

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Feb 11 2025

SC Court of Appeals

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALONZA D. MARABLE,

APPELLANT

APPELLATE CASE NO. 2023-000988

RECORD ON APPEAL

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MELODY J. BROWN
Senior Assistant Deputy Attorney General

PO Box 11549
Columbia, SC 29211
(803) 734-6305

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

101 Meeting Street, Ste. 400
Charleston, SC 29401
(843) 958-1900

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	
	)	GENERAL SESSIONS COURT
COUNTY OF CHARLESTON	)	2023-GS-10-01991
	)	2023-GS-10-01994
	)	2023-GS-10-01995
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ALONZA DONTA MARABLE, JR.,	)	
DEFENDANT.	)	
	)	

June 12-15, 2023
Charleston, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE.

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

DANIEL COOPER, ESQ.
KELLY BARBER, ESQ.
Attorney for the Plaintiff

CHAD SHELTON, ESQ.
Attorney for the Defendant

Proceedings Recorded by DCRP
Transcribed by Penny M. Johnson

I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Plaintiff's Exhibits)		
1	Photograph	10	179
2	Photograph	10	120
3	Photograph	10	219
4	Photograph	10	488
5	Photograph	10	138
6	Photograph	10	155
7	Photograph	10	155
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30	Photograph	10	156
31	Photograph	10	
32	Photograph	10	21
33	Photograph	10	
34	Photograph	10	160
35	Photograph	10	152
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41	Photograph	10	153
42	Photograph	10	153
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	(Plaintiff's Exhibits)		
44	Photograph	10	278
45	Photograph	10	278
46	Photograph	10	278
47	Photograph	10	278
48	Photograph	10	278
49	Photograph	10	278
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61	Photograph	10	411
62	Photograph	10	249
63	Photograph	10	412
64	Photograph	10	412
65	Photograph	10	412
66	Photograph	10	412
67	Photograph	10	412
68	Photograph	10	266
69	Photograph-Black and White	10	
69A	Photograph	10	297
70	Photograph-Black and White	10	
70A	Photograph	10	297
71	Photograph	10	267
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77	Photograph	10	267
78	Photograph	10	
79	Photograph	10	274
80	Photograph	10	274
81	Photograph	10	476
82	Photograph	10	
83	Photograph	10	476
84	Photograph	10	
85	Photograph	10	276

EXHIBITS - CONT'D

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
(Plaintiff's Exhibits)			
86	Photograph	10	
87	Photograph	10	276
88	Photograph	10	21
89	CD - Interview of Antwan Johnson	10	
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1 find them from the testimony of the witnesses and any other
2 evidence that may be introduced. After doing that, you will
3 render your verdict under the solemn oath that you have
4 taken as jurors in this case.

5 Until I advise you to begin your deliberations, you
6 must not discuss this case with anyone. That includes among
7 yourselves, friends, family members or anyone involved in
8 the case. After the case is submitted to you, you must
9 discuss it only in the jury room with your fellow jurors.

10 The attorneys and the parties and witnesses have been
11 advised that they are not to speak with you at all, so if
12 you should see anyone involved in the case in the garage,
13 the elevator or even our local restaurant during lunch and
14 they don't speak with you, please, don't think they're being
15 rude or untoward, they're simply following the Court's
16 instructions. Again, we would not want an innocent
17 conversation to be observed and misinterpreted.

18 During the trial, you're not to read, listen to or
19 watch any news reports about this case. That includes
20 anything that may be in the newspaper, on the internet,
21 radio or television. You're not to do any independent
22 research of any type on the internet, radio or television.
23 And you must not consider anything you may have heard or
24 read about this case outside the courtroom, whether before
25 or during the course of the trial.

1 It is essential that you maintain and keep an open mind
2 and not decide any issue in this case until you have heard
3 all of the evidence, the parties have made their closing
4 arguments and I've instructed you on the law. It is your
5 solemn responsibility to determine whether the State has met
6 their burden of proof and our verdict must be based solely
7 on the evidence as it is presented to you in this trial and
8 on the law as I will instruct during and at the close of the
9 trial.

10 In just a moment, the solicitor will make what is
11 called an opening statement in which they will explain to
12 you what they perceive the issues to be in this case. In
13 other words, what they believe the evidence will show in
14 this case. The attorney for the Defendant may, also, make
15 an opening statement, although he is not required to do so.
16 What the attorneys tell you during their opening statements
17 is not evidence in this case. It is only their contention
18 as to what they believe the evidence will show.

19 The evidence in this case will be presented to you by
20 the testimony of sworn witnesses from the witness stand and
21 by exhibits that may be introduced into evidence.

22 From time to time during the trial, you will hear the
23 attorneys say, Your Honor, I object. Just as in sports,
24 business or any other structured activity, there are certain
25 rules that we must obey in the presentation of evidence.

1 Reid.

2 It was on that day that the Defendant and the
3 codefendant created this plan for revenge. They created a
4 plan for revenge after the Defendant learned from the
5 codefendant that he was robbed earlier that day by LR [REDACTED]

6 [REDACTED]

7 After orchestrating his plan, the Defendant got into a
8 vehicle and went and picked up the codefendant. After
9 picking the codefendant up, the two were on the hunt. They
10 drove through Charleston County hunting for LR [REDACTED]
11 until, finally, they ended up at [REDACTED] Street. [REDACTED]
12 [REDACTED] Street was where the victim lived with his family.

13 And after getting there and noticing that the victim
14 was not present, they continued their hunt. They repeatedly
15 drove around the Ferndale Mobile Home Park where the victim
16 lived in search for him. And when they found him, they
17 noticed that he was walking with attempted murder victim,
18 Jamaul Simmons.

19 After finding both these victims, the Defendant drove
20 back to [REDACTED] Street, drove to the victim's home,
21 pulled in his driveway and waited. He sat and waited for
22 the perfect opportunity to seek revenge. And when that
23 opportunity presented itself, he and the codefendant got out
24 of their vehicle, pointed their weapons in the direction of
25 both victims and fired several shots.

1 Now, after firing these shots, both the codefendant and
2 the Defendant got back into their vehicle and fled the
3 scene. They fled the scene leaving an entire community in a
4 fit of panic. They fled the scene leaving attempted murder
5 victim, Jamaul Simmons, in fear after he just fled for his
6 life. They left assault victim, Martin Jimenez, in a state
7 of confusion and injury after he had been woken up by a
8 bullet that traveled through his trailer and grazed the top
9 of his head. And they left LR [REDACTED] They left LR [REDACTED]
10 [REDACTED] lifeless body laying in the yard in front of his
11 mother's home.

12 And members of the jury, as Judge Jefferson stated to
13 you, we have the burden of proof in today's case. We have
14 to prove to you beyond a reasonable doubt that the Defendant
15 is guilty of three separate charges.

16 We have to show you that he's guilty of assault and
17 battery of a high and aggravated nature. And what that
18 requires is that we show that his actions led to the great
19 bodily injury of Martin Jimenez.

20 We must, also, show that the Defendant is guilty of
21 attempted murder. In doing so, we have to show you that the
22 Defendant intended to kill Jamaul Simmons with malice
23 aforethought, but failed to do so.

24 And, lastly, in this case, we have to prove murder. We
25 have to show the Defendant intended to kill LR [REDACTED] and

1 that he did so with malice aforethought.

2 Now, as this trial progresses, you will learn that it
3 was a bullet of the codefendant that killed the murder
4 victim in this case, but in the State of South Carolina, the
5 hand of one is the hand of all. And what that simply means
6 is if there were two parties acting in concert to achieve an
7 illegal act, both parties must be held responsible if they
8 accomplish that goal.

9 In proving our case today, we will call several
10 witnesses to the stand. We will call lay witnesses from the
11 Ferndale community. We will, also, call the police officers
12 who investigated this case. We will call medical personnel
13 who will explain to you how LR [REDACTED] died.

14 This is a very complicated case, members of the jury.
15 It is a case that is very serious. Some of our witnesses
16 don't particularly want to be here this week, but we will
17 call those witnesses to the stand in an act to provide the
18 entire picture for you of everything that occurred on that
19 night. And at the end of this trial, we will come back
20 before you and we will ask that you find the Defendant
21 guilty of all counts.

22 Thank you.

23 THE COURT: Mr. Shelton.

24 MR. SHELTON: Thank you, Your Honor. May it please the
25 Court?

1 THE COURT: Yes, sir.

2 OPENING STATEMENT BY MR. SHELTON:

3 MR. SHELTON: Antwan, Antwan, Antwan, that's who this
4 case is about. It's not about Alonza. This case is about
5 Antwan.

6 Antwan, he's already been found guilty of murder of
7 LR He's been found guilty. Antwan, he was the one
8 that was robbed by LR hours before this incident.
9 Antwan, he's the one that wanted to get back at LR
10 Antwan is the one that knew LR since sixth grade, not
11 Alonza. Antwan is the one that knew Pierre, his friend,
12 since third grade, not Alonza. Antwan knew Jamaul Simmons.

