 A Chavis Cox.

8 Q Mr. Cox, how old are you?

9 A I'm 35.

10 Q And how far did you go in school?

11 A GED.

12 Q You got your GED?

13 A Yeah. I -- 10th grade and GED.

14 Q And, Mr. Cox, let's rip the Band-aid off. You're
15 currently in custody; is that correct?

16 A I am.

17 Q Okay. What charge are you serving a sentence for?

18 A I have a 2009-2010 conviction for murder.

19 Q And how long has that sentence that you're serving?

20 A It is a 40-year sentence day for day.

21 Q In addition to this, we have heard a lot of
22 testimony that, on the night of December 27th, 2020, that
23 you were outside the confines of the inner perimeter fence
24 of McCormick Correctional Institution. Did that happen?

25 A Was I -- was I outside of the confinement?

1 Q Were you outside of the -- outside the inner
2 perimeter fence of McCormick Correctional Institution?

3 A I was.

4 Q All right. Were you allowed to be there?

5 A No.

6 Q And we also heard testimony that your -- you were
7 assigned to Cell 144 in the B Wing of F-3 Dorm at
8 McCormick Correctional Institution. Is that where you
9 were assigned?

10 A I was.

11 Q Okay. Was there anyone else who was -- any other
12 inmate who was assigned in that room with you?

13 A No.

14 Q All right. We have heard testimony that you were
15 among a couple of people who forcibly moved Sergeant
16 Harden into that cell. All right? Were you one of those
17 people?

18 A No.

19 Q Were you in your cell at approximately a quarter
20 after 6:00 on June 27th of -- December 27th of 2020?

21 A Was I in there?

22 Q Were you in your cell at that time when Sergeant
23 Harden was there?

24 A I was not.

25 Q All right. Was your cell door unlocked?

1 **A** It was.

2 **Q** And we have heard testimony that only inmate workers
3 would have their cells unlocked on the weekends. First of
4 all, do you remember what day of the week that -- I want
5 to say June -- December 27th, 2020, was? Do you remember
6 what day of the week that was?

7 **A** It was on the weekend.

8 **Q** Do you remember if it was a Saturday or a Sunday?

9 **A** I believe it was a Sunday.

10 **Q** I think -- this is not -- the day of the week would
11 not be something would be subject to opinion. If I told
12 you it was a Sunday, would you have any reason to
13 disagree?

14 **A** No.

15 **Q** All right. Were you an inmate worker?

16 **A** I was not.

17 **Q** Have you ever applied to be an inmate worker?

18 **A** I have not.

19 **Q** We have heard testimony of two other people that
20 were in that cell, one of whom was Stanley Jones. Do you
21 have any knowledge if he was a worker?

22 **A** Stanley Jones is not a worker.

23 **Q** We also heard of another individual by the name of
24 Jonathan Archie. Do you have any knowledge if he was a
25 worker?

1 A No, he wasn't a worker.

2 Q During Sergeant Harden's testimony -- and I asked
3 her whether she was familiar with a black card or a Cash
4 App card. Are you familiar with those terms?

5 A I am.

6 Q To your knowledge, what is a black -- first of all,
7 is a black card and a Cash App card, are they the same
8 thing?

9 A I believe that the Cash App physical card is black.

10 Q Do you or do you know of other people who would call
11 a Cash App card a black card?

12 A Some would.

13 Q All right. And what is a black card or a Cash App
14 card?

15 A A way to transfer or wire funds to other people or
16 use it on the street to make purchases.

17 Q It's essentially a transaction card that money can
18 be placed on it and could be used to purchase items?

19 A An instrument -- financial instrument to be used to
20 make any financial --

21 Q And it can be used also to transfer money to
22 somebody else?

23 A Yep. Person to person.

24 Q All right. Do you have any experience specifically
25 regarding a black card with Sergeant Harden?

1 **A** I do.

2 **Q** Okay. Tell us about that experience.

3 MS. MAYES: Objection, Your Honor. May we approach?

4 THE COURT: You may.

5 BENCH CONFERENCE

6 (A bench conference was held off the record and
7 outside of the hearing of the jury.)

8 (Open court resumes as follows:)

9 THE COURT: All right. Mr. Foreman, let me ask the
10 jury to go back to the jury room just for a moment,
11 please. Remember, no talking about this case.

12 (The jury exited the courtroom at 10:48 a.m.)

13 THE COURT: Okay. Please be seated.

14 All right.

15 COURT MONITOR: Are we on the record?

16 THE COURT: Yes, we're on the record. We are on the
17 record.

18 I'm not real sure I know where this was going,
19 Mr. Chehoski. Could you -- the State's objected and so I
20 wanted to hear you --

21 MR. CHEHOSKI: In reference to their motion in
22 limine that was filed pretrial that was discussing
23 improper personal relationships between Sergeant Harden
24 and inmates. That was, again, what was discussed on the
25 record.

1 I think this is outside the bounds of that motion.
2 We're discussing whether or not Sergeant Harden, you know,
3 was seeing [indiscernible] and financial transactions with
4 inmates.

5 THE COURT: This is the first that I have heard of
6 financial transactions.

7 MR. CHEHOSKI: Your Honor, I asked specifically in
8 my cross-examination of Sergeant Harden about a black card
9 and Cash App card and what her knowledge was. Your Honor,
10 this is kind of setting the case for that. It's there.
11 This is fair game.

12 MS. MAYES: And, Your Honor, pursuant to 404(a) and
13 404(b), the nature of the State's motion in limine was to
14 prohibit any argument or inquiry regarding bad character.
15 We're aware of nothing.

16 So what counsel is proposing is that any witness any
17 time can take the stand and cast aspersions that are
18 unfounded against various people, whether they be
19 witnesses, whether they be victims, and the rules simply
20 do not allow for that.

21 Evidence or aspersions of bad character that are
22 unsupported, where is the clear and convincing evidence of
23 any of this? It's never been reported. It's never been
24 investigated. We're hearing it for the first time right
25 now.

1 Your Honor, this, in no way, would be relevant to
2 the charges at hand. It would clearly be designed to
3 denigrate the character of the victim and, most of all, it
4 is completely unsupported by any type of independent
5 evidence, and that's why it's prohibited under 404(a) and
6 404(b).

7 THE COURT: Mr. Chehoski, anything else?

8 MR. CHEHOSKI: One moment, please, Your Honor.

9 Your Honor, I will go ahead -- there is information
10 in discovery, but it's not been subject -- it's not been
11 to the privy of any witnesses that have been called, but
12 there is information in discovery that, while this --
13 while Sergeant Harden was confined to the Cell 144, that
14 she was -- all this was doing was calling her a
15 (indiscernible). And this is information that's provided
16 from the State.

17 Again, this is why I'm asking about this question.
18 It's -- there are reports from the SLED agent --

19 THE COURT: Is there anything in the discovery,
20 Ms. Mayes?

21 MS. MAYES: Your Honor, not to any type of bad
22 character. What Ms. Harden has described is that, at one
23 point, they asked for her belongings, and she had some
24 type of identification but she felt like they were looking
25 through her belongings for money. That is the only

1 reference to anything that she had in her possession that
2 they were looking for or asking for.

3 She only had an ID. She didn't have any money to
4 give them. That's all I know of this. There is
5 absolutely no allegation regarding impropriety on the part
6 of this officer or any other officer who was taken hostage
7 during this event, Your Honor. It's clearly designed to
8 denigrate the character of the victim, and it's completely
9 unsupported by any facts whatsoever.

10 And it's of great concern to us any time we have a
11 case where any witness -- State or the defense -- might
12 want to take the stand and cast aspersions that are
13 unfounded. And the rules simply do not allow for that,
14 Your Honor.

15 MR. CHEHOSKI: Your Honor, nothing further.

16 THE COURT: Okay. I'm not going to allow it.
17 You're going to need to move on. Under Rule 404(a) and
18 (b), the Court is going to not allow you to go down that
19 route of the victim's character.

20 So let's bring the jury back out.

21 (The jury entered the courtroom at 11:59 p.m.)

22 THE COURT: All right. Mr. Foreman, jury ready?

23 JURY FOREMAN: The jury's ready.

24 THE COURT: Please be seated.

25 All right. You may continue on, Mr. Chehoski.

1 MR. CHEHOSKI: Thank you, Your Honor.

2 BY MR. CHEHOSKI:

3 Q Mr. Cox, let's -- I'm going to go back to the
4 evening of December 27th of 2020 or, actually, the day of
5 that, the whole day. Was the door to your cell unlocked
6 that day?

7 A It was.

8 Q And were you at least within the confines of your --
9 first off, the confines of B Wing of Dorm F-3? Were you
10 free to come and go from between that, the dorm at least?

11 A Yes.

12 Q Were you free to come and go between B Wing of F-3
13 and A Wing of F-3?

14 A Yes.

15 Q Now, you had been -- you had been in custody for
16 about ten years at that point; is that right?

17 A Yeah, ten years.

18 Q We need you to speak up so the court reporter can
19 hear you.

20 A Okay. Yes.

21 Q All right. And you had -- and there had been other
22 correctional officers who had been working in your dorm;
23 is that correct?

24 A Yes.

25 Q All right. Under their supervision, were you free

1 to go in and out of your cell?

2 A Under the supervision meaning...

3 Q Under ---

4 A That they knew I was...

5 Q Under other correctional officers other than
6 Sergeant Harden. Were you free to come and go from your
7 cell on weekends?

8 A No.

9 Q Were you free to go in between the A Wing and B Wing
10 of F-3 on weekends?

11 A No.

12 Q And was it -- and on June 27th, both the door to
13 your cell and the door to -- between A Wing and B Wing
14 were open?

15 A It was.

16 Q All right. Were there any other guards working at
17 that time other than Sergeant Harden?

18 A No.

19 Q All right. Did Sergeant Harden leave your door --
20 well, open your cell door on other occasions before this
21 day?

22 A She has.

23 Q Okay. According to what we know of the South
24 Carolina Department of Corrections policies and
25 procedures, is there any reason for that to be happening?

1 A No, not unless it's security or medical or something
2 like that.

3 Q And just again -- I know I have asked this question
4 already, but at the time of this incident, when this
5 incident happened, were you in your cell?

6 A I was not in my cell.

7 Q Did you lay your hands on Sergeant Harden?

8 A I did not touch Ms. Harden.

9 Q Did you use any kind of weapon in Sergeant Harden's
10 direction?

11 A I didn't own a weapon, didn't use a weapon on
12 Ms. Harden.

13 MR. CHEHOSKI: One moment, please.

14 THE COURT: Take your time.

15 BY MR. CHEHOSKI:

16 Q And while you were being supervised by Sergeant
17 Harden, did you ever notice a time when she left the dorms
18 unsupervised completely?

19 A Yes.

20 Q Did this happen routinely or just once in a while or
21 something else?

22 A Being short of staff, they routinely leave
23 interchangeably between dorms three and four or three and
24 two. So they have to move around like that and they would
25 just routinely leave them unattended like that.

1 Q And while they were unsupervised, were there -- were
2 there ever prior occasions when they -- when they left the
3 dorm unsupervised with you outside of your cell or would
4 you being able to leave your cell?

5 A Yes.

6 Q Okay. And did this happen with Sergeant Harden or
7 was Sergeant Harden alone or did other correctional
8 officers do this as well?

9 A Other correctional officers do it too. They do.

10 Q All right. But do other officers -- another
11 correctional officer lock you in your cell -- lock
12 everybody in their cell before they left or no?

13 A Certain ones that know better would do so.

14 MR. CHEHOSKI: One more moment, please.

15 THE COURT: Sure. Take your time.

16 BY MR. CHEHOSKI:

17 Q Chavis, is there anything else regarding this
18 incident that we have discussed that you want to tell the
19 jury?

20 A About maybe where I was, if y'all are wondering. I
21 was outside of my cell on the other side actually talking
22 with a homeboy of mine who is from where I'm from. And I
23 was, as you see the evidence, I was planning. I was.
24 And -- but I had no knowledge of this was even going to
25 happen. Didn't even know that -- didn't even been in my

1 cell after I been across that gate. And I was there to my
2 homeboy actually trying to get him convinced, like, he
3 should join me, because of the time he has, and, at this
4 moment, the pandemic had everybody in a panic.

5 There's phones all through SCDC so we have access
6 like crazy and we're watching the same videos that you-all
7 probably seen. There was inmates dying. And we all went
8 in a panic like we're not going to die. Because when
9 COVID hit our dorm and they started locking us down, all
10 you hear is chatter about something's going to happen,
11 something's going to happen.

12 And, in my mind, I'm like, "Well, if it's going to
13 happen, then I want to be kind of prepared for it when it
14 does happen. I don't want to be scrambling." And I was
15 over there trying to convince him, and then, all of a
16 sudden, people come and saying such and such, something
17 done happened.

18 So, by that time, my mind is go ahead and go. Don't
19 go looking to see what happened or none of that. Go ahead
20 and go. And I'm already trying to make my way out of that
21 unit to get across that gate.

22 So, like I said, I -- I didn't do nothing to
23 Ms. Harden. It's unfortunate it was my cell, but I had
24 nothing to do with that.

25 Q Thank you, Chavis. Please answer any questions from

1 Ms. Mayes.

2 CROSS-EXAMINATION

3 BY MS. MAYES:

4 Q All right, Mr. Cox. You indicated that you had no
5 idea about anything going on in your cell? Is that your
6 testimony?

7 A Yes.

8 Q So let's clarify, first of all, that it is your
9 cell. We're looking here at 144. All right. So,
10 Mr. Cox, looking here at Cell 144, that was your cell;
11 correct?

12 A Yes.

13 Q In looking here at State's 111, that had been your
14 cell since October 28th of 2020 up until the day after
15 this incident. After you were apprehended, you were moved
16 to another facility; correct?

17 A Correct.

18 Q But up from October 28, 2020, to December 28, 2020,
19 this right here was your cell?

20 A It was.

21 Q And you have seen the videos in this case, haven't
22 you?

23 A I have.

24 Q Looking here at this still shot, State's 8, you have
25 seen the video right there at Cell 144, haven't you?

1 A I have seen the video.

2 Q All right. Let's talk about some of these other
3 individuals. Jonathan Archie. Mr. Cox, you don't dispute
4 that Jonathan Archie is the one that, once Ms. Harden is
5 taken in there and her keys are taken from her person,
6 it's Jonathan Archie that goes around releasing other
7 inmates; correct?

8 A I can't identify anybody on that still shot or the
9 video.

10 Q So your answer is that you don't know who the other
11 individual is who is releasing inmates with Sergeant
12 Harden's keys; correct?

13 A I do not know those people. I cannot identify to
14 them.

15 Q Well, you have seen the video. Whereas Major Terry
16 or Warden Terry identified Jonathan Archie being the one
17 going right here to Cell 139 and releasing James
18 Heyward -- you know who James Heyward is?

19 A I cannot identify those people. And Terry cannot
20 either. He wasn't there. He got on call and came and
21 probably based his information off Ms. Harden as well,
22 what her story was.

23 Q So you're saying you have no idea that Jonathan
24 Archie and then James Heyward being released from 139 were
25 involved in this as well? That's your testimony?

1 **A** That is my testimony.

2 **Q** So let's talk about them a little bit. James
3 Heyward. James Heyward, also serving a murder sentence.
4 You're aware of that? Serving a life sentence for murder?

5 **A** I didn't know what anybody was serving. I know
6 everybody locked up for something and got some kind of
7 time.

8 **Q** How is it, Mr. Cox, that you say you don't know
9 Jonathan Archie is involved and you don't know that
10 Heyward is releasing right here and he's also involved,
11 but those are the very two people caught across that fence
12 with you?

13 **A** Hey, we all had the guts to go across the fence.

14 **Q** So just coincidental, you ended up across the fence
15 with Jonathan Archie and James Heyward? That's just a
16 coincidence?

17 **A** There were more people that went across the fence
18 and actually jumped back over the fence because things
19 didn't go -- didn't look like it was going to go too well.

20 **Q** What I'm asking you, Mr. Cox, is, are you denying
21 that Jonathan Archie and James Heyward were part of this
22 plan with you?

23 **A** I didn't plan anything with them people. I had my
24 own plan. Y'all seen my -- the phone, the photos, the
25 only selfies. I'm the only one in there. And I had my

1 own individual plan just in case anything -- due to the
2 chatter that something was going to happen, I was going to
3 be ready.

4 Q Mr. Cox, why does Jonathan Archie call you Money
5 Cal? How long have you had that name?

6 A I mean, probably awhile.

7 Q Okay. So you have had that name a while?

8 A Mm-hmm.

9 Q Why is Money Cal written on this bag?

10 A Money Cal is written on the bag because, in
11 institutions, people sell canteen and if we're going from,
12 like -- I'm in Dorm 3 and someone in Dorm 1 is selling
13 canteen and I say, look, I'm trying to get \$100 worth of
14 food or whatnot and I pay him, they send it across to the
15 other dorm in a trash bag through whoever is able to carry
16 it over. So they just put the name on it to make sure
17 that it gets to who it's supposed to get to.

18 Q Okay. So this bag did get to who it was supposed to
19 get to. It got to you. And you took it with you over the
20 fence?

21 A No.

22 Q No?

23 A No. I did not. That bag -- that bag came to me
24 because it's my face on the purchase that I make for
25 somebody. So that food comes to me and I give it to

1 somebody else.

2 Q All right. You are Money Cal?

3 A I am. I can't dispute that.

4 Q And this bag with your name on it is found over the
5 fence with you; correct? You don't dispute that, do you?

6 A Yeah, I can't dispute that.

7 Q All right. Now, let's talk about Johnny Gregg. Who
8 is Johnny Gregg?

9 A I mean, from the discovery, he's another inmate that
10 was in there with me, in the unit.

11 Q Mr. Cox, you know full well who Johnny Gregg is. He
12 was part of your escape plan; correct?

13 A He wasn't a part of my escape plan. He just had a
14 plan of his own.

15 Q He had a plan of his own, and we saw all of that
16 gear that ended up on your phone. You with the Slim Jims,
17 the same Slim Jims that are found over the fence; correct?

18 A It is.

19 Q This is you with the shield on your arm that could
20 potentially protect from barbed wires?

21 A It is.

22 Q Photo of the gloves that are [indiscernible] on your
23 phone; correct?

24 A Correct.

25 Q Multiple pairs of gloves. Multiple duffel bags.

1 And then all this.

2 Johnny Gregg sent you and Dallas Waiters (ph) sent
3 you those photographs, didn't they?

4 A They did not. They did not send me those photos.

5 Q So you ended up over the fence with Jonathan Archie,
6 who just happens to be the person in State's 9, identified
7 as one of the three participants. You ended up over the
8 fence with James Heyward, who just happens to be the
9 individual assigned to 139 and released from there. And
10 you say you had no plan with them whatsoever; you just
11 ended up over the fence together?

12 A I had no plan with them. I ended up over that fence
13 along with everybody else who had the same idea, probably
14 the same panic and fear.

15 Q So when we talk about your testimony here, I think
16 it's been said that you have a conviction for murder.

17 A I do.

18 Q Your testimony today, let's talk about that. You
19 were willing to escape over a barbed wire fence with razor
20 on it to avoid prison, weren't you?

21 A To afear (ph) my fear of -- I'm panicking at that
22 moment. I don't want to die in prison. I don't. But,
23 yeah, I did.

24 Q So that's a lot of effort that you went to, to
25 potentially avoid prison.

1 **A** Avoid dying in prison.

2 **Q** You went through all of that effort to get out of
3 prison; didn't you?

4 **A** . I did, alone.

5 **Q** Including going over that barbed wire fence?

6 **A** I did. I didn't dispute going over the fence. I
7 had already admit to that.

8 **Q** And, yet, your testimony today, to sit on that
9 witness stand, you don't have to risk your health to avoid
10 prison, do you?

11 **A** Do I have to risk what?

12 **Q** You don't have to risk your health like you did when
13 you went over that barbed wire fence to avoid prison. If
14 you're sitting on the witness stand, all you have to do is
15 sit there and tell your story; right? It's a lot easier
16 than going over that fence; isn't it?

17 **A** Yeah, I mean...

18 MR. CHEHOSKI: Objection to that, Your Honor.

19 THE COURT: The objection basis?

20 MR. CHEHOSKI: Your Honor, the objection basis on
21 (A) badgering the witness, and (B) again relevance.

22 THE COURT: I'm going to allow it.

23 Go ahead, Ms. Mayes.

24 BY MS. MAYES:

25 **Q** You put your body at risk to go over that razor wire

1 on December 27th, didn't you?

2 A I did.

3 Q All to avoid prison.

4 A My fear. Once again, my fear took over me. I
5 needed to go. I didn't want to die in prison. I seen a
6 lot of videos and I felt like it was coming.

7 Q And so, right now, on this witness stand, you get to
8 sit there to testify without even putting your body at
9 risk; correct?

10 A I'm not sure I understand what your question is.

11 Q Mr. Cox, you were going to do anything you needed to
12 do to get out of prison on December 27th, weren't you?

13 A I did what I did to try to get out of prison.

14 MS. MAYES: Thank you. Nothing further.

15 THE COURT: Any redirect?

16 MR. CHEHOSKI: Very briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. CHEHOSKI:

19 Q Chavis, we have heard testimony that there were
20 between 80 and 100 people who were out and about in the
21 dorm on December 27th. Did you know the names of each and
22 every one of them?

23 A I did not.

24 Q Did you know the names of half of them?

25 A I didn't -- it was only a few people that I know.

1 And even before then, these so-called guys unlocked all
2 these doors, it was already 30, 40 people out -- that
3 Ms. Harden already let out just because she feels
4 comfortable with them. And that's how most people was
5 already out.

6 Q And the people that you do know, do you know their
7 names or do you know them by something else?

8 A We don't do real names in prison. People don't
9 really like going by government names in prison. So
10 everybody has a nickname and even some of us have the same
11 nickname, in fact.

12 Q For example, Money Cal?

13 A Yeah, there's two Money Cals outside of me on -- at
14 that time that was there.

15 MR. CHEHOSKI: That's all I have, Your Honor.

16 RE CROSS-EXAMINATION

17 BY MS. MAYES:

18 Q All right. There's two Money Cals but that bag with
19 Money Cal on it ended up over the fence with you; didn't
20 it, Mr. Cox?

21 A Yeah, it was over the fence. It was there. You got
22 a picture of it.

23 Q All right. And I think the question was, you don't
24 know all the different people that were released that
25 night. I believe 108 people got released. There's no

1 doubt -- you watched this video, haven't you, Mr. Cox?

2 A I have seen it.

3 Q All right. There's no doubt that, once Ms. Harden's
4 keys are taken, that the individual identified as Jonathan
5 Archie comes out of that cell and releases numerous other
6 people and then goes up the stairs and you can hear more
7 people being released. You don't dispute that, do you?

8 A I don't dispute that.

9 Q And, yet, Jonathan Archie, the person releasing
10 everyone with those keys, ends up over that fence with
11 you. Just the five people over that fence, one of them's
12 Jonathan Archie; right?

13 MR. CHEHOSKI: Objection, Your Honor. Beyond the
14 scope.

15 MS. MAYES: I believe it was directly discussed on
16 redirect a few moments ago about the number of people and
17 whether he knows them all or not.

18 THE COURT: I'm going to allow it. Go ahead.

19 BY MS. MAYES:

20 Q So out of all the people that got released, only
21 five ended up apprehended over that fence: You, Jonathan
22 Archie, James Heyward, Johnelle Richardson, Darion
23 Robinson.

24 And you know that's James Heyward's cell right
25 there; right?

1 **A** I didn't know a James Heyward until --

2 **Q** Until you saw him over the fence?

3 **A** No. Until I seen my discovery.

4 **Q** Okay.

5 **A** Because I know we know nicknames. I didn't know no
6 James Heyward.

7 **Q** So among the five people over the fence, two of them
8 happened to be right there that you didn't know at the
9 time?

10 **A** I did not. I was on a whole 'nother wing. I'm on a
11 whole 'nother wing. Things can happen in a blink of an
12 eye. And prematurely or whatever, you know, like, if
13 somebody says they think somebody else going to do
14 something, they may try to do it beforehand because they
15 don't want to next person to do it. But I ain't -- that
16 wasn't me. But I had my plan to go and that's just that.

17 **Q** So it's a coincidence? That's your testimony?

18 **A** You want to call it coincidence for 80 people to be
19 out?

20 **Q** We're talking about the five over the fence.

21 **A** The five over the fence was the five -- the first
22 five to get over the fence. They had one guy, broke his
23 leg. Now, you can imagine how many people said, "I'm not
24 doing that," after they seen him break his leg. There was
25 multiple. They even had investigations of people who had

1 lacerations on them. They went over but they jumped back.
2 So they could have also been out there too, but I don't
3 know none of these people like that. Obviously, I'm doing
4 time around them, so I know of them, and if the situation
5 is happening and somebody -- about their life, they're
6 going to chime in on that so they can be successful at
7 whatever they got their mind set on too.

8 Q So the one with the broken leg that you talked about
9 was Jonathan Archie.

10 A Of course.

11 Q [Indiscernible] jump that fence?

12 A He's over the fence with me. If he's over the fence
13 with me, obviously, it's like, "Bro, we over the fence
14 together." So when it's going downhill, it's like, "Hey,
15 man, y'all -- shit over with." Pardon my language but
16 shit over with. So, yeah, I know it's him over the fence.

17 Q Okay. Well, that's what I have been asking you now
18 repeatedly. So you do know that it was Jonathan Archie
19 over the fence, one of the five with you; correct?

20 A (No audible response.)

21 Q Yes. All right.

22 James Heyward, released right here from 139 and goes
23 into your cell, 144, with Sergeant Harden in there as
24 well. And, again, James Heyward, caught over that fence
25 with you; correct?

1 A Still, again, I was not there. That's -- I wasn't
2 there. I'm telling you, I was not there. Them people
3 probably seen an opportunity and capitalized off of it.
4 I'm telling you.

5 Q So those people saw an opportunity, capitalized on
6 it while you weren't in your cell, and then you ended up
7 over the fence with them? Yes or no: Did you end up over
8 the fence with the two of them?