13 You'll hear Jamaul called Antwan after this incident.
14 You'll hear Antwan called Jamaul before the incident after
15 he was robbed by LR Antwan's family members will come
16 up here and tell you about what happened. Antwan admits to
17 shooting the 40 caliber gun. Antwan's house has assault
18 rifles. Antwan, Antwan, Antwan, that's what the case is
19 about. Antwan, also, you'll hear minimizes his involvement.
20 You'll hear his contradictions.

21 You'll hear from Pierre Nelson. Pierre hung out with
22 Antwan all day. You'll hear that he knew that he was robbed
23 by LR You'll hear that Pierre was in the car when
24 LR was being shot at and killed. You'll hear that from
25 Pierre, but Pierre wasn't charged. You'll hear that Pierre

1 was there when Antwan got dropped off after the shooting and
2 he cleaned up, but Pierre wasn't charged. You'll hear that
3 Pierre and Antwan had the chance to meet after the incident.
4 You'll hear over the next couple of days before they talked
5 to the police, they were meeting. Not Alonza. Pierre and
6 Antwan.

7 There's no question that Antwan shot and killed
8 LR [REDACTED] no question. So the State is bringing charges
9 against Alonza, as the assistant solicitor indicated, based
10 off the hand of one, hand of all. And I want to read that
11 law. The Judge will give you the law later on, but,
12 specifically, I want you to focus, the State has to prove
13 that there's a common plan and purpose by two or more and
14 that the person commits an act in furtherance of that common
15 plan and purpose. It's not enough that a person is present
16 on scene or even has knowledge. It's not enough. They have
17 to prove more.

18 The State's case is, also, based off of circumstantial
19 evidence. There's indications of a blue car, Antwan's car
20 -- or Alonza's car, Alonza's sister's car, but there's no
21 license plate on any of the videos. They're basing it off
22 circumstantial evidence. A dark car that's very similar
23 that it was Alonza, that's what they're basing it off of.

24 You're going to hear that they found an illegally
25 purchased assault rifle in Alonza's home. You're going to

1 hear that. You're, also, going to hear that SLED could not
2 say that the shell casings found on the scene were shot by
3 that assault rifle. That's, also, what you're going to
4 hear. You're not going to hear that there's fingerprints.
5 You're not going to hear that there's DNA on any of those
6 shell casings found on the scene. Circumstantial evidence.

7 I intend to show you that the State's case rest on an
8 admitted murderer, an admitted murderer's friends and an
9 admitted murderer's family. That's what their case rest on.
10 That's not enough. That's not enough to overcome the huge
11 burden. It's beyond a reasonable doubt. It's not maybe it
12 happened, maybe more likely it happened. No, it's beyond a
13 reasonable doubt. It's a huge burden that they have to
14 overcome.

15 The State can't do it. That's what I intend to show
16 you. And you'll find Alonza not guilty.

17 THE COURT: Call your first witness.

18 MR. COOPER: Thank you, Your Honor. May it please the
19 Court?

20 THE COURT: Yes, sir.

21 MR. COOPER: The State calls Tonia Mallette.

22 TONIA MALLETTE,

23 after being duly sworn, testified as follows:

24 THE CLERK: Please have a seat. State your full name
25 for the record, spelling your last name, please.

1 THE WITNESS: Tonia Mallette, M-A-L-L-E-T-T-E.

2 THE COURT: You may proceed.

3 MR. COOPER: Thank you, Judge.

4 THE COURT: You're welcome.

5 DIRECT EXAMINATION

6 BY MR. COOPER:

7 Q Good afternoon, Ms. Mallette.

8 A Good afternoon.

9 Q Will you tell this jury where you're currently
10 employed?

11 A Charleston County 911 Center.

12 Q How long have you been there?

13 A 32 years.

14 Q What is your current role at the 911 Center?

15 A It's an analyst.

16 Q Will you describe for the jury what your role
17 encompasses?

18 A My role encompasses, I serve as records custodian. I
19 hand all FOIAs, [REDACTED] of Information Act requests, all
20 subpoenas. I, also, handle internal and external
21 complaints.

22 Q And what exactly does the 911 Center do?

23 A The 911 Center acts as a catalyst for incoming
24 telephone calls, emergency and nonemergency calls throughout
25 the tri-county area as well as dispatch officers of several

1 municipalities that we service.

2 Q Would you describe for the jury what happens when
3 someone calls 911?

4 A Sure. When someone calls 911, the call is answered by
5 a call taker. That information is inputted into a CAD
6 system or computer system and that information is relayed to
7 the officers on the road, officers as well as firemen, as
8 well as EMS.

9 Q And every time someone calls 911, does that generate a
10 CAD report or a CAD entry?

11 A Yes, it does.

12 Q And what is meant by CAD?

13 A It's an acronym for Computer-Aided Dispatch. It's our
14 computer system that houses information that a caller
15 provides when they call 911.

16 Q And what all information is encompassed in a CAD
17 report?

18 A The CAD report will give the time the call actually
19 came in, the date of the call, the caller's information as
20 far as the name, their telephone number, most situations,
21 where they're calling from, where the incident is located,
22 officers' information, information between the officers and
23 the dispatchers.

24 Q Describe for the jury if you would what happens when
25 multiple calls, either from a similar location or appear to

1 be a similar incident come in, what happens then?

2 A When there's multiple calls received, basically, about
3 the same incident, the computer system will -- there will be
4 a prompt which says the address is the same or similar in
5 the type of call, problem that there is. It will say do you
6 want to connect these incidents together? This is a
7 combination of human as well as computer input, system
8 input.

9 Q Now, in this case, were you able to determine how many
10 911 calls were called in related to this incident?

11 A Yes, I was.

12 Q And how were you able to do that?

13 A I reviewed each CAD report through our CAD system.

14 Q And how many 911 calls were there?

15 A There were twelve 911 calls.

16 Q And would you describe for the jury what those calls
17 were regarding?

18 A Sure. Nine of the calls reported gunshots heard, two
19 of the calls reported a victim or victims and one call was
20 about a disturbance, chaos resulting from the incident, the
21 shooting incident.

22 Q And were these calls all focused around a certain
23 location or certain address?

24 A Yes, they were.

25 Q What was that?

1 A It was [REDACTED] Street.

2 Q Is that in North Charleston?

3 A That is in the City of North Charleston, yes.

4 Q In Charleston County?

5 A Yes, it is.

6 Q And then as part of your role, you mentioned being a
7 records custodian, you can attest to the authenticity of
8 documents your office creates?

9 A Yes, I can.

10 Q Such as CAD reports?

11 A Yes.

12 Q If I were to show you a copy of the CAD report from
13 this case, would you recognize it?

14 A Yes, I would.

15 MR. COOPER: Your Honor, if I may approach the witness?

16 THE COURT: You may.

17 BY MR. COOPER:

18 Q Ms. Mallette, I want to show you what's been marked for
19 ID purposes only State's 146. It's kind of small print, but
20 do you recognize it?

21 A Yes, I do.

22 Q And what is it?

23 A It's a CAD report that I processed in accordance with
24 the subpoena I received.

25 Q And you recognize that because you've seen it in your

1 role as records custodian?

2 A Yes.

3 Q Does it appear to be an exact copy, other than maybe a
4 duplicate of one you've seen in your office?

5 A Yes.

6 Q Will you tell us what time that first 911 call came in?

7 A It says 2318, 11:18 p.m.

8 Q 11:18 p.m. Does it give seconds, too?

9 A 20 seconds. 23:18:20.

10 Q And as you said, that's 11:18:20 p.m.?

11 A Yes.

12 Q What was the name of the 911 caller for this call?

13 A Ericia.

14 Q And the address again that it was referencing as far as
15 the incident?

16 A [REDACTED] Street.

17 Q Okay. And what was the phone number it was called
18 from?

19 A (843) 904-4472.

20 Q And I think you mentioned included in that CAD report,
21 is there, also, times that officers were sent off to arrive
22 at the scene?

23 A Yes, there is.

24 Q Will you tell the jury what time the first officer was
25 dispatched or assigned to the case?

1 A First officer was assigned at 23:19:03.

2 Q And that would be 11:19 p.m.?

3 A Yes, it would.

4 Q What time did the first unit arrive on scene?

5 A 23:21:05.

6 Q And if my math is correct, that's about three minutes
7 after the first call came in?

8 A About two minutes, two or three minutes, yes.

9 Q And then you mentioned that 12 total calls came in.
10 Are you able to tell us the times that those calls came in?

11 A Yes. Do you need the time each call came in?

12 Q If you have it, yes, ma'am.

13 A So the first call was 23:18, as we stated. The second
14 call was 23:21:31, 23:22:05, 23:22:29, 23:22:30, 23:22:35,
15 23:22:44, 23:25:51, 23:26:21, 23:26:25, 23:26:46, 23:27:09.
16 How many is that? I've lost count.