9 A I tried to go over that fence just like the other 80
10 to 100 people tried to, and I'm one of the ones that was
11 over the fence.

12 Q Thank you, Mr. Cox. Nothing further.

13 MR. CHEHOSKI: Ask the witness be allowed to step
14 down.

15 THE COURT: All right. Mr. Cox, you can return to
16 the table, please.

17 You can call your next witness.

18 MR. CHEHOSKI: Your Honor, the defense rests.

19 THE COURT: Okay. Thank you.

20 All right, ladies and gentlemen of the jury, I'm
21 going to send you back to the jury room. It's still not
22 time to talk about this case. The defense has rested.
23 There is a legal issue I'll need to take up with the
24 lawyers. I'm going to have you back in.

25 I can tell you, I'm bringing in lunch for y'all so

1 we can continue on and go to closings and charging. So
2 I'll have you back in just a few minutes.

3 Remember, Mr. Foreman, no talking about the case in
4 the jury room.

5 (The jury exited the courtroom at 11:20 a.m.)

6 THE COURT: Okay. Please be seated.

7 All right. Anything from the State?

8 MS. MAYES: Your Honor, we may have potential reply.
9 We would request a ten-minute recess.

10 THE COURT: Sure. Ten-minute recess.

11 Anything from the defense?

12 MOTIONS/MATTERS OF LAW

13 MR. CHEHOSKI: Your Honor, we'd renew our motion for
14 directed verdict and the defense's testimony, again,
15 incorporate all motions and objections, including but not
16 limited to our motion to set aside the LWOP, our motion
17 regarding the cell phone and contents of the cell phone,
18 and, again, a motion regarding or the objections regarding
19 the impeachment testimony and that, at this point, that no
20 reasonable juror could find Chavis Cox guilty, and that
21 we're asking for a directed verdict of not guilty.

22 THE COURT: Thank you.

23 As stated previously in my rulings, I'll deny that
24 motion. Thank you.

25 MS. MAYES: Ten minutes, Your Honor?

1 THE COURT: Ten minutes.

2 (A brief recess was taken from 11:21 a.m. to
3 11:35 p.m.)

4 THE COURT: Number one, I'm bringing them lunch so I
5 won't have to let them leave the courthouse. But I wanted
6 to make sure, Mr. Chehoski, that I put on the record your
7 email about the jury charges. I don't believe the State
8 had any objection --

9 MR. CHEHOSKI: Your Honor, in light of what we
10 discussed, obviously, my second concern was simply -- I
11 simply missed [indiscernible] the first page or two ---

12 THE COURT: Right.

13 MR. CHEHOSKI: --- of your jury instructions so
14 that's, obviously, not an objection. That's covered.
15 That was always part of your instructions.

16 Honestly, I -- just -- I don't like the word
17 "criminalize." I think it's maybe a little personal and I
18 was looking for a synonym.

19 THE COURT: And it's hard to do it the way that we
20 have it written because the statute is a criminal statute.
21 You know? And I can't put "forbid," which is what you
22 wanted ---

23 MR. CHEHOSKI: I was just trying to come up with a
24 different word.

25 THE COURT: --- in place of it because it is a

1 criminal statute.

2 MR. CHEHOSKI: Yes.

3 THE COURT: And it's a little bit broader than
4 taking a hostage, is what I was trying to state. I'm
5 going to keep it as it is.

6 MR. CHEHOSKI: All right. Again, I -- obviously,
7 jury instructions, you know, things get -- that's the
8 easiest way to get things overturned, and so I'm just kind
9 of preserving -- again, preserving --

10 THE COURT: Right. Then I'm going to -- hold on
11 just a second.

12 (A discussion was held off the record.)

13 MR. CHEHOSKI: Oh, okay. That is a reasonable
14 answer to my question.

15 THE COURT: Okay. Then, for the record, let me put
16 this on it since you want to preserve it. "I object to
17 the word 'criminalizes' in the instruction for taking
18 hostages charge. I ask that a different word such as
19 'forbids' or 'prescribes' be used in the alternate."

20 I don't know that "forbid" and "prescribes" is a
21 synonym for a criminal statute in the way that the jury
22 charge is written is, I'm stating, in a separate
23 indictment, the defendant is charged with violating a
24 statute called taking hostages by an inmate. Actually,
25 the title of that statute is somewhat misleading because

1 the statute criminalizes more than just hostage taking.
2 The statute provides that it is unlawful for an inmate of
3 a state, county, or city correctional facility, acting
4 alone or in concert with others, to use threats, coercion,
5 intimidation, or physical force to take, hold, decoy, or
6 carry away any person as a hostage or for any other reason
7 whatsoever.

8 What I'm stating is that the statute's title is a
9 little bit broader, not that it forbids. It's just
10 broader. And then I go down and lay out the elements, the
11 first, the second, and the third elements in order to
12 convict on hostage taking.

13 I don't know how else to say that. It's a criminal
14 statute. I do not believe that "forbid" is a word that
15 needs to be used, nor do I believe that "prescribes" is a
16 word that needs to be used.

17 Let me hear from the State.

18 MS. MAYES: Your Honor, we defer completely to the
19 Court on this issue.

20 THE COURT: Okay. All right. So I'm going to go
21 forward with it. Your objection is so noted. I think it
22 just says what the statute is.

23 All right. So if we're ready for closings, I'm
24 going to bring the jury in.

25 MS. MAYES: Judge, I'm sure this has already been

1 addressed, but regarding the original charge, the
2 defendant's right not to testify, that would be removed.
3 And then there would be a charge regarding for purposes of
4 the impeachment.

5 THE COURT: All right. Wait a minute. Right. Did
6 we remove that? Okay. We didn't add impeachment.

7 MS. MAYES: And I believe there is a standard bench
8 book charge in that regard.

9 THE COURT: Hang on. Let me see if we can't find
10 impeachment right quick.

11 MS. MAYES: Impeachment on a prior record.

12 THE COURT: All right. Suzanne and Mr. Chehoski,
13 this is what I got, the prior record of a witness. I have
14 got, "A person who has a past criminal record is competent
15 to testify during a trial. A past record does not affect
16 the ability of that witness to testify. The past record
17 may only be considered by you, if at all, in determining
18 the witness's believability. Remember, you are the sole
19 judges of the facts in the case and the believability of
20 any and all of the witnesses."

21 Is there any objection to that or --

22 MS. MAYES: None from the State, Your Honor.

23 THE COURT: Okay. Let's --

24 MR. CHEHOSKI: Just making sure I --

25 THE COURT: Oh, yeah. We're going to add that to

1 it.

2 MS. MAYES: One moment, Judge.

3 (Pause in the proceedings.)

4 THE COURT: All right. Anything else?

5 MR. CHEHOSKI: One moment, please, Your Honor.

6 THE COURT: Okay. What are we doing?

7 MS. MAYES: Judge, we're discussing the other
8 [indiscernible] with closing arguments. Obviously,
9 [indiscernible] arguments.

10 THE COURT: That's how I always do it. I'm from the
11 old school.

12 MS. MAYES: [Indiscernible] opening and allow him to
13 [indiscernible].

14 THE COURT: Oh, okay. That's nice of you. I'm just
15 from, you know, the old school. That's the way I was
16 taught to do it.

17 What we going to do?

18 MS. MAYES: [Indiscernible], Judge. The State will
19 waive opening and they will close and we'll close ---

20 THE COURT: In full.

21 MS. MAYES: --- [indiscernible]. But we would
22 [indiscernible] last.

23 THE COURT: Okay.

24 MS. MAYES: But then [indiscernible].

25 THE COURT: All right. Well, let's put that on the

1 record.

2 THE COURT: All right. Back on the record. My
3 understanding, the parties have come to an agreement as to
4 closing arguments.

5 MS. MAYES: Yes, Your Honor. Obviously, under the
6 current provisions, the State would be allowed to close
7 twice. We would close in full, the defense would argue,
8 and then, obviously, we would be able to rebut and close
9 again in response to anything raised by the defense, in
10 light of the fact that the defendant has offered testimony
11 in this case. But with that said, by agreement of the
12 parties, the State will be confined to one closing
13 argument; the defense will open, and the State will close
14 in full.

15 THE COURT: In agreement, Mr. Chehoski?

16 MR. CHEHOSKI: Defense is in agreement.

17 THE COURT: Okay. Very well. Done.

18 I'm going to bring the jury in.

19 (The jury entered the courtroom at 11:48 a.m.)

20 THE COURT: All right, Mr. Foreman. Jury ready?

21 JURY FOREMAN: Jury is ready.

22 THE COURT: Please be seated.

23 All right. We're going to move on to closing
24 arguments.

25 Mr. Chehoski?

CLOSING ARGUMENT ON BEHALF OF THE STATE

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1 MS. MAYES: May we approach, Your Honor?

2 THE COURT: You may.

3 BENCH CONFERENCE

4 (A bench conference was held off the record and
5 outside of the hearing of the jury.)

6 THE COURT: Would you like me to put that on the
7 record now or at the end?

8 MS. MAYES: At the end, Your Honor.

9 THE COURT: Okay. Thank you.

10 All right. Ms. Mayes, be happy to hear from you.

11 MS. MAYES: May it please the Court, Your Honor?

12 THE COURT: Yes, ma'am.

13 CLOSING ARGUMENT ON BEHALF OF THE STATE

14 MS. MAYES: Fear. Intimidation. Force. That's
15 what this case comes down to. Tawanna Harden, doing her
16 job back on December 27th right here in McCormick County.

17 And a couple of things I want to talk about in the
18 aspect of the Government. I think you have heard the
19 defense, way back in opening arguments, refer to the State
20 as the Government. The Government. Let's talk about the
21 Government.

22 The Government are those government employees who
23 are out there working on those highways late at night
24 making sure the roads are safe with the construction
25 signs, even working holidays. The Government are those

1 healthcare workers that are on-call 24/7. The Government
2 are those firefighters out there doing the job that not
3 everybody wants to do. And the Government are those
4 prison workers right here in McCormick County. They're
5 doing a job that very few people would want to do, but
6 Tawanna Harden was doing that job, and it's the holidays.

7 And you heard her testimony about how they were
8 short-staffed. It's between Christmas and New Years, the
9 time when so many people are able to take off from their
10 jobs and be home with their families. Tawanna Harden, at
11 6 p.m., was out there on Redemption Way at the McCormick
12 Prison, working her job like she had been doing every day
13 for three years, like she's doing even today as a
14 correctional officer. That's her job. That's her
15 calling. And that's what put her there that night.
16 That's the Government.

17 And you saw that video of what transpired. It is
18 hard to fathom that, in a prison, where they are
19 short-staffed, it's hard to get people to even take that
20 job, do that job; that they're working sometimes in
21 conditions where they're alone. And Tawanna was alone in
22 that entire dorm at 6 p.m. She's got a radio. She's got
23 those keys. She doesn't have a gun. She can't carry a
24 gun because it's a prison. And let's call it what it is;
25 it's a prison. And if she carries a gun, that gun would

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1 be used against her.

2 So instead of just three inmates taking her into a
3 cell and threatening her with a knife, she now would be
4 facing people taking the gun away from her, using it on
5 her, other COs, and possibly other inmates. So even a gun
6 is too dangerous for this prison.

7 So Tawanna already knows this job. She's expected
8 it, and she's doing it. She knows Major Warden. She
9 knows the warden, who, at the time, was Major Stanley
10 Terry. She knows Warden Terry, even if he's at home, he's
11 going to be able to come to her aid when she needs him.
12 And so, in her mind, she's got the courage to do this job
13 and she's doing it. And she's going door to door.

14 Now, inmates are not locked down 24/7, for obvious
15 reasons, whether it's showers, whether it's cafeteria
16 workers, whether it's dorm workers. A lot of that is
17 discretionary, but come 6 p.m. in this dorm, it is time to
18 start reporting to your cells.

19 You heard her testimony that she had gotten called
20 out to the yard by her lieutenant because of an emergency
21 out there. They're short-staffed. She goes out there,
22 and now she's returned and it's 6:08 and she's locking
23 down.

24 So as she's going cell to cell with just that radio,
25 this happens. And she told you exactly who did it:

1 Chavis Cox.

2 There is no mistaken identity in this case no matter
3 how hard the defendant attempted to take this stand and,
4 once again, avoid responsibility. Avoid it just like he
5 was doing when he escaped that night or attempted to the
6 escape that night.

7 She knew full well that it was Chavis Cox. She's
8 been working that floor and that dorm, and he's been in
9 that room for two months. She knows him when she sees
10 him. And she knows him by Money Cal. She knows him as
11 Chavis Cox.

12 Chavis is one of the three who took her in the first
13 place. You heard the warden identify the other two.
14 Jonathan Archie. Jonathan Archie is the one we're going
15 to see with the keys, releasing other inmates, after
16 they're taken off of her person by force. And Stanley
17 Jones. Stanley Jones [indiscernible].

18 She's taken in that cell and it's Chavis Cox, this
19 defendant, who then tells her to take off her clothes. So
20 it's not just about the keys. Yeah, they wanted the keys
21 and that's the reason they took her hostage. They wanted
22 those keys and that was part of the plan, because once
23 they start releasing all those other inmates and you have
24 got 100 people loose and it's a riot and now other COs are
25 being taken hostage in another dorm and in the

1 supervisor's office, that's where all the focus is. And
2 it's not [indiscernible]. So that was always the plan.
3 Release as many people as possible. Cause a riot. Take
4 hostages. That is a true life-and-death emergency
5 situation where SLED has to respond, the SWAT team has to
6 respond, Rapid Response from across the state right out
7 here to McCormick because that is a true emergency
8 situation and lives are in jeopardy.

9 So that's where all the focus is and getting across
10 the fence becomes easy. So this had been planned, as you
11 know, from the defendant's phone going back to Christmas
12 Eve. Again, the holidays. Even when he testified, he
13 told you he knew they were short-staffed and that it was
14 the holidays.

15 So Christmas Eve, he's planning this escape. We
16 know it because we start seeing photographs of maps
17 appearing on his phone. We start seeing instructions
18 about what to do; if the original plan fails, then you go
19 to this hall and you have got another exit.

20 So it's all about the escape, but how do you get to
21 Point B without Point A? So that fence is Point B.
22 That's the escape so they have got to get there. But to
23 accomplish that, there must first be Point A. And that is
24 you take Tawanna Harden, you take her keys, and you start
25 releasing everybody else, and it's chaos and uprising.

1 And in their mind, that would give rise to an easier
2 escape. So that's where we are.

3 Now, let's go to this video where Tawanna herself
4 told you exactly what happened. It's 6:08, 1808 on the
5 video, but that's 6:08 p.m. on the night of December 27th.

6 (Video plays.)

7 Pause, please.

8 Three inmates. Three inmates come out. One appears
9 to be a lookout. The other two, taking her by force. One
10 pulling her in; the other pushing her into the cell.
11 Tawanna told you Chavis Cox was one of those three.

12 And then when she gets inside this cell, there are
13 three people in there, one of them being this defendant,
14 Chavis Cox. She knows him when she sees him, and that's
15 his cell.

16 Continue.

17 (Video continues to play.)

18 Right now, she is in there alone [indiscernible] the
19 knife -- at least one knife that she told you about, and
20 she told you who had that knife: Chavis Cox.

21 They told her to take off her clothes, and when she
22 didn't move quick enough, they take the belt with the keys
23 on it right off her person.

24 Here comes Jonathan Archie, as identified by Warden
25 Terry. He's going right there.

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1 Pause it, please.

2 Warden Terry identifies that person in 139 that he's
3 releasing, James Heyward. James Heyward.

4 Now, why does this matter?

5 Continue.

6 (Video continues to play.)

7 Jonathan Archie goes up the stairs to continue
8 releasing additional inmates. James Heyward goes into
9 144.

10 Pause it.

11 James Heyward, now in that cell with Tawanna Harden.
12 Jonathan Archie has come out. He's gone up the stairs to
13 continue releasing people. Three people in that cell now:
14 Heyward; the defendant, Chavis Cox; and the third being
15 Stanley Jones. Chavis Cox is still in there and he still
16 has the knife and he's still telling Tawanna to take off
17 her clothes.

18 And you heard her say her mind went blank. She
19 says, "Why? I want to get home to my family. I want to
20 get home to my family." That was her only thought. And
21 do not think for a minute that there was any requirement
22 under the law that a correctional officer has to fight
23 back or resist. Tawanna's life was on the line. She had
24 no weapon. She had three inmates who took her in there.
25 It is her job now to stay alive. That is her only job.

1 It's not to fight back. It's not to use her fists; that
2 only makes it worse. Her job is to stay alive, and she
3 did that well.

4 She doesn't want to take her clothes off. She
5 starts by taking her jacket off -- her top jacket.
6 There's a top jacket. She takes that top jacket off,
7 leaving the vest and the lime (ph) jacket and her clothes.

8 And you're later going to see that top jacket in the
9 hands of Stanley Jones and they're going to flee Cell 144.

10 Chavis doesn't want to stay there.

11 Please continue.

12 (Video continues to play.)

13 There is no requirement under the law of any set
14 time for the taking of a hostage. It doesn't matter
15 whether it's six seconds, 60 seconds, but this goes on and
16 on.

17 Now you see Heyward and he goes upstairs. Again,
18 going right back to the cell of Chavis Cox, which is the
19 central location for all of this. That's where it was
20 plotted, that's where it was planned, and that's where it
21 took place.

22 She's still in there and so is he. And he still has
23 that knife.

24 Now, at one point, Tawanna says someone else enters
25 the room and says, "Man, we ain't got time for this. We

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1 got to go. We got to go." So even a fellow inmate wanted
2 no part of Chavis Cox hurting Tawanna Harden further, but
3 it took a fellow inmate telling him, "Man, we got to go."

4 And you're going to see him [indiscernible]. When
5 you see Chavis Cox come out, he's going to have that white
6 trash bag, that white clear trash bag that you have
7 already heard about, that white clear trash bag that's got
8 Money Cal on it that ends up over the fence. And right
9 now, he's still in there with Tawanna Harden.

10 She's wondering right now if she's going to make it
11 out of alive.

12 Heyward comes out. Archie goes back.

13 Pause it.

14 Stanley Jones is identified by Warden Terry with the
15 jacket -- the top jacket belonging to Tawanna Harden.
16 Right there. You see him coming out of Cell 144 with that
17 white bag. This white bag.

18 Continue.

19 (Video continues to play.)

20 Pause it.

21 You heard Major Terry say that he also was familiar
22 with the defendant, Chavis Cox. He knows him by body. He
23 knows him by face. He knows him by manners. It's the
24 same as if you worked with a colleague every single day
25 and you see them every single day and you know what

1 they're like. You know their body type. You know their
2 physical size. You know all of their mannerisms. And if
3 you looked out that courtroom window right now and see one
4 of your co-workers down in the parking lot, you'd have no
5 trouble identifying them because you know them when you
6 see them. You know what they look like. You know how
7 they walk. You know their physical stature.

8 Major Terry told you that is Chavis Cox. But aside
9 from all of that, we know it's Chavis Cox because Sergeant
10 Harden knows him. Sergeant Harden looked him in the eye.
11 Sergeant Harden is closer than two feet from him when he
12 has her up against that wall, when he has that knife, and
13 when she's pleading with him to let her go home. Sergeant
14 Harden knows it's Chavis Cox. She identified him.

15 Play.

16 (Video continues to play.)

17 And, from there, Cox, Archie, and Heyward have all
18 the [indiscernible].

19 Pause.

20 And she saw Archie lock that door, locking her in,
21 as they left. And now she's locked in. They have got her
22 radio. She can't radio for help. It takes the control
23 room finally finding this on the video to call Warden
24 Terry at home and other people. And, by then, there are
25 numerous inmates who have now taken part in the uprising.

1 And, again, all part of a plan, all part of
2 [indiscernible] release everybody because, now, a
3 correctional officer is taken hostage in F-4, just like
4 Sergeant Harden was; her keys were taken and her radio was
5 taken. And then, from there, the supervisor's office.

6 The supervisor's office is also overtaken. Two
7 staff members taken hostage in there: Lieutenant Hall and
8 then a male correctional officer, Aaron Cuey. So there
9 are now four correctional officers taken hostage, a true
10 emergency situation. Harden is confined without a radio.
11 That is the focus and that's what SWAT was coming out
12 there for, to rescue them and to ensure their safety. It
13 is not their focus right now at the fence.

14 So who has made it to the fence? Well, Chavis Cox
15 makes it to the fence. He makes it over the fence. He
16 makes it over the fence but this man right here, Jonathan
17 Archie, the one who has the keys releasing everybody, he
18 makes it over the fence with this man from right here,
19 139, James Heyward. Yet he took the stand and told you
20 that that was all just coincidental. He had no -- he
21 wasn't in Cell 144 and had no idea who they were or what
22 they were doing but they all just coincidentally ended up
23 over the fence together, three of the five people over the
24 fence. That's not credible. That's not credible at all.

25 Over the fence. That white trash bag, it gets

1 caught on the fence. And once the defendant comes over --
2 it's the same white trash bag that he's carrying right
3 there.

4 Same white trash bag we saw him with when he came
5 out of Cell 144, and you heard Tawanna say that's the last
6 thing she saw him do. He picked up some white bag and she
7 didn't know what was in it, but it caught her eye, and he
8 left the cell with that white trash bag.

9 That white trash bag was [indiscernible].

10 We also know over that fence was a radio consistent
11 with the radio of Harden and other COs. We know, amongst
12 the group, there are no [indiscernible] of a planned
13 escape about the difference or distance to Edgefield
14 Police Department, McCormick Police Department,
15 instructions to stay off Bumpon Street, all planned days
16 in advance. This was not some spur-of-the-moment plan
17 that all just kind of came to fruition because they
18 happened to be short-staffed on that night. This had been
19 planned for days. And we know that from the photos on the
20 defendant's phone. And let's talk about those.

21 On that morning, the morning that Sergeant Harden
22 was taken, this photograph. Or make that December 26th
23 into the early morning hours of the 27th [indiscernible]
24 in the past 24-hour period. Sometime in there, this
25 photograph of him already with the Slim Jims, and he's

1 sending that photo to someone, sending that photo to
2 someone to say, "Hey, I'm prepped. I'm ready."

3 We know those Slim Jims were found over the fence.
4 We see him with this type of body shield, again,
5 constructed from items in the cell. Again, this photo,
6 sent to someone from his phone. And that type of
7 information is deleted and can't necessarily be recovered
8 with the software that's used. You can't necessarily get
9 everything deleted from a phone, but it's still got these
10 photos. He had taken these photos to let someone know
11 that he's ready. Here are photos of padding, padding
12 needed to get over the wire.

13 And so someone on the other side, who is not in a
14 prison cell -- and I submit you know that because you can
15 see this is [indiscernible] here. Somebody on the outside
16 is not out there to assist. Again, [indiscernible]
17 unknown. All part of evidence deleted from that phone
18 that can't be recovered. But somebody on the outside, in
19 that same period from December 26th to December 27th, has
20 submitted this photo to him. Multiple first aid kits.
21 Not one because he just happens to have a plan and he's
22 acting alone. Five first aid kits. How many were caught
23 over that fence? Five. Five first aid kits.

24 At least four pairs of cut protection and resistant
25 sleeves. Again, this is a barbed-wire fence and they know

1 it, and they have got a plan for it. Not one pair sent to
2 the defendant and on his phone. At least four pairs plus
3 some type of sleeve.

4 Someone sends him a photo as he's telling them "I'm
5 ready" or getting ready and sending photos of that body
6 shield, the padding, and Slim Jims. Somebody is saying,
7 "Well, we have got bolt cutters." Somebody on the outside
8 is sending photos. Bolt cutters. Bullet-proof vests.
9 One, two, three, four, five, six or more brass knuckles
10 with Tasers. And a bulletproof vest.

11 All right. So that's on his phone. Proof beyond a
12 reasonable doubt that's planning. And, look, planning is
13 not an element of escape. And I'll talk about that
14 momentarily. But the State does not have to prove that
15 there is planning, only that there was an escape or an
16 attempted escape. And, here, he clearly got over the
17 first fence when he got caught. Clear evidence of the
18 attempted escape.

19 But we don't have to prove planning, but it's
20 important because the planning of the escape is what led
21 to the hostage-taking of Tawanna Harden. And that law, as
22 I'll show you momentarily, addresses not just the taking
23 of a hostage under the traditional sense of a hostage, but
24 it's more for any other reason. And there is no doubt
25 here Sergeant Harden is taken for those keys.

1 The law in the State of South Carolina is taking of
2 a hostage by an inmate, South Carolina Code Section
3 24-13-450, the first element for you to consider is that
4 the defendant, Chavis Cox, is an inmate of a state
5 correctional facility. That, ladies and gentlemen, has
6 been proven beyond a reasonable doubt.

7 Another important aspect of the statute, it does not
8 require that Chavis Cox be the sole person. It does not
9 require him to be the mastermind. It does not require him
10 to be the one who has planned the whole thing or is acting
11 alone. This statute covers every person regardless of
12 their role, if they're acting alone or in concert with
13 others.

14 Again, proof beyond a reasonable doubt. Tawanna
15 Harden herself told you beyond a reasonable doubt that she
16 knows this is Chavis Cox. She knows him when he sees him.
17 Chavis took her into that cell with two others. Chavis
18 put her in there. Chavis had the knife. But, again,
19 regardless of his role -- he could have just been standing
20 by the wall, for example. A person who takes part in this
21 but just stands by the wall and he's the lookout, he's
22 just as guilty as the others under the statute. But there
23 is no doubt that he is acting in concert with others in
24 carrying out this event.

25 Three: "By threats, coercion, intimidation, or

1 physical force." You saw that video. Tawanna stood no
2 chance whatsoever. It's one female. They came out as
3 quick as a blink of an eye. It was that quick. And when
4 they came out, she was surrounded. One was the lookout,
5 one was pushing her into the cell, and the other, pulling
6 her in. All three of go in, all three confine her, and
7 her keys are taken. There is a knife and then she's told
8 to take off her clothes.

9 "Takes, holds, decoys, or carries away any person as
10 a hostage or for any other reason." No doubt she was a
11 hostage, those three men, they had her in there, were
12 threatening her to get these keys. And she didn't give
13 them up real easily. They took them off her body. But
14 that's why they took her, for those keys.