17 Q I think that should be all of them. And just to
18 summarize, if I've got my math correct, all the calls came
19 in less than ten minutes after the first call?

20 A Yes.

21 Q And the vast majority of them were within a minute or
22 two or three minutes after the first call?

23 A That is correct.

24 Q And, again, can you give us that breakdown of what each
25 call was for or how you grouped them together?

1 A So there was nine calls relating to gunshots heard in
2 the area, there was two calls relating to victims and there
3 was one call about a disturbance within that area.

4 Q And then, finally, as records custodian, you, also,
5 deal with the actual 911 calls; is that correct?

6 A Yes, I do.

7 Q And you would be able to recognize a call, a 911 call
8 that came to the Center if you were to hear it; is that
9 correct?

10 A Yes, I would.

11 Q I'm going to show you what's been marked for ID
12 purposes only as State's 97. Do you recognize this?

13 A I do recognize it.

14 Q And what is that?

15 A That's a 911 call of the incident that occurred on
16 April 18th.

17 Q And is that from the Erica individual of which you just
18 read information from the CAD report?

19 A That is correct.

20 Q And how do you know that?

21 A I've listened and my initials are on the CD as well.

22 Q And is that an accurate copy of the call that came in
23 that night to 911?

24 A Yes, it is.

25 MR. COOPER: Beg the Court's indulgence one second.

1 (Pause.)

2 MR. COOPER: Ms. Mallette, I have no further questions
3 for you. Thank you for your time. If you'll answer
4 anything the Defense may have for you.

5 THE WITNESS: Sure.

6 THE COURT: You may proceed.

7 Are you seeking to admit 97 or are you waiving?

8 MR. COOPER: I'm going to admit through the next
9 witness, Judge.

10 THE COURT: Okay. And what about 98.

11 MR. COOPER: 98 is going to be -- 98, no, ma'am.

12 THE COURT: ID only?

13 MR. COOPER: Yes, ma'am.

14 THE COURT: Thank you.

15 You may proceed.

16 MR. SHELTON: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 CROSS-EXAMINATION

19 BY MR. SHELTON:

20 Q Ms. Mallette, are you, also, a 911 operator?

21 A I am not. I am not.

22 Q Okay. But you studied these detailed reports as far as
23 like what the basis for the calls were?

24 A Correct, yes.

25 Q Sometimes these calls can be all over the place as far

1 as descriptions, correct?

2 A Correct.

3 Q So gunshots, somebody give a number of gunshots, like,
4 nine or somebody gives ten, just different descriptions,
5 correct?

6 A Correct.

7 Q Some would be, like, nine millimeter. They're trying
8 as best as possible to help out, correct?

9 A Correct.

10 Q In this incident, there were just multiple different
11 types of descriptions, correct, of the gunshots?

12 A Correct.

13 MR. SHELTON: No further questions.

14 THE COURT: Any redirect?

15 MR. COOPER: Briefly, Judge.

16 (Pause.)

17 MR. COOPER: Actually, I have no further questions for
18 this witness.

19 Thank you, Ms. Mallatte.

20 THE COURT: Any objection to the witness being excused
21 from the State?

22 MR. COOPER: From the stand, but not from the subpoena,
23 yes, ma'am.

24 THE COURT: Ma'am, you're excused subject to being
25 recalled.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness.

3 MS. BARBER: The State calls Erica McKelvey, however,
4 we have a matter of law to take up prior to this witness
5 taking the stand.

6 THE COURT: Madam Forelady and ladies and gentlemen, I
7 have a brief matter of law to take up with counsel. During
8 the break, please, do not discuss the case and, please,
9 leave your notepads in your seats. We appreciate your
10 patience.

11 (WHEREUPON, the jury exits the courtroom at 2:42 p.m.)

12 THE COURT: What is the nature of the matter we need to
13 take up?

14 MS. BARBER: Yes, Your Honor. This is the matter that
15 I brought up earlier before the jury came in and it relates
16 to the next witness's criminal history.

17 She currently has a charge in 2003 where she pled to
18 giving false information to an officer. That charge is 20
19 years old at this point, Your Honor, and the statute does
20 state that after ten years, it will not come in subject to
21 Your Honor's discretion of allowing that information to be
22 let in. So I would object to Mr. Shelton going into any
23 detail regarding that charge.

24 THE COURT: False information in 2003. What was the
25 punishment?

1 MS. BARBER: Your Honor, it appears to be a fine that
2 she had to pay.

3 THE COURT: Of how much?

4 MS. BARBER: \$1,025.

5 THE COURT: And that was in the magistrate's court?

6 MS. BARBER: Yes, ma'am.

7 THE COURT: Mr. Shelton.

8 MR. SHELTON: Yes, Your Honor. It's a crime of
9 dishonesty --

10 THE COURT: But there are two parts to the rule.
11 609(a)(2) says that evidence that any witness has been
12 convicted of a crime shall be admitted if it involved
13 dishonesty or false statement regardless of punishment.
14 However, we have to look at 609(b), which says evidence of a
15 conviction under this rule is not admissible if a period of
16 more than ten years have elapsed since the date of the
17 conviction or the release of the witness from the
18 confinement of that conviction, whichever is the later date,
19 unless the Court determines in the interest of justice that
20 the probative value of the conviction supported by specific
21 facts and circumstances substantially outweighs its
22 prejudicial effect.

23 And you, also, are required to give them notice of your
24 intent to use it. Did you do that?

25 MR. SHELTON: Your Honor, I didn't know about it until

1 right before --

2 THE COURT: How did you not know about it until just
3 before?

4 MR. SHELTON: The State just provided it to me.

5 THE COURT: You didn't make any effort to look up the
6 criminal history of the proposed witnesses?

7 MR. SHELTON: Your Honor, they have that ability. I
8 don't have that ability.

9 THE COURT: You do have that ability through SLED, you
10 just have to send -- you have to pay for it, but you do have
11 that ability.

12 MR. SHELTON: And I have to know their date of birth,
13 their social security number and other pertinent
14 information.

15 THE COURT: When did you all provide Mr. Shelton with
16 the information that she was convicted of a crime involving
17 dishonesty?

18 MS. BARBER: Your Honor, we provided that information
19 as soon as we learned that she had a conviction of
20 dishonesty and that was maybe one minute before it was
21 provided to Mr. Shelton.

22 THE COURT: Which was?

23 MS. BARBER: Today.

24 MR. SHELTON: And I did request all background
25 information from the State for their witnesses and SLED

1 checks for any witnesses, Your Honor.

2 THE COURT: And you're supposed to give them advanced
3 written notice of the attempt to use such evidence to
4 provide the adverse party with a fair opportunity to contest
5 the use of the evidence.

6 And as you know, there's a presumption against remote
7 convictions and you bear the burden of establishing facts
8 and circumstances sufficient to substantially overcome that
9 presumption. So for what purpose would you be seeking to
10 use a 20-year-old conviction in magistrate's court?

11 MR. SHELTON: Yes, Your Honor. It's a conviction for
12 giving false information to law enforcement. It's a crime
13 of dishonesty. Specifically, here, the witness is giving
14 statements to law enforcement. So I think the probative
15 value is outweighed by any prejudicial effect. They could
16 get into the remoteness, the fact that it happened 20 years
17 ago, but I just think that the fact that there is that
18 conviction is a basis for impeachment in this instance.

19 THE COURT: The case law has articulated there's a
20 reason they've limited it to ten years because there's,
21 likewise, a presumption against its admissibility because of
22 remoteness. What argument do you have to overcome that
23 presumption?

24 How old was she when this happened?

25 MS. BARBER: Beg the Court's indulgence.

1 (Pause.)

2 MS. BARBER: Your Honor, she was 25 at the time of the
3 incident.

4 THE COURT: What exactly is the scope of her testimony?
5 What is she going to be testifying to?

6 MS. BARBER: Your Honor, we're calling Ms. McKelvey to
7 the stand to simply state that she did make a 911 call that
8 night, that she heard gunshots and at the moment that she
9 heard those gunshots, she, also, heard a car that was
10 leaving the vicinity in a fast pace and she did observe a
11 vehicle that matches the description of the vehicle that the
12 Defendant was alleged to have been driving that night. She
13 will, also, describe the crime scene, what she saw.

14 THE COURT: Which was?

15 MS. BARBER: The state of chaos that the community was
16 in after these gunshots were fired and seeing a dead body,
17 that she recalls officers being on scene, that she, also,
18 recalls seeing the victim's mom on scene at the same time
19 and that she -- she will, also, state, Your Honor, that she
20 is the cousin of the victim, the deceased victim, and that
21 she lived in the neighborhood at the time that the incident
22 occurred.