15 "Or for any other reason." That is the law. And
16 it's that simple. When you look at it like this, it's not
17 a difficult statute at all. It doesn't require a lot of
18 proof and a lot of elements. It's as simple as he's an
19 inmate in that prison and he, while acting alone or with
20 others, takes her by intimidation or force, and there's no
21 doubt about that. That's on video. And that she's taken
22 for a purpose. And that purpose was those keys.

23 The law on escape, I will submit to you also is
24 quite simple, South Carolina law. The statute is escape
25 or attempting escape. And it's unlawful for a person, who

1 is lawfully confined in a prison -- and here, you have
2 already heard a stipulation that's been presented by
3 agreement of the parties in this case. There is no doubt
4 and it is not in question that the defendant, Chavis Cox,
5 was lawfully confined in that prison.

6 So, next, to escape, attempt to escape, or had
7 possession of any items that may be used to facilitate
8 that escape. Right there. Just attempting the escape
9 alone is proof beyond a reasonable doubt for that statute.
10 And that is not in question in any way. He was over the
11 fence.

12 Going back to what I addressed first, you know, I
13 think a lot of people, even right here in McCormick, can
14 easily take for granted the job that other people do.
15 Sometimes you see them doing their job and you just don't
16 think that much about it. And it's true that we all take
17 that for granted so often.

18 You drive by that prison and you don't really stop
19 and think about what's going on in there. Maybe a lot of
20 times it's easier to not think about what's going on in
21 there and you're not thinking about the mothers and the
22 sisters and the fathers and the brothers that are in there
23 just trying to do their job. And they're not using
24 weapons. They're not trying to intimidate inmates.
25 They're treating inmates with humanity and decency, and

1 that is part of the job, just going door to door, "Hey,
2 it's time to get in your cell."

3 So you take that for granted until you're forced to
4 look at the reality of it, as we are right now. And this
5 is the reality of it, and it was the reality of it for
6 Tawanna. Was her life in jeopardy? Yes, it was. Yes, it
7 was. Like I said, let's call it what it is. She was
8 lucky to get out of there alive.

9 A crime of this nature cannot be tolerated anywhere
10 in society. The taking of COs -- whether male, whether
11 female -- cannot be tolerated anywhere and it cannot be
12 tolerated here in McCormick County. Not here and not in
13 this prison.

14 They're protecting that prison. That prison has to
15 protect the community from escapees. That's their job.
16 And they're doing it and they're doing it the right way.
17 But I submit to you, a crime of this nature cannot be
18 tolerated in this community. The correct verdict is
19 guilty.

20 THE COURT: Thank you, Ms. Mayes.

21 Mr. Chehoski?

22 MR. CHEHOSKI: May it please the Court?

23 THE COURT: Yes, sir.

24 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

25 MR. CHEHOSKI: When I started working on this case

1 and I was coming here, it looked like that Tawanna Harden
2 was just bad at her job. And I'm going to get into that
3 in a little bit, but I want first to highlight -- and I'll
4 get into this -- how many times Tawanna Harden's job
5 description and Warden Terry's job description differed
6 from each other, whether it be from leaving doors
7 unlocked, leaving workers -- leaving non-workers able
8 freely to roam the dorm, to leaving dorms completely
9 unsupervised, how often those two interpretations of their
10 job diverged.

11 One is the warden -- the associate warden of the
12 prison; the other is no longer employed there. While I
13 get they were short-staffed, there was absolutely no
14 excuse for the complete lack of supervision for up to
15 about 200 inmates. It violates -- it goes against every
16 fiber of common sense to work that way.

17 And I'm here to argue on behalf of Chavis Cox to
18 find him not guilty of taking hostages by inmate not only
19 because, you know, Tawanna Harden was bad at her job but
20 because he says he's not even part of this. He planned
21 for escape. He admits to the escape.

22 I mean, I could go on and on about the cell phone
23 that all these pictures were taken care of -- were taken
24 from is in an envelope that says it was collected from
25 Perry Correctional Institution, which is a completely

1 different institution in a completely different county,
2 but that would be [indiscernible].

3 What it really boils down to is Tawanna Harden is
4 bad at her job. But how bad is it? How bad? Here's what
5 we know.

6 SCDC was -- the South Carolina Department of
7 Corrections, they were short-staffed. To the fact that
8 it's unusual but not unheard of that one person would be
9 supervising two wings of the same dorm. But what we also
10 know is that, on the weekends, only inmate workers are
11 allowed outside of their cell. Chavis Cox told you he was
12 not an inmate worker. We know there's an application
13 process to become an inmate worker, and being an inmate
14 worker is a privilege that can be revoked at any time.

15 We know there's documentation within the South
16 Carolina Department of Corrections, the State of South
17 Carolina, the same state represented by the prosecution.
18 And they haven't presented it to you. And I feel like
19 they should. And that -- and if the burden of proof holds
20 anything, hold them to that burden because they could have
21 done that and they didn't.

22 And now we have testimony -- and Chavis Cox was not
23 an inmate worker. We have testimony and confirmation on
24 that video that his cell door was unlocked and that he,
25 among others, can come and go as they pleased.

CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

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1 So we know that there is absolutely no justification
2 for Chavis Cox's door to be unlocked. We know -- and
3 Sergeant Harden said it was not unusual for them to
4 leave -- for her to leave a dorm completely unsupervised.
5 If that's the case, what's the point of having corrections
6 officers, if they're just going to leave their posts? I
7 understand Sergeant Harden may have been put in an
8 impossible place to answer a so-called emergency to
9 leaving a dorm completely [indiscernible]. So she's
10 either going to violate holiday or disobey an order from a
11 corrections officer.

12 But let's not kid ourselves. If Sergeant Harden had
13 just said, "Yes, sir or yes, ma'am, I understand your
14 call. I need to lock down my dorm before I leave because
15 there's nobody else here," do you think she would have
16 been that grace? Do you think she would have been given
17 that opportunity to do her job the way it's supposed to be
18 done?

19 No, she just leaves the dorm completely unattended.
20 That was a choice that she made.

21 Chavis Cox told you that he was not in that cell.
22 You can watch that video. You're not going to be able to
23 identify any faces. It's way too [indiscernible].

24 I mean, I understand that Sergeant Harden and Warden
25 Terry were able to tell you that it was him, but let's

1 think about something, because this came up in
2 cross-examination of Chavis Cox. Chavis Cox had been
3 there for less than two months. In a dorm with over 200
4 people in it for less than two months, the associate
5 warden who was, at the time, the chief of security for the
6 entire prison, which could have -- I mean, we know there's
7 at least two dorms so maybe up to 400 people -- as they're
8 known as F-3 and F-4 -- and maybe there's an F-1 and
9 there's an F-2 -- so we may be up to 800 people, are you
10 going to really be on a first-name basis, you know, know
11 every single person in that short amount of time, in less
12 than two months, to be able to recognize from that far
13 away?

14 And Sergeant Harden blacked out. She told you that
15 she blacked out and couldn't remember a whole lot of other
16 things. She couldn't remember the names of the other two
17 people who may or may not have even been there longer than
18 Chavis. She couldn't tell you their names. So she's also
19 selective in what she can and cannot remember. Is it
20 because she's bad at her job or is it something else?

21 So, I mean, the State could have proved to you that
22 Chavis Cox was an inmate worker, and they didn't. They
23 could have proved to you that, under the principles that
24 we have heard testimony from, that there was no legitimate
25 reason for his cell door to be unlocked. There was no

1 legitimate reason for Stanley Jones or Jonathan Archie,
2 for their doors to be unlocked. Apparently, because
3 Jonathan Archie unlocked the cell door for James Heyward,
4 we know his cell door was locked, so we know it's possible
5 to lock the doors of the other people.

6 If his cell was unlocked, Sergeant Harden says it's
7 because he's an inmate worker. Chavis says he's not.
8 There's documentation but the State hasn't provided it to
9 you.

10 This may seem like inconsequential, but I think it's
11 important. I think it's important to know that there's
12 something not -- something wrong going on here. Somebody
13 is not doing their job well. And, yes, they're
14 short-staffed, but that's not an excuse for not doing
15 their job well.

16 Ms. Gresham told you at the beginning that the State
17 has the burden of proof in this case. The State has to
18 prove you guilty beyond a reasonable doubt. And Ms. Mayes
19 has also told you that that's a burden, whether they
20 [indiscernible] or not, that they are -- they have to
21 carry. The judge is going to give you the law on what
22 that means. You're going to hear phrases like "firmly
23 convinced of the defendant's guilt," "if there's a real
24 possibility, you must -- that this defendant is not
25 guilty, you must find him not guilty."

1 There's a chart that I have of how high that burden
2 is. They don't have show you that maybe he's perhaps
3 guilty, suspected, or probably guilty or even highly
4 probably guilty. If you feel that Chavis Cox is highly
5 probably guilty, you must find him not guilty. That's the
6 oath that you have taken, to follow the law the judge
7 gives you and apply them to the facts that you decide.

8 If you have a real question -- if you think there's
9 a real possibility that that's not Chavis Cox on that
10 video, you must find Chavis Cox not guilty.

11 We also talked for a minute about the power that you
12 have, each one of you. We have talked that you come here
13 with a unique perspective, a unique set of values, a
14 unique set of life's experiences. Each and every one of
15 you brings that with you to the courtroom. Each one of
16 you has a unique voice that you get to speak and you get
17 to have the right to be heard, even if it means
18 disagreeing with your colleagues, with your fellow jurors.
19 Because your vote is as important as theirs. And if you
20 have a real question, if you think there's a real
21 possibility, then you have a duty, under the oath that you
22 took at the beginning of this case, to well and truly try
23 this case, to find Chavis Cox not guilty.

24 In a moment, I'm about to sit down. The judge is
25 going to give you the law, and we hand you Chavis Cox, who

1 is presumed to be innocent. With the words I have given
2 you, with the words that Chavis Cox gave you, with the
3 testimony [indiscernible] question of Sergeant Harden, you
4 have everything you need to do your duty to fulfill your
5 oath and find Chavis Cox not guilty.

6 THE COURT: Thank you, Mr. Chehoski.

7 Ms. Mayes?

8 MS. MAYES: May it please the Court?

9 THE COURT: Yes, ma'am.

10 FINAL CLOSING ARGUMENT ON BEHALF OF THE STATE

11 MS. MAYES: Bad at her job? Really? Really?
12 That's the defense in this case, that the victim is bad at
13 her job? The victim, who was working alone to manage a
14 dorm, Side A and Side B, with over a hundred inmates?

15 That's like blaming the bank manager, who has to
16 close the bank alone on a holiday because somebody comes
17 in and robs the bank. No, that is not the law.

18 That man is responsible for these crimes. That man
19 is solely responsible for what he's charged with.

20 So you want to know what kind of CO Tawanna Harden
21 was? You look at the evidence that's been presented in
22 this case. When she gets locked into that cell after
23 Chavis Cox and Jonathan Archie takes those keys and flee
24 out of there, she told you that inmates came to check on
25 her. That's the reality and the humanity of doing that

1 job.

2 You know, you think about the prison doctors, the
3 prison nurses, what kind of calling is that? It's a
4 calling of humanity. And they came to check on her even
5 though they couldn't get her out. One of them even
6 smuggled a radio to her. One of the radios somewhere
7 taken in this huge uprising, they get that radio to her
8 through that flap. And on that radio, that warden -- that
9 warden says, "I'm coming to get you. You hold on." And
10 she's crying, hysterical, and he calmed her down and said,
11 "I'm coming to get you. I promise you that."

12 Tawanna is not at fault. That man is at fault. He
13 made the decision to carry this out, and he was going to
14 do it regardless. Regardless of her getting called to the
15 yard for an emergency there or not, this was going to
16 happen, and we know it because his phone -- his phone
17 shows the planning. His phone shows he was already
18 getting communication. We have got the gloves. We have
19 got the first aid kits. We have got the bulletproof
20 vests. We have got the brass knuckles with the Tasers.
21 We have got the instructions about what to do when you get
22 to the pole. All of that was prior to her getting called
23 out to the yard. It was going to happen no matter what.
24 This plan was going to get carried out.

25 And, yet, she's still a correctional officer today.

1 That's the humanity of the situation, of that calling.

2 Mr. Chehoski spoke with you about reasonable doubt,
3 and I'm going to speak with you about reasonable doubt
4 briefly. But, ultimately, it is, Your Honor who will
5 charge you on the law, not just the law that we have
6 already discussed on the hostage taking and all the
7 attempted escape but the law includes reasonable doubt.

8 What is reasonable doubt? Well, I'll tell you what
9 it's not. Reasonable doubt is not just some doubt, a
10 maybe doubt. Because the State is not required to prove
11 its case beyond all possible doubt, beyond a shadow of a
12 doubt. That's not the law.

13 The law is that proof beyond a reasonable doubt is
14 proof that leaves you firmly convinced of the defendant's
15 guilt. It's that simple. Firmly convinced.

16 In criminal cases, the law does not require that the
17 State overcome every possible doubt. It requires proof
18 that leaves you firmly convinced.