23 THE COURT: What exceptional circumstances are you
24 propounding to the Court exist, Mr. Shelton? Because the
25 case law is very clear. It says the line has to be drawn

1 somewhere and to take it beyond that timeline initiates of
2 having a deadline in the rules to emphasis the importance of
3 an old conviction and that a person's credibility is
4 diminished to the point that he should no longer -- the
5 genesis of the rules ten-year provision was the belief that
6 after ten years the probative value of the conviction with
7 respect to a person's credibility is diminished to the point
8 where it should no longer be admissible. So there is an
9 exception, but that exception has to rise to the level of
10 being an exceptional circumstance. And that's Supreme Court
11 2012.

12 MR. SHELTON: Yes, Your Honor. My basis is the fact
13 that this is, also, information given to law enforcement and
14 she is providing statements through 911 to law enforcement,
15 so I think the probative of that conviction outweighs any
16 prejudicial effect of the timeframe of that conviction.

17 I don't feel like there's any -- I just stand on that
18 argument, Your Honor, that the probative value is that she
19 has been charged and convicted of giving false information
20 to law enforcement and she is providing statements to law
21 enforcement. I think that conviction should be allowed to
22 impeach.

23 THE COURT: The other part of the rule, however,
24 requires that you give written notice to the State. Did you
25 comply with that?

1 MR. SHELTON: Judge, I had no opportunity. I requested
2 the background checks of all the witnesses. I was told that
3 SLED background checks could not be provided as that is not,
4 I guess, something that SLED allows the prosecution to
5 provide to the defense. So I was told that I was going to
6 be given a list of all the convictions. I was never given
7 that. I was told of this conviction right prior to us
8 starting this afternoon, Judge.

9 THE COURT: But did you comply with the rule, which is
10 to give written notice of your intent to use it? I don't
11 think the rule -- the rule doesn't say that if they give it
12 to you late, you don't have to give written notice.

13 MR. SHELTON: Well, Your Honor, I would say that is a
14 violation of Brady and Rule 5 for them not providing that
15 information to me.

16 THE COURT: They're only required to give it to you as
17 soon as they receive it.

18 MR. SHELTON: And they did and then I objected to it
19 right when they did provide it to me.

20 THE COURT: But the rule still requires you to give
21 them written notice that you plan to use it. It doesn't say
22 a particular time, it simply says, Evidence of a conviction
23 more than ten years old as calculated herein is not
24 admissible unless the proponent gives the adverse party
25 sufficient advance written notice of intent to use such

1 evidence to provide the adverse party with a fair
2 opportunity to contest the use of such evidence.

3 And when you say fair opportunity, when you say
4 sufficient notice, advance written notice, that sounds
5 discretionary, but it does not relieve the requirement of
6 written notice of intent to use it.

7 MR. SHELTON: Judge, one, I think it's a Constitutional
8 issue that they did not provide that in discovery. And when
9 they did provide it, now, it's a public policy issue that
10 all the State has to do is nine days prior is provide me,
11 provide any defense attorney a conviction that's over ten
12 years old --

13 THE COURT: You're saying they got it nine days --

14 MR. SHELTON: Well, it's a public policy argument that
15 that's all they would have to do because if that rule
16 supercedes any Constitutional --

17 THE COURT: The rules are reduced to statutes and then
18 the legislature in its divine providence has decided its
19 appropriate. I don't see the issue. I don't think it's a
20 public policy issue. The rules are very clear. When did
21 you actually receive notice of her record?

22 MR. SHELTON: Right before we started this afternoon.

23 THE COURT: So what time was that?

24 MS. BARBER: It was -- we started around 1:20, 1:25.

25 THE COURT: So you all gave it to him at 1:20?

1 MS. BARBER: Between 1:20 and 1:25, so, yes.

2 THE COURT: And why didn't you give it to him sooner
3 when he asked for it?

4 MS. BARBER: Well, that's when I received the
5 information, Your Honor. And as soon as we received it --

6 THE COURT: Why didn't you receive it before then?

7 MR. COOPER: Your Honor, I think, generally, with lay
8 witnesses that don't have pending charges and things like
9 that, we, generally, run the rap sheets Monday morning of
10 court and provide that information. We didn't get it done
11 this morning. We got it done this afternoon. As soon as we
12 were aware, we made Mr. Shelton aware.

13 Certainly, the State -- Mr. Shelton, he may not have
14 given written notice, but he gave notice once we gave him
15 the conviction. I imagined that he was going to want to use
16 this. The State isn't objecting under that ground. He
17 notified us as soon as he was aware of it. But SLED does
18 not let us e-mail rap sheets, so we, generally --

19 THE COURT: He says that's not what happened. He says
20 that you all told him you were going to provide him with a
21 list with each person's record.

22 MR. COOPER: Provide him a list providing him with a
23 conviction. Once we were made aware that this witness had a
24 prior conviction, I immediately made him aware. I didn't
25 put it in a list because there was only one, but I did

1 immediately make him aware of that conviction. And his
2 response very quickly was that he was planning to use that,
3 which I think is the notice that he was required to give me.

4 THE COURT: Well, no, it isn't. The rules require
5 written notice, but I understand you're not raising that
6 issue.

7 MR. COOPER: Yes, ma'am.

8 THE COURT: The rule clearly requires written notice.

9 What gives me a little consternation is that you would
10 wait until Monday morning in any trial to run somebody's rap
11 sheet. That's -- it would seem to me that you would want to
12 know before then. And I've tried a lot of cases in this
13 courthouse, in particular, and I've never had an instance
14 where you've waited until Monday morning to run a person's
15 background.

16 MR. COOPER: And, Judge, this was a witness that we
17 developed as we led up to trial. I do think -- and we could
18 have run it then and probably in hindsight should have run
19 it then, but we run them on Monday morning because, God
20 forbid, somebody has something that pops up recently. So,
21 generally, we do run them the morning of. And if there is a
22 more recent witness, it is probably the first time we've
23 done that.

24 In hindsight, I should have done it last week, but,
25 nonetheless, we ran it this morning. As soon as we were

1 aware, we made the Defense aware. And then the Defense very
2 quickly made us aware of their not surprising intent to use
3 that conviction in trial.

4 THE COURT: What is your argument in counter to Mr.
5 Shelton's that its probative value is outweighed by any
6 prejudicial effect to you?

7 MS. BARBER: Well, Your Honor, 609(2)(b) states that it
8 has to substantially outweigh the prejudicial effect. And
9 given that this charge happened not only over ten years ago,
10 but 20 years ago, I don't think that Mr. Shelton has laid
11 any foundation or stated a claim as to why the probative
12 value of him using her record would substantially outweigh
13 the prejudicial effect that it would have on her testimony.

14 THE COURT: Our Supreme Court relying on certain
15 federal interpretation has indicated that the starting point
16 in the analysis is the degree to which the prior conviction
17 or convictions have probative value, meaning the tendency to
18 prove the issue at hand, the witness's propensity for
19 truthfulness or credibility. The tendency to impact
20 credibility, in turn, determines the impeachment value of
21 the prior conviction. Impeachment value refers to how
22 strongly the nature of the conviction bears on the veracity
23 or credibility of the witness.

24 Under the rule, the pivotal issue of the probative
25 value of a conviction turns largely on a consideration of

1 the nature of the conviction itself. This follows because
2 the purpose of impeachment is not to show that the witness
3 who takes the stand is a bad person, but, rather, to show
4 background facts which bear directly on whether jurors ought
5 to believe him. Accordingly, in general, it is a conviction
6 which bears on whether jurors ought to believe the witness
7 or party that qualifies for impeachment purposes.

8 Citing Rule 609(b) State vs. Black in federal
9 procedure, lawyers edition 33(a). A conviction of more than
10 ten years old is presumptively inadmissible. The trial
11 court may allow the conviction into evidence only after
12 deciding the probative value of the evidence substantially
13 outweighs the prejudicial effect and articulating for the
14 record the specific facts and circumstances supporting its
15 decision.

16 I'm trying to figure out what are those specific facts
17 and circumstances, Mr. Shelton, that the Court would be
18 basing a ruling on. Because there's a presumption against
19 admissibility of her remote prior conviction.

20 MR. SHELTON: Unless the probative value is more --

21 THE COURT: But I can't just say probative value. The
22 Supreme Court says I have to have specific facts upon which
23 to base that and I have to make specific findings of fact
24 and conclusions of law as to how its probative value
25 outweighs any prejudice.

1 MR. SHELTON: Your Honor, I think -- using another
2 example. If this testimony was not given to police
3 officers, then I think I would agree that this conviction is
4 -- does not have probative value that would outweigh any
5 prejudicial effect, Judge. However, there are specific --
6 this is statements, 911 call given to police officers. She
7 is, also, charged with giving false information to police
8 officers. So for that reason, I believe it substantially
9 outweighs any prejudicial effect.

10 THE COURT: What are the circumstances of the false --

11 MS. BARBER: Yes, Your Honor.

12 THE COURT: -- statement?

13 MS. BARBER: Yes, ma'am. In that circumstance, Ms.
14 McKelvey was pulled over by officers at a traffic stop, at
15 which point, she gave them a false name. She was the
16 passenger of that vehicle at the time.

17 THE COURT: She was the passenger, not the driver?

18 MS. BARBER: Correct, yes, ma'am.

19 THE COURT: I have to look at worst case scenario and
20 in light of that, I think it inures to the benefit of the
21 State to allow them to ask about it. Frankly, I would
22 suggest you bring it up in your direct examination of the
23 witness, but that's up to you.

24 False information to law enforcement does bear on the
25 propensity of truthfulness of the witness. While it is

1 remote and while it is a magistrate level offense, the
2 previous provision of the rule provides that statements --
3 false statements come in regardless of punishment, which
4 would include magistrate level offenses.

5 I am concerned about the remote nature of the
6 conviction because, presumptively, it is inadmissible and I,
7 again, point to the language from the Supreme Court that
8 says at some point, it's presumptive that it's so remote
9 that it shouldn't be admitted and violates, basically, the
10 purpose and intent of the rule for impeachment purposes.
11 But a lot of the case law really is written for the benefit
12 of a defendant, not testifying witnesses, at least, the case
13 law that I've been able in this short time period during
14 lunch to identify. I haven't been able to identify any
15 cases dealing with witnesses who are testifying with remote
16 convictions. Most of them deal with defendants with remote
17 convictions.

18 Since credibility of a witness is always important, I'm
19 going to allow the admissibility of the remote conviction,
20 finding that it is more probative than prejudicial on the
21 witness's truthfulness, but I think you all have a great
22 opportunity and can rehabilitate your witness. I think it
23 just eliminates an issue later.

24 MS. BARBER: Thank you, Judge.

25 THE COURT: You're welcome.

1 MS. BARBER: In recognition of your decision, may I
2 have two minutes to confer with that witness?

3 THE COURT: Sure.

4 MS. BARBER: Thank you.

5 THE COURT: You're welcome.

6 (Pause.)

7 MR. COOPER: Judge, I had spoken to Ms. McKelvey about
8 the conviction initially and relayed those facts to Ms.
9 Barber. I misunderstood Ms. McKelvey. It was a traffic
10 stop where she was a passenger. The driver was her friend.
11 The driver gave a fake name. Ms. McKelvey gave the correct
12 name of the driver. Those two -- they were giving two
13 different names. They still charged her with false
14 information even though she did not provide false
15 information. If that makes sense.

16 THE COURT: So why didn't she contest it?

17 MR. COOPER: It was at a TIA guilty bench trial in
18 magistrate's court, Judge. I don't know, but if you want,
19 we can put her up in-camera if we need to, but she didn't
20 give false information.

21 THE COURT: But here's the provision in the rules.

22 MR. COOPER: Ma'am?

23 THE COURT: Here's the provision in the rules. The
24 conviction is the conviction. You don't get to explain it.
25 You don't even get to go into the underlying facts of the

1 conviction. I asked you about it. But, like, it being a
2 TIA and all that, you don't get to ask her all that.

3 MR. COOPER: I'm making Your Honor aware in regards to
4 a ruling that she, actually, did not --

5 THE COURT: But I'm bound by what the charge is. I
6 asked those questions just because I was curious, but that's
7 not what's dispositive. You know, if you don't show up for
8 your trial, that's on you. The law helps the diligent and
9 the vigilant, and if you don't show up and you get convicted
10 and it's a TIA and you don't challenge it, because you've
11 got 30 days to challenge it, and you pay the fine --

12 MR. COOPER: They returned the money to her.

13 THE COURT: They refunded her money to her?

14 MR. COOPER: Yes, ma'am.

15 THE COURT: Under what conditions? Did they remove the
16 conviction? Was she supposed to get it expunged? What
17 happened?

18 MR. COOPER: I have no idea.

19 THE COURT: So why would they have refunded her money
20 to her?

21 MR. COOPER: I, also, have no idea.

22 THE COURT: Did they dismiss the charge?

23 MR. COOPER: Again, Judge, I have no idea. The reason
24 I brought that up is we can ask her --

25 THE COURT: Maybe you need to call your next witness

1 and figure that out over the recess and figure out exactly
2 what happened before we go any further. Because time is a
3 precious --

4 MR. COOPER: Judge, my issue is going to be she did not
5 give a false statement.

6 THE COURT: I don't know that. I wasn't there. You
7 need to pull her record again and find out if it's still on
8 there. Maybe you need to contact the magistrate and find
9 out why they sent her her money back. I don't know. I need
10 -- I think there needs to be clarity.

11 MR. COOPER: We'll just call the witness and ask her to
12 explain that and we'll handle that in front of the jury.

13 THE COURT: You only get to ask her if she had a
14 conviction and what it was and how long ago it was. You
15 don't get to ask -- you don't get to go into the details of
16 a conviction.

17 MR. COOPER: I think if it's my own witness, I can go
18 into and explain -- I think she has a right to explain that
19 charge and what happened in that case.

20 THE COURT: I think the case law says you don't. I'll
21 look it up in just a minute, but I think the case law says
22 you get to ask what the conviction was and that's it.

23 MR. COOPER: I think he would in impeaching her. I
24 think on my witness, I think I can bring it up on the front
25 end and ask her about it. I think --

1 THE COURT: Oh, I think you can ask her about it on the
2 front end, I just don't think you get to go into the details
3 of it.

4 MR. COOPER: Can we have a moment to look that up?
5 Because I respectfully disagree.

6 THE COURT: I'm going to look that up right now, but
7 I'm pretty sure that's what the case law says. You don't
8 get to explain your convictions with you're impeaching
9 somebody -- well, you'd be bringing it up on direct.

10 (Pause.)

11 THE COURT: Can we go ahead and you can ask that for
12 the last questions you ask of the witness so we can get
13 going?

14 MR. COOPER: It's Ms. Barber's witness. I would just
15 ask the Court just one more moment for us to see.

16 THE COURT: My law clerk is researching that, so I'll
17 have an answer before you get to that question. And if we
18 need to send the jury out, I'll do that.

19 MS. BARBER: That's fine, Judge. Thank you.

20 THE COURT: You're welcome.

21 Are we ready to bring the jury back in?

22 MS. BARBER: Yes, ma'am.

23 THE COURT: Is the witness present in the courtroom?

24 MS. BARBER: She is not. She's right outside.

25 THE COURT: You need to get her so we're not waiting.

1 Go ahead and get the jury for me.

2 (WHEREUPON, the jury enters the courtroom at 3:14 p.m.)

3 THE BAILIFF: All jurors present, Your Honor.

4 THE COURT: You may be seated.

5 Ladies and gentlemen, we appreciate your patience.

6 The State may call its next witness.

7 MS. BARBER: The State calls Ericia McKelvey.

8 THE COURT: The witness would be sworn, please.

9 ERICIA MCKELVEY,

10 after being duly sworn, testified as follows:

11 THE CLERK: Please have a seat for me. If you will
12 state your full name for the record, spelling your last
13 name.

14 THE WITNESS: Ericia McKelvey, M-C-K-E-L-V-E-Y.

15 THE COURT: Ma'am, if you could spell your first name
16 as well because people spell Erica different ways.

17 THE WITNESS: E-R-I-C-I-A.

18 THE COURT: Thank you, ma'am.

19 You may proceed.

20 MS. BARBER: Thank you, Judge.

21 THE COURT: You're welcome.

22 DIRECT EXAMINATION

23 BY MS. BARBER:

24 Q Ms. McKelvey, can you please tell the jury how old you
25 are?

1 A 45.

2 Q And where do you currently live?

3 A Hollywood, South Carolina.

4 Q Where were you born and raised?

5 A Hollywood, South Carolina.

6 Q Can you tell the jury what you do for a living?

7 A I'm a preschool teacher.

8 Q Do you recall where you were living back in April of
9 2020?

10 A Yes.

11 Q And where was that?

12 A Ferndale.

13 Q And is that in North Charleston?

14 A Yes.

15 Q Focusing your attention to April 18th of 2020, do you
16 remember that night?

17 A Yes.

18 Q And why do you remember that night?

19 A It was the night my cousin, L.J., got murdered.

20 Q And Ms. McKelvey, where were you at that time
21 specifically?

22 A In my home with my three children.

23 Q How did you learn that L.J. was murdered?

24 A I heard gunshots and I called 911. After I called 911,
25 I went outside and there was a bunch of commotion,

1 screaming, yelling. And I walked out to check and see where
2 my daughter was and I saw a body lying in the field. And as
3 I walked towards it, I saw that it was him.