19 This is not a case that was made off of the video.
20 Sure, the video corroborates the events exactly as law
21 enforcement knew them to be and as Sergeant Harden
22 reported them to be; that she's taken hostage by three
23 inmates. Sure, the video corroborates all of that. But
24 this case against the defendant was not made simply
25 because somebody watches the video and said, "Hmm, well, I

1 believe that's Chavis Cox." No. Tawanna Harden, when she
2 is rescued, as you heard, gives a statement that night.
3 She identified Chavis Cox because she's looking directly
4 at him. She's closer to him than I am to you right now.
5 And he's got a knife, and she's looking him in the face.
6 There is no doubt -- no doubt whatsoever -- that Tawanna
7 Harden knew it was Chavis Cox, that it was Money Cal. No
8 doubt whatsoever. That is proof beyond a reasonable
9 doubt. Thank you.

10 THE COURT: Thank you, Ms. Mayes.

11 All right. Mr. Foreman, ladies and gentlemen of the
12 jury, I'd like to charge you with the law. Does anybody
13 need a break before I start?

14 Okay. I'm going to make sure that the deputies --
15 no one comes in and out of the courtroom while I'm
16 charging the law. Thank you.

17 JURY CHARGE

18 THE COURT: All right. I will now charge you on the
19 law applicable to this case. You must consider the charge
20 as a whole and not focus on some portions to the exclusion
21 of others. The indictments charge the defendant with
22 taking of hostages by inmate and escape or attempted
23 escape. I remind you that the fact the defendant was
24 arrested, charged, and indicted in this case is not
25 evidence in this case and cannot be considered by you as

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1 evidence of guilt in this case nor does it create any
2 presumption or inference of guilt. These documents are
3 simply the formal written instruments which contain the
4 charges made against the defendant. These are the formal
5 documents by which this case is brought into this court.

6 Each indictment charges a separate and distinct
7 offense. You must decide each indictment separately on
8 the evidence and the law applicable to it uninfluenced by
9 your decision as to any other indictment. The defendant
10 may be convicted or acquitted on any or all of the
11 offenses charged. You will be asked to write a separate
12 verdict of guilty or not guilty for each indictment.

13 The following things are not evidence and you must
14 not consider them as evidence in deciding the facts of
15 this case: statements and arguments of the attorneys,
16 questions and objections of the attorneys, and testimony
17 that I instruct you to disregard.

18 I remind you that, during this trial, you and I have
19 certain duties to perform. As the trial judge, it is my
20 responsibility to preside over the trial of this case and
21 I also have the duty to rule on the admissibility of the
22 evidence offered during this trial. You are to consider
23 only the competent evidence before you. If there was any
24 testimony ordered stricken from the record in this case,
25 you must disregard that testimony. I don't believe I

1 struck any testimony in this case.

2 You are to consider only the testimony which has
3 been presented from this witness stand and any exhibits
4 which have been made part of the record in this case and
5 any stipulations of counsel. Now, there was a stipulation
6 of counsel; I'm going to read it to you again: The
7 parties stipulate or agree that, at the time of the
8 alleged offense, December 27th of 2020, Chavis Cox was an
9 inmate lawfully confined at the McCormick Correctional
10 Institute, a State correctional institution.

11 I have the additional duty to charge you the law
12 applicable to this case. As the presiding judge, I am the
13 sole judge of the law of this case and it is your duty as
14 jurors to accept and apply the law as I now state it to
15 you.

16 If you already have an idea as to what the law is or
17 what the law ought to be and it does not agree with what I
18 now tell you the law is, you must abandon this idea
19 because you are sworn to accept the law and apply the law
20 exactly as I state it to you.

21 In every case tried in this court before a jury, the
22 jury becomes the sole and exclusive judge of the facts in
23 a case. A trial judge cannot state, comment on, or make
24 any statement to a trial jury about the facts in a case
25 since you, the jury, are the sole judge of the facts in

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1 the case. You are not to infer from anything that I have
2 said during the progress of this trial in ruling upon the
3 admissibility of the evidence or otherwise or anything
4 that I say now during the course of this instruction to
5 you that I have any opinion about the facts of this case.
6 The law does not allow me to have an opinion about the
7 facts in this case. This is a matter solely for you, the
8 jury, to determine.

9 As jurors, it is your duty to determine the effect,
10 value, and weight of the evidence presented to you during
11 this trial.

12 The defendant has pled not guilty to these
13 indictments, and that plea puts the burden on the State to
14 prove him guilty. A person charged with committing a
15 criminal offense in South Carolina is never required to
16 prove himself innocent. I charge you that it is an
17 important rule of the law that the defendant in a criminal
18 trial, no matter what the seriousness of the charge may
19 be, will always be presumed to be innocent of the crime
20 for which the indictment was issued unless guilt has been
21 proven by evidence satisfying you of that guilt beyond a
22 reasonable doubt.

23 This presumption of innocence does not end when you
24 begin your deliberations but it accompanies the defendant
25 throughout the trial unless you reach a verdict of guilt

1 based on the evidence satisfying you of that guilt beyond
2 a reasonable doubt.

3 The presumption of innocence is like a robe of
4 righteousness placed about the shoulders of the defendant,
5 which remains with him unless it has been stripped from
6 the defendant by evidence satisfying you of the
7 defendant's guilt beyond a reasonable doubt.

8 The presumption of innocence is not a mere legal
9 theory. It is not just a legal phrase. It is a
10 substantial right to which every defendant is entitled to
11 unless you, the jury, are satisfied from the evidence from
12 the defendant's guilt beyond a reasonable doubt.

13 The State has the burden of proving the defendant
14 guilty beyond a reasonable doubt. Some of you may have
15 served as jurors in civil cases where you were told that
16 it is only necessary to prove that a fact is more likely
17 true than not true such as by the greater weight or what
18 we call the preponderance of the evidence.

19 In criminal cases -- and this is a criminal case --
20 the State's proof must be more powerful than that. It
21 must be beyond a reasonable doubt. Proof beyond a
22 reasonable doubt is proof that leaves you firmly convinced
23 of the defendant's guilt. There are very few things in
24 this world that we know with absolute certainty, and in
25 criminal law, the law does not require proof that

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1 overcomes every possible doubt. If, based on your
2 consideration of the evidence, you are firmly convinced
3 that the defendant is guilt of the crime charged, you must
4 find him guilty. If, on the other hand, you think there
5 is a real possibility that the defendant is not guilty,
6 you must give the defendant the benefit of the doubt and
7 find him not guilty.

8 Now, there are two types of evidence which are
9 generally presented during a trial: direct evidence and
10 circumstantial evidence. Direct evidence directly proves
11 the existence of a fact and does not require deduction.
12 Circumstantial evidence is proof of a chain of facts and
13 circumstances indicating the existence of a fact. Crimes
14 may be proven by circumstantial evidence. The law makes
15 no distinction between the weight or value to be given to
16 either direct or circumstantial evidence; however, to the
17 extent the State relies on circumstantial evidence, the
18 circumstances must be consistent with each other and, when
19 taken together, point conclusively to the guilt of the
20 accused beyond a reasonable doubt.

21 If these circumstances merely portray the
22 defendant's behavior as suspicious, the proof has failed.
23 The State has the burden of proving the defendant guilty
24 beyond a reasonable doubt. This burden rests with the
25 State regardless of whether the State relies on direct

1 evidence, circumstantial evidence, or some combination of
2 the two.

3 Criminal intent is a state of mind which operates
4 jointly with an act or omission in the commission of a
5 crime. Criminal intent is a mental state of conscious
6 wrongdoing. Criminal intent includes those consequences
7 which represent the very purpose for which an act is done
8 or are known to be substantially certain to the result
9 regardless of one's desire.

10 Intent may be shown by acts and conduct of the
11 defendant and other circumstances from which you may
12 naturally and reasonably infer intent. Criminal intent
13 must be proven by the State beyond a reasonable doubt.

14 You must also determine the credibility of witnesses
15 who have testified in this case and the evidence
16 presented. Credibility simply means believability. It
17 becomes your duty as jurors to analyze and to evaluate the
18 witnesses and the evidence and determine the credibility
19 of the witnesses and the evidence.

20 In determining the credibility of witnesses who have
21 testified in this case, you may believe one witness over
22 several witnesses or several witnesses over one witness;
23 you may believe a part of the testimony of a witness and
24 reject the remaining part of the testimony of that same
25 witness. You may believe the testimony of a witness in

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1 its entirety or reject the testimony of a witness in its
2 entirety.

3 You may consider whether any witness has exhibited
4 to you any interest, bias, prejudice, or other motive in
5 the case. You may also consider the appearance and manner
6 of a witness while on the witness stand.

7 The Rules of Evidence ordinarily do not permit
8 witnesses to testify to opinions or conclusions. An
9 exception to this rule exists for witnesses we call expert
10 witnesses. And we had, I think, two expert witnesses in
11 this case. An expert witness is a witness who, by
12 education and experience, has become an expert in some
13 art, science, profession, or calling. They may state an
14 opinion as to the relevant and material matter in which
15 the witness claims to be an expert and may also state the
16 reasons for the opinion.

17 You should consider any expert opinion received in
18 evidence in this case and, like any other evidence, give
19 it the weight you think it deserves. If you decide that
20 the opinion of an expert witness is not based on
21 sufficient education and experience or if you conclude
22 that the reasons given in support of an opinion are not
23 sound or that the opinion is outweighed by other evidence,
24 you may disregard the opinion entirely.

25 An expert witness's testimony is to be given no

1 greater weight than that of any other witness simply
2 because the witness is an expert.

3 Further, you are not required to accept an expert's
4 opinion even though it is not contradicted.

5 A person who has a past criminal record is competent
6 to testify during a trial. A past record does not affect
7 the ability of that witness to testify. The past record
8 may only be considered by you, if at all, in determining
9 the witness's believability. Remember, you are the sole
10 judges of the facts in the case and the believability of
11 any and all of the witnesses.

12 The defendant is charged with escape or attempted
13 escape. It is unlawful for a person who is lawfully
14 confined in a prison to escape or attempt to escape from
15 confinement. So to prove the defendant guilty of this
16 offense, the State must prove beyond a reasonable doubt
17 the following things:

18 First, that the defendant was lawfully confined in
19 prison;

20 second, that the defendant willfully intended to
21 escape that confinement. To escape means to willfully
22 fail to remain within the limits of this confinement. To
23 do an act willfully means to do it intentionally, to do
24 with it knowledge, not as the result of a mistake or
25 accident. So the State must prove that the defendant

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1 intended to escape;

2 and, third, the State must prove that the defendant
3 engaged in the attempt to escape. An attempt involves
4 more than mere preparation but does not result in the
5 successful completion of the intended act. An attempt to
6 commit a crime is an offense when an accused makes a
7 substantial but unsuccessful effort to commit a crime.

8 The elements of attempt vary, although generally
9 there must be the intent to commit the escape. There must
10 be an overt act towards the escape that went beyond mere
11 preparation and there must have been an apparent ability
12 to complete the escape if the conditions had allowed it.

13 In a separate indictment, the defendant is charged
14 with violating a statute called taking hostages -- I can't
15 pronounce that word for some reason -- hostages by an
16 inmate. Actually, the title of that statute is somewhat
17 misleading because the statute criminalizes more than just
18 hostage-taking. The statute provides that it is unlawful
19 for an inmate of a state, county, or city correctional
20 facility, acting alone or in concert with others, to use
21 threats, coercion, intimidation, or physical force to
22 take, hold, decoy, or carry away any person as a hostage
23 or any other reason whatsoever.

24 So to prove that the defendant is guilty of this
25 crime, the State must prove beyond a reasonable doubt the

1 following things:

2 First, that the defendant was an inmate in the state
3 correctional facility;

4 second, that he or someone with whom he was acting
5 in concert as an accomplice used threats, coercion,
6 intimidation, or physical force over another person;

7 third, that the purpose of using such threats and
8 coercion, intimidation, or physical force was to take
9 physical control over another person, to hold that person,
10 to decoy that person, or to carry that person away. This
11 may have been to use that person as a hostage though the
12 statute does not necessarily limit it to that purpose.

13 The term "hostage" is not defined in the South
14 Carolina statutes. The term has evolved over the
15 centuries. In modern terms, it generally refers to a
16 person who is seized by a criminal abduction in order to
17 compel another party to act or refrain from acting in a
18 particular way.

19 Even though the statute does not necessarily limit
20 it to making someone a hostage, the law requires that a
21 criminal statute be given -- be given a reasonable
22 construction. So in order for a criminal act to take
23 place, the law would require that the conduct be for an
24 unlawful purpose. The language about the purpose being
25 for any purpose whatsoever must be read as requiring an

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1 unlawful purpose. In other words, the State must prove
2 that the taking, holding, decoying, or carrying away of
3 another person be done against that captured person's will
4 and with a criminal intent. It would require proof that
5 the defendant, as an inmate, acting alone or in concert
6 with another accomplice, acted knowingly and intentionally
7 for an unlawful purpose to take physical control over
8 another person, hold someone against his or her will, or
9 decoy someone for that unlawful purpose.

10 A verdict in this case cannot be based upon
11 sympathy, passion, prejudice, or emotion or some other
12 consideration not found in the evidence.