4 Q About how many gunshots do you recall hearing?

5 A Eight to nine.

6 MS. BARBER: Your Honor, may I approach the witness?

7 THE COURT: You may.

8 Q Ms. McKelvey, I'm showing you what's been marked as
9 State's Exhibit 97. Do you recognize that?

10 A Yes.

11 Q And how do you recognize it?

12 A It's my 911 call that I made that I listened to.

13 THE COURT: You said State's 97?

14 MS. BARBER: Yes, ma'am.

15 Your Honor, do we have permission to publish Exhibit 97
16 in front of the jury?

17 THE COURT: Any objection?

18 MR. SHELTON: No objection.

19 THE COURT: Are you moving to admit the document or do
20 you not plan to admit it?

21 MR. SHELTON: No objection to admission.

22 THE COURT: Marked and admitted without objection.

23 You may proceed.

24 MS. BARBER: Thank you, Judge.

25 THE COURT: You're welcome.

1 (WHEREUPON, State's Exhibit No. 97 was admitted into
2 evidence.)

3 (WHEREUPON, 911 call was published for the jury.)

4 BY MS. BARBER:

5 Q Ms. McKelvey, was that you on that phone call?

6 A Yes.

7 Q And during that call, you stated that no one was in
8 danger. Had you been outside at any point after the
9 gunshots at that moment?

10 A No, not at that moment. It was after I hung up, I went
11 outside, after I finished my call.

12 Q And, earlier, you mentioned that you learned it was
13 your cousin because you saw him lying on the ground. Was
14 that before or after this call?

15 A That was after.

16 Q Ms. McKelvey, showing you now what has been marked as
17 Exhibit 2.

18 MS. BARBER: Your Honor, may I approach?

19 THE COURT: You may.

20 BY MS. BARBER:

21 Q Ms. McKelvey, do you recognize that area?

22 A Yes.

23 Q And how do you recognize it?

24 A It's where I was living at the time in Ferndale.

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

1 to admit Exhibit 2 into evidence and publish to the jury.

2 THE COURT: Any objection?

3 MR. SHELTON: No objection.

4 THE COURT: Marked and admitted without objection
5 State's 2.

6 (WHEREUPON, State's Exhibit No. 2 was admitted into
7 evidence.)

8 BY MS. BARBER:

9 Q Ms. McKelvey, on that monitor, can you show the jury
10 where you were living at the time of this incident?

11 A Yes.

12 Q And that's a touch screen, so you should be able to
13 circle it.

14 A Okay.

15 Q Will you, also, show the jury where you saw the body
16 that night?

17 A (Witness complies.)

18 MS. BARBER: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 (Pause.)

21 MS. BARBER: Your Honor, may we approach?

22 THE COURT: Uh-huh.

23 (WHEREUPON, a bench conference was held in the presence
24 of the jury, but outside the hearing of the jury.)

25 THE COURT: Madam Forelady, ladies and gentlemen, I

1 have a very brief matter of law to take up. During the
2 break, please, do not discuss the case and, please, leave
3 your notepads in your seats.

4 You can, actually, just have them stand right out in
5 the hallway.

6 (WHEREUPON, the jury exits the courtroom at 3:24 p.m.)

7 THE COURT: What's the question you want to ask the
8 witness? You need to ask her the question, I'm creating a
9 proffer.

10 MS. BARBER: Ma'am?

11 THE COURT: I said you need to ask her the question,
12 I'm creating a proffer.

13 MS. BARBER: Yes, ma'am. Should the Court allow her --

14 THE COURT: I need you to ask her the exact question
15 you're going to ask her.

16 PROFFER

17 BY MS. BARBER:

18 Q Ms. McKelvey, have you ever been convicted of a crime?

19 A Yes.

20 Q And what was that?

21 A False info to police.

22 Q And when was that conviction made?

23 A 20 years ago, 2000 -- I was 25 at the time. I'm 45
24 now.

25 Q And what led to that conviction?

1 A It was a traffic stop of someone I was riding with.
2 Her license was suspended. I didn't know it was suspended,
3 so when officers pulled her over and asked for her license,
4 she said she didn't have it, so she gave a false name. But
5 then they came and got me from the vehicle and asked me, you
6 know, what her name was and I gave them her name that I
7 thought it was. So they charged me with false info. I had
8 \$1,025 fine that later got returned to me because she did
9 tell the truth and tell them that she gave the false name
10 and I didn't know that she was using a false name.

11 MS. BARBER: Thank you, Ms. McKelvey.

12 THE COURT: Any exception to the line of questioning
13 from the Defense?

14 MR. SHELTON: That last part, Your Honor, the
15 explanation --

16 THE COURT: I need to know what the basis of that
17 information is and it should be showing on her rap sheet,
18 her NCIC, if that's the case because they would have vacated
19 the conviction.

20 MR. COOPER: Judge, I have no idea.

21 THE COURT: Or was it her responsibility to get it
22 expunged and she failed to? Because once the charges are
23 dropped, you have to get it expunged.

24 MR. COOPER: I have a rap sheet with that conviction on
25 there and that's why I made the Defense aware. I could look

1 into it. It's not something I can do presently. But if
2 Your Honor is going to let it in, I think the witness has a
3 right to defend herself. I'll try to find case law that
4 allows it. There is no case law that disallows it.

5 THE COURT: There is no case law. The only case law on
6 point is State vs. Allen, which is cited in other cases,
7 which talks -- it only talks about when defendant is
8 testifying and the State is cross-examining the witnesses,
9 but it has usually been a black letter precedent that all
10 trial courts have relied, which is that the State may
11 inquire only so far as to bring out the nature of the
12 conviction or activity and may not go into details. That's
13 always been my understanding of the rule, no matter who's
14 calling the witness.

15 The point is they have a conviction, you don't get to
16 go into the details of the conviction. Because the
17 conviction is what it is. Now, if they vacated her
18 conviction or they dismissed it, it would have been
19 incumbent on her to do an expungement. It is not my
20 understanding that the State does an expungement. That's
21 the prudence in doing this earlier because then you could
22 have researched it and you could have gone to the
23 magistrate's court and you could have asked them whether
24 they dismissed it or not.

25 MR. COOPER: And I understand that, Judge, but, again

1 --

2 THE COURT: In which case, it's a dismissed charge.
3 Has anybody made any effort to figure that out?

4 MR. COOPER: Made any effort to see if the charge has
5 been dismissed?

6 THE COURT: Uh-huh.

7 MR. COOPER: I haven't had a chance to do that, Judge,
8 since we've been in the courtroom, but I would say --

9 THE COURT: I'm talking about when you first found out
10 she had a conviction, did no one make any attempt to talk to
11 her about it, find out all the details and to end up where
12 we are right now so more information could have been
13 obtained? It may well be a nonissue if it was dismissed.

14 MR. COOPER: We did, Judge. The information that she
15 offered to the Court is information she offered to us. I
16 think that's the extent of what she's aware of.

17 THE COURT: I can't rely on what she says. We have
18 court records that are public records that we should be able
19 to look into that have veracity and let us know exactly what
20 happened. I can't rely on someone's 20-year-old memory.

21 MR. COOPER: What would you like me to do, Your Honor?

22 THE COURT: I think you need to find out what happened
23 to her conviction while Mr. Shelton does his
24 cross-examination. And then depending on what happens, I'll
25 let you go into on redirect.

1 And Mr. Shelton, you're not to go into her conviction
2 because I'm eclipsing their ability to go into it until I
3 can find out exactly what happened. Because I don't have
4 enough information to make an informed decision.

5 MR. SHELTON: Your Honor, I don't know that I would
6 have any questions other than that conviction.

7 THE COURT: Somebody needs to call the clerk and find
8 out what happened.

9 MR. COOPER: My investigator is on that right now,
10 Judge.

11 THE COURT: Ma'am, what magistrate's court were you in,
12 do you recall?

13 THE WITNESS: It was in West Ashley, off of Sam
14 Rittenberg Boulevard.

15 THE COURT: In that strip mall?

16 THE WITNESS: Yeah, there's a cleaners there and --
17 yeah, I know it's next to a cleaners. I'm not sure if the
18 cleaners is still there.

19 THE COURT: Who's the next witness?

20 MS. BARBER: Your Honor, the State's next witness is
21 Nyaja McKelvey.

22 THE COURT: I think we should recess this witness until
23 we can get an answer. You need to call your next witness.

24 MS. BARBER: Yes, Judge.

25 THE COURT: Ma'am, you may step down. I just need you

1 to remain in the courtroom until we can get an answer about
2 exactly what happened. And your first name is E-R-I-C-I-A?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: And your last name is M-C-K-E-L-V-E-Y?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Could you write your birth date down on a
7 sticky for me, please? I don't want you to say that
8 personal information.

9 (Witness complies.)

10 THE COURT: Thank you, ma'am. If you would remain with
11 us. I appreciate your patience.

12 Please bring in the jury.

13 (WHEREUPON, the jury enters the courtroom at 3:33 p.m.)

14 THE BAILIFF: All jurors present, Your Honor.

15 THE COURT: Thank you.

16 Ladies and gentlemen, we appreciate your patience.

17 We're going to proceed with the next witness.

18 Call your next witness.

19 MS. BARBER: The State calls Nyaja McKelvey.

20 THE COURT: If the witness would come forward and be
21 sworn.

22 NYAJA MCKELVEY,

23 after being duly sworn, testified as follows:

24 THE CLERK: Please have a seat for me. If you will
25 please state your full name for the record, spelling your

1 last name for the record.

2 THE WITNESS: Nyaja McKelvey, M-C-K-E-L-V-E-Y.

3 THE COURT: Could you spell your first name for the
4 benefit of the court reporter?

5 THE WITNESS: N-Y-A-J-A.

6 THE COURT: N-Y-A-J-A?

7 THE WITNESS: Yes, ma'am.

8 THE COURT: Thank you.

9 You may proceed.

10 MS. BARBER: Thank you.

11 THE COURT: You're welcome.

12 DIRECT EXAMINATION

13 BY MS. BARBER:

14 Q Ms. McKelvey, can you, please, tell the jury how old
15 you are?

16 A 23.

17 Q And where is it that you currently live?

18 A Hollywood.

19 Q I'm sorry, would you repeat that? I want to make sure
20 they heard you.

21 A Hollywood.

22 Q And where were you born and raised?

23 A Hollywood.

24 Q What is it that you currently do for a living?

25 A Manager at McDonald's.

1 Q And do you recall where you lived back in April of
2 2020?

3 A Yes, ma'am.

4 Q And where was that?

5 A North Charleston, Ferndale.

6 Q How long did you live there?

7 A I was living there since I was in, like, sixth grade,
8 so probably, like, seven, eight years.

9 Q I'd like to bring your attention to April 18th of 2020.
10 Do you remember that day?

11 A Yes, ma'am.

12 Q And why is it that you recall that day?

13 A My cousin was killed.

14 Q And how were you made aware of that?

15 A Like, what do you mean?

16 Q How do you know that he was killed?

17 A I saw his body in the field.

18 Q And you mentioned that you were living in Ferndale at
19 the time. How close were you living to where this incident
20 occurred?

21 A I was on the next street from where he was living.

22 Q And that night before seeing the body, do you recall
23 anything else happening?

24 A Yeah, I saw a car circling the neighborhood.

25 Q And can you describe that car for the jury?

1 A It was like a dark-colored sedan.

2 Q And after seeing that car circling, do you recall
3 anything else about the night?

4 A No, ma'am.

5 Q Did you hear anything that night?

6 A I heard gunshots and then I heard a car skirt off
7 really fast and a lot of screaming.

8 Q About how many gunshots would you say you heard?

9 A 12.

10 Q And just to clarify for the jury, you said you saw the
11 car circling, was that before or after you heard gunshots?

12 A Before.

13 MS. BARBER: Thank you, Ms. McKelvey. Please answer
14 any of the questions the Defense may have.

15 THE COURT: You may proceed.

16 CROSS-EXAMINATION

17 BY MR. SHELTON:

18 Q Did you indicate at one point in time it was a blue
19 sedan?

20 A No. It was just dark-colored sedan.

21 Q And do you know Antwan Johnson?

22 A No.

23 Q Do you know Pierre Nelson?

24 A No.

25 MR. SHELTON: No further questions.

1 THE COURT: Any redirect?

2 MS. BARBER: No redirect, Your Honor.

3 THE COURT: Any objection to the witness being excused
4 from the State?

5 MS. BARBER: No objection, Your Honor. We ask that she
6 be allowed to step down from the stand, but remain her under
7 subpoena.

8 THE COURT: Do you need her to remain subject to the
9 subpoena, is that what you're saying?

10 MS. BARBER: It is what I'm saying. Thank you, Judge.

11 THE COURT: You're welcome.

12 Any exception from the Defense?

13 MR. SHELTON: No, Your Honor.

14 THE COURT: Ma'am, you're excused subject to be
15 recalled. You may step down.

16 Call your next witness.

17 MR. COOPER: The State calls LaShawn Singleton.

18 LASHAWN SINGLETON,

19 after being duly sworn, testified as follows:

20 THE CLERK: Please have a seat for me. If you would
21 state your full name for the record, spelling your last
22 name.

23 THE WITNESS: LaShawn Singleton, S-I-N-G-L-E-T-O-N.

24 THE COURT: You may proceed.

25 MR. COOPER: Thank you, Judge.

1 THE COURT: I apologize.

2 Ma'am, if you could spell your first name for the court
3 reporter.

4 THE WITNESS: L-A-S-H-A-W-N.

5 THE COURT: Thank you.

6 You may proceed.

7 DIRECT EXAMINATION

8 BY MR. COOPER:

9 Q Ms. Singleton, where do you currently live?

10 A North Charleston, South Carolina, Ferndale.

11 Q Is that the same place you lived in in April of 2020?

12 A Yes, it is.

13 Q What is your address?

14 A [REDACTED] Street.

15 Q Showing you State's Exhibit 2, can you indicate on this
16 map for us where your residence is? You should be able to
17 touch on it and draw on it.

18 A (Witness complies.)

19 Q Is that -- at the top of the screen, is that Railroad
20 Avenue?

21 A Uh-huh.

22 THE COURT: Ma'am, if you could say yes or no for us.

23 THE WITNESS: Yes.

24 BY MR. COOPER:

25 Q How long have you lived there?

1 A Seven years.

2 Q And then if you'll tell this jury, who was LR
3 Jr. to you?

4 A He was my son.

5 Q And he was the one killed in April of 2020?

6 A Yes.

7 Q How old was he when he died?

8 A He was 16.

9 Q Will you tell the jury some things that LR liked
10 to do?

11 A He liked to play football, basketball, play with his
12 little sister, take her to the park, things like that.

13 Q Was he your only son?

14 A Yes.

15 Q Focusing your attention to that day, April 18th, 2020,
16 tell the jury what, if anything, had you and LR been
17 doing earlier that day?

18 A Earlier that day, we went to Metro. I just had
19 purchased him a phone, then we went back home. And that's
20 when he went outside with his friends.

21 Q And then when is the next time you saw him?

22 A That was the last time I saw him.

23 Q Would you describe for the jury what happened and what
24 you heard just before and during the shooting?

25 A He called me, I'd say probably 15 or ten minutes before

1 the shooting happened and told me he was on his way home.
2 And he asked me what was I doing and I told him I was just
3 getting out the shower.

4 And after we hung up, I'd say probably about five to
5 ten minutes later, that's when I heard the gunshots. I
6 tried to call his phone, no answer, so I ran to my door and
7 that's when I saw his body laying outside in the field.

8 Q And I know that map is kind of zoomed out, but would
9 you describe for the jury how close was his body to your
10 trailer?

11 A It was -- do you want me to circle it or --

12 Q You can just tell me.

13 A It was the trailer that's in front of my trailer, his
14 body was, like, behind hers, behind her trailer.

15 Q See it from your porch?

16 A Yes.

17 Q He was how old at the time?

18 A He was 16.

19 MR. COOPER: Beg the Court's indulgence just one
20 second.

21 (Pause.)

22 MR. COOPER: Ms. Singleton, I have no further
23 questions. I appreciate your time. Please answer anything
24 Mr. Shelton may have for you.

25 THE COURT: Any questions for the witness?

1 MR. SHELTON: No questions.

2 THE COURT: Any exception to the witness being excused?

3 MR. COOPER: Not from the State.

4 MR. SHELTON: No, Your Honor.

5 THE COURT: Ma'am, you're excused.

6 THE WITNESS: Thank you.

7 THE COURT: You're welcome.

8 Call your next witness.

9 MS. BARBER: The State calls Justin Bonnell.

10 THE COURT: You said Justin?

11 MS. BARBER: Bonnell, Officer Bonnell.

12 JUSTIN BONNELL,

13 after being duly sworn, testified as follows:

14 THE CLERK: Please have a seat for me. If you will
15 state your full name for the record, spelling your last
16 name.

17 THE WITNESS: Justin Cali Bonnell.

18 THE COURT: Would you spell your middle for us, sir?

19 THE WITNESS: C-A-L-I.

20 THE COURT: B-O-N-N-E-L-L?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: You may proceed.

23 MS. BARBER: Thank you, Judge.

24 THE COURT: You're welcome.

25 DIRECT EXAMINATION

1 BY MS. BARBER:

2 Q Officer Bonnell, can you tell the jury where it is that
3 you currently work?

4 A North Charleston Police Department.

5 Q And how long have you worked there?

6 A Four years.

7 Q Prior to your four years with the North Charleston
8 Police Department, did you have any other involvement with
9 law enforcement?

10 A I did two years of law enforcement with Mt. Pleasant
11 Police Department.

12 Q And what's your current role with North Charleston?

13 A I'm a patrolman first class for Team 1 Central Nights.

14 Q And were you in that same role back in April of 2020?

15 A I was on the same team, I just was a patrolman back
16 then.

17 Q Can you describe that role for the jury and what it
18 entails?

19 A I'm your basic patrol officer, so anytime someone calls
20 911, whether it's a homicide, collision, someone stole
21 something from your property, I'm the one that responds out
22 there.