13 Let me say something about your deliberations.
14 Deliberation is defined as careful consideration weighing
15 up with a view to decision. The genius of our jury system
16 is that it allows 12 good men and women from 12 different
17 backgrounds, life experiences, and perspectives to
18 consider the evidence, talk about it, and ultimately reach
19 a verdict. We call them deliberations for a reason. You
20 are to consider the evidence in this case carefully and
21 deliberately and discuss it in a calm, thorough, and
22 courteous manner. Listen to the views of all your fellow
23 jurors. Consider other people's points and points of view
24 and talk through and discuss the evidence and remember, if
25 you are doing something deliberately, you are not in a big

1 hurry and you should not be in a hurry here. This case is
2 very important to both sides, and this is their only day
3 in court.

4 When you retire to the jury room, you should discuss
5 the case with your fellow jurors to reach an agreement, if
6 you can do so. Your verdict must be unanimous. Each of
7 you must decide the case for yourself but you should do so
8 only after you have impartially considered all the
9 evidence, discussed it fully with the other jurors, and
10 listened to the views of your fellow jurors. Do not be
11 afraid to change your opinion if the discussions persuade
12 you that you should, but do not come to a decision simply
13 because other jurors think it is right.

14 It is important that you attempt to reach a
15 unanimous verdict but of course only if each of you can do
16 so after having made your own decision. Do not change an
17 honest belief about the weight and effect of the evidence
18 simply to reach a verdict. In other words, do not change
19 your opinion solely for the sake of reaching a unanimous
20 verdict.

21 There are two possible verdicts for each charge
22 which you may find in this case. There is no significance
23 whatsoever in the order in which I state these possible
24 verdicts on your verdict form; it is simply that one must
25 be stated first.

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1 Again, your verdict must be a unanimous one as to
2 each charge.

3 Mr. Foreman, when the jury agrees on the verdict,
4 you will initial on the line next to the verdict on the
5 verdict form, sign your name as foreperson, and then
6 inform the bailiff that the jury has reached a verdict.
7 And, at that time, I'll have you back into the courtroom.

8 We'll send back the verdict form; it's
9 self-explanatory. If you have any questions, the bailiffs
10 will supply you with pen and paper.

11 Mr. Foreman, you can write it on the paper and send
12 it -- give it to the bailiff. He will bring it to me, but
13 it must be in writing, signed and dated. Okay?

14 I'm going to let you go back to the jury room. Do
15 not begin deliberations just yet. We need to gather up
16 all of this evidence, and we're going to bring it to you.

17 Do we have an extra computer, if they wanted to play
18 this video? Or do I need to bring them back in?

19 MS. MAYES: Beg the Court's indulgence.

20 May we approach?

21 THE COURT: You may.

22 BENCH CONFERENCE

23 (A bench conference was held off the record and
24 outside of the hearing of the jury.)

25 (Open court resumes as follows:)

1 THE COURT: All right. Mr. Foreman, we're working
2 on a computer to send back to y'all. If, for some reason,
3 the computer doesn't work, write me a note, and then I can
4 have y'all come back in to the -- I'll clear out the
5 courtroom and you can -- y'all can have it to yourself.

6 Also, Mr. Foreman, when y'all are deliberating, all
7 12 jurors must be in the jury room. So if somebody
8 excuses themselves to go to the ladies room or the mens
9 room, deliberations stop until all 12 people.

10 There are no cell phones in the jury room.

11 Where's my bailiff?

12 Ricky, there are no cell phones in the jury room.

13 If you need anything, he'll help you.

14 So, at this time, I'm going to ask you to go back.
15 I do have lunch.

16 My alternates, you cannot stay for deliberations,
17 but until I get the evidence back, you're welcome to go
18 back with the jury. We have you lunch. I'm not going to
19 excuse you. You have to stay. But you can't be in
20 deliberations when they begin. Okay?

21 Do you understand, Mr. Foreman?

22 JURY FOREMAN: Yes.

23 THE COURT: All right. Thank you.

24 (The jury exited the courtroom at 1:08 p.m.)

25 THE COURT: All right. Let me ask, any objections

1 to jury charges from the State?

2 MS. MAYES: Not from the State, Your Honor.

3 THE COURT: Any from the defense?

4 MR. CHEHOSKI: No, Your Honor.

5 THE COURT: Okay. Y'all want to look at the
6 exhibits and get them together that's going to go back?

7 MS. MAYES: Yes, Your Honor. I think that,
8 regarding State's 1 being the phone extraction, I believe
9 it was for identification only. If it was offered, I
10 think the State and the defense agree to withdraw it. It
11 would be the full phone extraction.

12 THE COURT: Let me see what I have got because --
13 what do we have?

14 THE CLERK: I have it for ID.

15 THE COURT: We have it for ID only.

16 MS. MAYES: That is correct, Your Honor. I will put
17 ID on the sticker.

18 THE COURT: Do you have yours completed, Caroline?

19 (Pause in the proceedings to review evidence.)

20 MS. MAYES: Your Honor, and in addition to the life
21 without parole [indiscernible] this week on, the
22 defendant, Chavis Cox, the State also provided, pursuant
23 to discovery, written -- a certified conviction
24 [indiscernible] -- written certified convictions of
25 Mr. Cox for the crime of murder and, again, that was a

1 certified copy because I previously, as discovery and in
2 addition to [indiscernible], provided written notice of
3 the intent to use it for impeachment under 609.

4 THE COURT: Okay. Anything, Mr. Chehoski?

5 MR. CHEHOSKI: No, Your Honor. Again, that was -- I
6 believe that was also [indiscernible] my motion to set
7 aside [indiscernible] he has a qualifying conviction
8 [indiscernible].

9 THE COURT: Right. I believe, in your motion, you
10 conceded to that.

11 Okay. Thank you.

12 (A recess was taken from 1:21 p.m. to 2:23 p.m.
13 while the jury deliberates.)

14 THE COURT: -- in prison.

15 So I'm going to bring them back in and read them
16 "taking of hostages" over again.

17 Want to bring the jury back in, please?

18 THE BAILIFF: Yes, ma'am.

19 THE COURT: Oh, wait a minute before you bring them.
20 I'm sorry.

21 (Pause in the proceedings. The defendant enters the
22 courtroom at 2:27 p.m.)

23 THE COURT: All right. Now you can bring the jury
24 in.

25 (The jury entered the courtroom at 2:27 p.m.)

JURY QUESTION

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1 THE COURT: All right. Mr. Foreman, y'all can be
2 seated.

3 JURY QUESTION

4 THE COURT: All right. Back on the record. Got a
5 note from the jury: Definition of the statute of taking a
6 hostage in prison.

7 I'm going to read you the law again on that. Just
8 that. In a separate indictment, the defendant is charged
9 with violating a statute called taking hostages by an
10 inmate. Actually, the title of that statute is somewhat
11 misleading because the statute criminalizes more than just
12 hostage-taking. The statute provides that it is unlawful
13 for an inmate of a state, county, or city correctional
14 facility, acting alone or in concert with others, to use
15 threats, coercion, intimidation, or physical force to
16 take, hold, decoy, or carry away any person as a hostage
17 or for any other reason whatsoever. So to prove that the
18 defendant is guilty of this crime, the State must prove
19 beyond a reasonable doubt the following things:

20 First, that the defendant was an inmate in a state
21 correctional facility;

22 second, that he or someone with whom he was acting
23 in concert as an accomplice used threats, coercion,
24 intimidation, or physical force over another person;

25 and, third, that the purpose of using such threats,

1 coercion, intimidation, or physical force was to take
2 physical control over another person to hold that person,
3 to decoy that person, or to carry away that person. This
4 may have been to use that person as a hostage though the
5 statute does not necessarily limit it to that purpose.

6 The term "hostage" is not defined in the South
7 Carolina statutes. The term has evolved over the
8 centuries. In modern times, it generally refers to a
9 person who is seized by a criminal abduction in order to
10 compel another party to act or refrain from acting in a
11 particular way. Even though the statute is not
12 necessarily limited to making someone a hostage, the law
13 requires that a criminal statute be given a reasonable
14 construction.

15 So, in order for a criminal act to take place, the
16 law would require that the conduct be for an unlawful
17 purpose. The language about the purpose being for any
18 purpose whatsoever must be read as requiring an unlawful
19 purpose. In other words, the State must prove that the
20 taking, holding, decoying, or carrying away of another
21 person be done against that captured person's will and
22 with a criminal intent. It would require proof that the
23 defendant, as an inmate acting alone or in concert with
24 another accomplice, acted knowingly and intentionally for
25 an unlawful purpose to take physical control over another

JURY QUESTION

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1 person, hold someone against his or her will, or to decoy
2 someone for that unlawful purpose.

3 That is the statute. I'm going to send you back to
4 your jury room.

5 (The jury exited the courtroom at 2:33 p.m.)

6 THE COURT: Okay. And you got the alternates going
7 back downstairs?

8 THE BAILIFF: Yes, ma'am.

9 THE COURT: Okay. Thank you. Okay.

10 MR. CHEHOSKI: Judge, I believe we should have that
11 marked as an exhibit.

12 THE COURT: Yes. No, I will.

13 MR. CHEHOSKI: Thank you.

14 THE COURT: Madam Court Reporter, can you mark that
15 jury's note as a Court's exhibit, please.

16 (Court's Exhibit No. 38, Jury Question/Note, was
17 marked for identification and received into the record.)

18 (A recess was taken from 2:34 p.m. to 2:42 p.m.
19 while the jury continues to deliberate.)

20 THE COURT: All right, Mr. Foreman. They tell me
21 the jury has reached a verdict.

22 JURY FOREMAN: That's correct, Your Honor. We have
23 reached a verdict.

24 THE COURT: Is it unanimous?

25 JURY FOREMAN: It is unanimous.

1 THE COURT: If you would just hand it to the
2 bailiff.

3 I'm going to ask the clerk to publish it. The jury
4 can be seated, please.

5 VERDICT

6 THE CLERK: In the State of South Carolina, County
7 of McCormick, versus Chavis Cox, Indictment No.
8 2022-GS-35-00184, 2022-GS-35-00185, the verdict: Has the
9 State of South Carolina proven beyond a reasonable doubt
10 that Chavis Cox committed the act of taking of hostage by
11 inmate? We, the jury, unanimously find Chavis Cox guilty.

12 No. 2: Has the State of South Carolina proven
13 beyond a reasonable doubt Chavis Cox committed the act of
14 escape or attempted escape? We, the jury, unanimously
15 find Chavis Cox guilty.

16 It's dated May 30, 2024, McCormick County, of
17 Foreperson --

18 THE COURT: No need to mention the name. Signed by
19 the foreperson.

20 THE CLERK: Signed by the foreperson.

21 THE COURT: Thank you.

22 All right. Let me ask, anybody want the jury
23 polled?

24 MR. CHEHOSKI: Defense requests, Your Honor.

25 THE COURT: Madam Clerk, do you want to poll the

VERDICT

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1 jury, please?

2 You don't have the colloquy? "This is your verdict
3 and still your verdict by answering yes"...

4 THE CLERK: If you will please stand.

5 Do you agree with the verdict?

6 (Jurors answer in the affirmative.)

7 THE CLERK: [Indiscernible].

8 THE COURT: Can I see the lawyers just for a second?

9 BENCH CONFERENCE

10 (A bench conference was held off the record and
11 outside of the hearing of the jury.)

12 THE COURT: [Indiscernible] in McCormick is just a
13 little different. I do have the juror numbers and I can
14 do it myself one by one if you would prefer.

15 MS. MAYES: I'll leave that to your discretion.

16 MR. CHEHOSKI: [Indiscernible].

17 THE COURT: I mean, it's up to you. Does that
18 polling suit you?

19 MR. CHEHOSKI: We have always seen it, "Is it your
20 verdict and is it still your verdict."

21 THE COURT: Yeah, by each -- by each juror. Do
22 y'all want me to do that?

23 MR. CHEHOSKI: Yes, please.

24 THE COURT: Okay.

25 (Open court resumes as follows:)

1 MS. MAYES: No objection, Your Honor.

2 THE COURT: Thank you.

3 All right. I'm going to call by juror number.

4 Juror No. 62, is this your verdict and still your
5 verdict?

6 JUROR NO. 62: Yes, it is.

7 THE COURT: Thank you.

8 Juror No. 104, is this your verdict and still your
9 verdict?

10 JUROR NO. 104: Yes.

11 THE COURT: Juror No. 124, is this your verdict and
12 still your verdict?

13 JUROR NO. 124: Yes, Your Honor.

14 THE COURT: Thank you.

15 Juror No. 65, is this your verdict and still your
16 verdict?

17 JUROR NO. 65: Yes.

18 THE COURT: Juror No. 121, is this your verdict and
19 still your verdict?

20 JUROR NO. 121: Yes, Your Honor.

21 THE COURT: Juror No. 53, is this your verdict and
22 still your verdict?

23 JUROR NO. 53: Yes, Your Honor.

24 THE COURT: And Juror No. 154, is this your verdict
25 and still your verdict?

VERDICT

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1 JUROR NO. 154: Yes, Your Honor.

2 THE COURT: Juror No. 153, is this your verdict and
3 still your verdict?

4 JUROR NO. 153: Yes, ma'am.

5 THE COURT: Juror No. 75, is this your verdict and
6 still your verdict?

7 JUROR NO. 75: Yes, ma'am.

8 THE COURT: Juror No. 162, is this your verdict and
9 still your verdict?

10 JUROR NO. 162: Yes, ma'am.

11 THE COURT: Juror No. 145, is this your verdict and
12 still your verdict?

13 JUROR NO. 145: Yes.

14 THE COURT: Thank you.

15 And lastly, Juror No. 172, is this your verdict and
16 still your verdict?

17 JUROR NO. 172: Yes, Your Honor.

18 (Court's Exhibit No. 39, Verdict Form, was marked
19 for identification and received into the record.)

20 THE COURT: All right. Did I get -- I didn't miss
21 anybody, did I?

22 All right. Okay. Let me tell the jury: Thank you.
23 I know it's kind of been -- I have been sending you in and
24 out and I always hate it when I have to do that with a
25 jury, but y'all have been excellent. You have paid

1 attention. You have been patient. I can't thank you
2 enough.

3 I'm going to ask you to go to your jury room, and I
4 will be back to excuse you. Okay? Thank you.

5 Anything else from the State?

6 MS. MAYES: Nothing further from the State, Your
7 Honor.

8 THE COURT: Anything from the defense?

9 MR. CHEHOSKI: Nothing further here, Your Honor.

10 THE COURT: Okay.

11 (The jury exited the courtroom at 2:47 p.m.)

12 THE COURT: And you can let the alternates go back
13 with the jury. I'll come back and excuse them all.

14 All right. Anything from the State?

15 MS. MAYES: Nothing further from the State, Your
16 Honor.

17 THE COURT: The defense?

18 MR. CHEHOSKI: Your Honor, at this time the defense
19 moves for a new trial, incorporating all previous motions
20 and objections, including but not limited to my motion to
21 set aside the lifetime parole statute, objections to cell
22 phone content, and custody of -- and all of the previous
23 objections.

24 THE COURT: Okay. And it's so noted for the record,
25 Mr. Chehoski. Based on my previous rulings on these, I'm

1 going to deny your motion. Thank you.

2 All right. I'm going to go back and excuse the
3 jury. Y'all get ready for sentencing.

4 MR. CHEHOSKI: Yes, Your Honor.

5 THE COURT: Okay?

6 (A recess was taken from 2:47 p.m. to 2:55 p.m.)

7 THE COURT: I got the indictments.

8 MS. MAYES: The red book says when [indiscernible].
9 This one is the [indiscernible]. But I'm not sure. We
10 didn't see in the red book how to address the consecutive
11 [indiscernible].

12 MR. CHEHOSKI: We have a copy of the statute and it
13 does say must be consecutive.

14 THE COURT: The escape must be consecutive. I know
15 escape is always -- I can't ever run it concurrent.

16 MR. CHEHOSKI: That's correct.

17 THE COURT: All right. I'll be happy to hear from
18 the State.

19 I will tell you, Mr. Cox, the taking of hostages by
20 inmate is an LWOP, life without parole. The escape or
21 attempted escape is a consecutive. I must run it
22 consecutive by the law, one year up to 15 years. Do you
23 understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And this taking hostages is a most

1 serious. It's a strike. That's what got you up to the
2 life without parole. You have just -- you have talked
3 with -- all that with your lawyer; right?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Okay.

6 MR. CHEHOSKI: Your Honor, the only thing I would
7 say is on the [indiscernible], I think the escape must be
8 consecutive to any sentence being currently served. So
9 that's -- it [indiscernible] consecutive [indiscernible]
10 to the taking hostages statute [indiscernible].

11 THE COURT: So I could run it consecutive to the 40
12 that he's serving?

13 MR. CHEHOSKI: It must be consecutive to the 40 he's
14 serving.

15 THE COURT: And then concurrent with the life?

16 MS. MAYES: Judge, I don't know the answer to that.

17 THE COURT: I'm not sure I do either.

18 MR. CHEHOSKI: Your Honor, I think the way the
19 statute is written, it says it must be consecutive to any
20 sentence being served. Again, because it's escape from a
21 facility.

22 THE COURT: And that's the sentence that he's
23 serving.

24 MR. CHEHOSKI: That's the way I interpret it.

25 THE COURT: Okay. Be prepared to have that warrant

1 number that he's serving so I can make sure it runs
2 consecutive to that.

3 MR. CHEHOSKI: I'm sorry; I --

4 MS. MAYES: I have that.

5 THE COURT: Okay.

6 MS. MAYES: I have that, Your Honor.

7 THE COURT: Can you tell me what that is?

8 MS. MAYES: Yes, Your Honor. Court's Exhibit 4 is
9 the defendant's certified prior conviction for murder out
10 of Greenville County, County of Greenville, Indictment No.
11 2010-GS-23-2433, and the warrant number that is referenced
12 is Warrant No. J991880. I'm looking at the sentencing
13 sheet. He was sentenced to 40 years. That would have
14 been a day-for-day sentence when imposed.

15 And I think it should be noted by the Court, Your
16 Honor, I'm referring now to the clerk of court file where
17 the State previously served notice of life without parole
18 February 27th, 2024, that being done in this courtroom
19 with both defendant and counsel present; that being that,
20 upon conviction of taking of hostages or taking of hostage
21 by an inmate, pursuant to 17-25-45, it would trigger life
22 without parole due to that prior conviction for murder.

23 As the Court is aware, it is very, very rare that,
24 as prosecutors here in the 11th Circuit, we serve notice
25 of life without parole. It's an extremely rare event. In

1 fact, this may only be the second one that I have been
2 involved in -- second or third one that I have been
3 involved in with over 11 years here in the 11th Judicial
4 Circuit but the facts and circumstances of this case, Your
5 Honor, warranted this.

6 As noted, he is serving this sentence for murder.
7 He has numerous infractions. While an inmate at the South
8 Carolina Department of Corrections, dating back to 2010,
9 inciting or creating a disturbance; 2016, possession of a
10 weapon; 2018, inciting or creating a disturbance; 2018,
11 possession of escape tools or paraphernalia; and then
12 2019, possession of a weapon, all preceding this event.

13 Your Honor, Sergeant Harden was here this morning as
14 well as Warden Terry; they stepped out. So as to leave
15 sentencing to the Court and understanding the life without
16 parole notice that has been served, but one of the things
17 that I spoke with Sergeant Harden about is how lucky she
18 is to be alive.

19 The inmates who were brought into that cell along
20 with the defendant who was serving this murder sentence
21 were James Heyward, who is also serving a life sentence
22 out of Richland County for murder, and Stanley Jones, who
23 was serving, I believe, 70 years on a murder conviction as
24 well.

25 THE COURT: 70 years?

SENTENCING

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1 MS. MAYES: 70, Your Honor.

2 So she was brought into that cell, a weapon is
3 present, and three murder defendants were in there with
4 her, and what was chilling is how she noted that it took
5 another inmate telling Chavis Cox to "let it go, let it
6 go" so that they could get out of there, and she believes
7 that that intervention or that statement is what prompted
8 him to finally leave, but there was a moment in time where
9 she didn't know if she was going to make it out alive.

10 So, with all that said, Your Honor, the notice of
11 life without parole was served in this case.

12 MR. CHEHOSKI: Your Honor, I'll be quick. I'm
13 grateful for the opportunity and the privilege to
14 represent Chavis Cox. He's been an ideal client and I'm
15 grateful for the support and assistance from Ms. Gresham
16 and this Court.

17 THE COURT: Anything else from the State?

18 MS. MAYES: Nothing from the State, Your Honor.

19 THE COURT: Anything else from the defense?

20 Mr. Cox?

21 MR. CHEHOSKI: Nothing, Your Honor.

22 SENTENCING

23 THE COURT: All right. Mr. Cox, if you'd please
24 stand. I'm going to tell you, Mr. Cox, my hands are tied.
25 You were served with a life notice for this charge if you

1 were found guilty of it.

2 So the attempted escape is 15 years. I'm going to
3 run it consecutive to the sentence that you're serving
4 now. I wrote on here 2010-GS-23-2433, which is Warrant
5 No. J991880.

6 And on the taking of hostages by inmate, it's a life
7 sentence. That is a serious price to pay. That is a
8 serious crime. You're lucky -- I don't know if you're
9 lucky or not, Mr. Cox, because, you know, I'd probably say
10 the workers and the guards at the prison were lucky that
11 nothing else happened to them and nobody else was hurt.

12 Good luck to you.

13 Court's adjourned.

14 (The above matter concluded at 3:02 p.m.)
15
16
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24
25

1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Chavis Cox

3 2022-GS-36-00185, et al

4 DATE OF HEARING: May 30, 2024

5 COURT REPORTER/MONITOR: DCRP/Anna Foster

6 *****

7 I, Bobbi Fisher, do hereby certify that the
8 foregoing transcript is a true and correct record of the
9 recorded proceedings; that said proceedings were
10 transcribed to the best of my ability from the audio
11 recording and supporting information, and that I am
12 neither counsel for, related to, nor employed by any of
13 the parties to this case, and I have no interest,
14 financial or otherwise, in its outcome.

15
16 *Bobbi Fisher*17 /s/ Bobbi Fisher

18 Bobbi Fisher, RPR and Certified Transcriber

19 Date Submitted: 9/16/24

20
21 NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT
22 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
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DOCKET NO. 2022GS3500184.A

The State of South Carolina

County of McCormick

**MCCORMICK COUNTY GENERAL
SESSIONS**

FEBRUARY 2024

THE STATE

vs.

Chavis Laranzo Cox

Indictment For

Taking of Hostages by Inmate

SC Code: §24-13-450

CDR Code: 2524

Class A Felony

S.R. Hubbard III, Solicitor

WITNESSES

Amended Indictment-SLED

Law Enforcement Case #: 32-20-0155

LSM

ARREST WARRANT NUMBER

2022A3510100205

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date: FEB 22 2024

INDICT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MCCORMICK)
)))

INDICTMENT FOR
 2022GS3500184.A
 Taking of Hostages by Inmate
 §24-13-450

At a McCormick County General Sessions, convened on February 2024, the Grand Jurors of McCormick County present upon their oath:

Taking of Hostages by Inmate

That in McCormick County, South Carolina, on or about December 27, 2020, the Defendant, Chavis Laranzo Cox, did willfully and unlawfully, as an inmate of a state correctional facility (McCormick Correctional Institute), whether acting alone or in concert with others, did by threats, coercion, intimidation, or physical force take, hold, decoy, or carry away a person as a hostage, or for any other reason, to wit: SCDC Sergeant Tawanna Harden, all in violation of Section 24-13-450, et al. of the Codes of Law of South Carolina, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Deputy Solicitor

WITNESSES
Amended Indictment-SLED

Law Enforcement Case #: 32-20-0155

LSM
ARREST WARRANT NUMBER
2022A3510100206

ACTION OF GRAND JURY
Forrest S. Hubbard

Foreperson of Grand Jury
Date:

VERDICT
Guilty

Foreperson of Petit Jury
Date: FEB 2 2 2024
INDICT

DOCKET NO. 2022GS3500185.A

The State of South Carolina
County of McCormick

MCCORMICK COUNTY GENERAL
SESSIONS
FEBRUARY 2024

THE STATE
vs.
Chavis Laranzo Cox

Indictment For
Escape or Attempted Escape

SC Code: §24-13-410(A)

CDR Code: 2527

Class D Felony

S.R. Hubbard III, Solicitor

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MCCORMICK)
)))

INDICTMENT FOR
 2022GS3500185.A
 Escape or Attempted Escape
 §24-13-410(A)

At a McCormick County General Sessions, convened on February 2024, the Grand Jurors of McCormick County present upon their oath:

Prisoner Escape, Attempt, or Possession of Escape Tools

That in McCormick County, South Carolina, on or about December 27, 2020, the Defendant, Chavis Laranzo Cox, did willfully and unlawfully, as a person who was lawfully confined in a prison (McCormick Correctional Institute) or while in the custody of an officer or another employee, did escape, attempt to escape or have in his possession tools, weapons, or other items that may be used to facilitate an escape, all in violation of Section 24-13-410(A), et al. of the Codes of Law of South Carolina, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 Deputy Solicitor

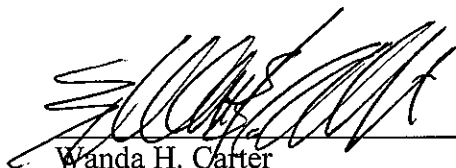
Feb 03 2025

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of February, 2025.

RECEIVED

Feb 03 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from McCormick County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

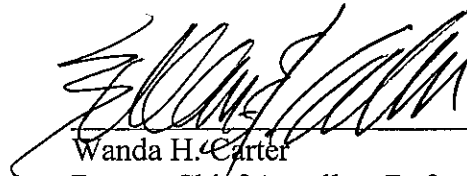
V.

CHAVIS LARANZO COX,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), and on Chavis Laranzo Cox at Perry Correctional Institution, 430 Oaklawn Road, Pelzer, SC, 29669, this 3rd day of February, 2025.



Wanda H. Carter
Deputy Chief Appellate Defender