23 Q Officer Bonnell, are you aware of the incident that
24 we're here to assess this week?

25 A Yes, ma'am.

1 Q And how did you learn about that incident?

2 A We were dispatched for shots fired in that area. And
3 when I responded, I located a victim with a gunshot wound to
4 his head. He appeared lifeless on scene. And then I heard
5 screaming across the field, the adjacent trailer, and that's
6 when I located a second victim, also, with a gunshot wound
7 to the head.

8 Q And were you the first officer on scene?

9 A Yes.

10 Q What's the normal protocol for officers when they
11 arrive to a scene like this?

12 A Typically, we want to respond -- we try to secure a
13 crime scene, any witnesses that we can. If the victim is
14 still alive, we try to render aid. And then we try to
15 cordon that off so no one can contaminate the crimes scene.

16 Q You stated that's the normal protocol. Is that what
17 you did on this particular night?

18 A Yes, ma'am.

19 Q And can you describe to the jury what the scene looked
20 like as a whole when you got there and during your time on
21 scene?

22 A It was very hectic. It was dark since it was
23 nighttime. That's more of a community, not a neighborhood,
24 so everyone knows everyone in that area. So there was lots
25 of screaming. There was people crying. There's sirens

1 going off. It was chaos, basically. There's, like, the fog
2 of the unknown. So you've got victim one dead. You've got
3 his family out there. You've got people from other trailers
4 screaming that they've been shot. There's blood. It's a
5 very chaotic scene.

6 Q You mentioned at the scene the deceased victim and you
7 were called to another trailer?

8 A Yes.

9 Q What did you find once you arrived to that trailer?

10 A When I arrived to that trailer, I located a second
11 victim. He was bleeding from the top of his scalp. His
12 family member was beside him trying to direct me to him so
13 that we could get an ambulance to come out to him.

14 Q Did you in any way document that injury to the stated
15 victim?

16 A Yes, I did.

17 Q And if I showed you that documentation or how you
18 documented it, would you recognize it?

19 A Yes, ma'am.

20 MS. BARBER: Your Honor, may I approach the witness?

21 THE COURT: Yes, ma'am.

22 BY MS. BARBER:

23 Q Officer Bonnell, what have I just handed you?

24 A This is a picture I took with my cell phone at that
25 time of victim number two.

1 THE COURT: Sir, could you tell us what number is on
2 that photograph?

3 THE WITNESS: It's Exhibit 5.

4 THE COURT: Thank you.

5 Q I'm sorry, can you explain to me how you recognize that
6 picture?

7 A I took it with my cell phone at that time.

8 MS. BARBER: Your Honor, at this time, the State moves
9 to admit what has been marked for identification purposes
10 only as Exhibit 5 into evidence.

11 THE COURT: Any objection?

12 MR. SHELTON: No objection, Your Honor.

13 THE COURT: Marked and admitted without objection
14 State's 5.

15 (WHEREUPON, State's Exhibit No. 5 was admitted into
16 evidence.)

17 MS. BARBER: Your Honor, permission to publish to the
18 jury.

19 THE COURT: You may proceed.

20 BY MS. BARBER:

21 Q Officer Bonnell, is that the victim you found in the
22 trailer you were called to?

23 A Yes, ma'am.

24 Q And how would you describe the wounds he had?

25 A It appears he was sleeping laying down --

1 MR. SHELTON: Objection, hearsay.

2 THE WITNESS: It appears that he had a gunshot --

3 THE COURT: Sir, there's an objection.

4 And why is it hearsay? He's describing what he saw, is
5 he not?

6 MR. SHELTON: The answer -- Your Honor, could we
7 approach?

8 THE COURT: Uh-huh.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 THE COURT: The objection is sustained, hearsay.
12 Rephrase.

13 BY MS. BARBER:

14 Q Officer Bonnell, can you describe the wound that you
15 observed to the jury?

16 A It was a gunshot wound to the scalp of his head.

17 Q And taking you back to the trailer that you responded
18 to, what do you recall about that trailer?

19 A It was across this field.

20 Q Can you point out that trailer for the jury?

21 A Yes. So if you see right where it says Railroad Avenue
22 on the left side --

23 Q And I hate to interrupt you, Officer Bonnell, but you
24 can draw on that monitor, so if you can show them where the
25 trailer was --

1 THE COURT: For the record, this is State's 2.

2 THE WITNESS: Where I located victim number two?

3 BY MS. BARBER:

4 Q Correct.

5 A It is around this area.

6 Q And where exactly did you see the body that you
7 referred to earlier?

8 A Victim number one would have been around here.

9 Q And when you responded to the scene, from which
10 direction did you enter?

11 A I came this way.

12 MS. BARBER: Beg the Court's indulgence.

13 THE COURT: Yes, ma'am.

14 (Pause.)

15 MS. BARBER: Thank you, Officer Bonnell. Please answer
16 any questions Defense counsel may have for you.

17 THE COURT: Any questions for the witness?

18 MR. SHELTON: No questions.

19 THE COURT: Any objection to the witness being excused
20 from the State?

21 MS. BARBER: No objections, Your Honor.

22 THE COURT: From the Defense?

23 MR. SHELTON: No, Your Honor.

24 THE COURT: Sir, you're excused.

25 THE WITNESS: Thank you.

1 THE COURT: You're welcome.

2 Madam Forelady, ladies and gentlemen, I have a very
3 brief matter of law to take up with counsel. During the
4 break, please, do not discuss the case. Please leave your
5 notepads in your seats. You all can stand right in the
6 hallway outside the door. It's not going to take two
7 minutes.

8 (WHEREUPON, the jury exits the courtroom at 3:51 p.m.)

9 THE COURT: According to the magistrate court's records
10 that my secretary was able to procure from the clerk of
11 court there -- and I had the clerk give her actual name
12 because she was charged under her maiden name, which is
13 Ericia Elana Stewart, not McKelvey. I, also, had a date of
14 birth. She was tried in her absence. She paid the \$1,025
15 fine. The charges were dismissed on September 23rd of 2022.
16 It's case number 49034CG. Her arrest date was 6/17/2002.
17 They issued a bench warrant after her TIA on 1/30/2003,
18 where she could serve the 30 days or pay the 1025.

19 However, they dismissed the charges on the date I've
20 already referenced and they issued her a refund check,
21 number 1678, in the amount of \$1,025 on 2/28/2003. The
22 charges were dismissed on 9/23/2002. And it was 2002 that
23 the refund was issued -- I'm sorry, yeah, 2003. And the
24 charges were dismissed 9/23/2003. So she has no permanent
25 record.

1 Ma'am, it's up to you, however, to do that expungement.
2 The State doesn't do that when they dismiss charges against
3 you, so that's always going to be on your record until you
4 take the affirmative action to have it expunged.

5 Do we need to recall her to the stand and have you say
6 you have no more questions and you have no questions?

7 MR. SHELTON: Yes, Your Honor.

8 THE COURT: I think to complete this, we need to
9 complete this.

10 Ms. McKelvey, if you'll retake the stand. I'll remind
11 you that you're still under oath.

12 Please get the jury for me.

13 (WHEREUPON, the jury enters the courtroom at 3:54 p.m.)

14 THE COURT: Ladies and gentlemen, we appreciate your
15 patience. We're going to resume the testimony of Ms.
16 McKelvey.

17 The State may proceed.

18 MS. BARBER: Thank you, Judge.

19 Ms. McKelvey, we apologize the witnesses were out of
20 order. But I have no further questions for you at this
21 time.

22 THE COURT: Okay. Questions from the Defense?

23 MR. SHELTON: No questions.

24 THE COURT: Any objections to Ms. McKelvey being
25 excused or do we need to excuse her subject to recall?

1 MS. BARBER: The latter, Your Honor.

2 THE COURT: Ma'am, you're excused subject to being
3 recalled.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Thank you very much.

6 Call your next witness.

7 MR. COOPER: Thank you, Judge. The State calls
8 Detective Adam Malone.

9 ADAM MALONE,

10 after being duly sworn, testified as follows:

11 THE CLERK: Please have a seat for me. If you will
12 state your full name for the record, spelling your last
13 name.

14 THE WITNESS: Detective Adam Malone, M-A-L-O-N-E.

15 THE COURT: You may proceed.

16 MR. COOPER: Thank you, Judge.

17 THE COURT: You're welcome.

18 DIRECT EXAMINATION

19 BY MR. COOPER:

20 Q Good afternoon, Detective Malone. Can you tell the
21 jury where you're currently employed?

22 A North Charleston Police Department.

23 Q What is current role?

24 A I am currently assigned to the detectives bureau.

25 Q What does the role of detective encompass?

1 A My role is in property crimes, so anything dealing with
2 burglaries, thefts, anything, really, that has to do with
3 property, I investigate.

4 Q And how long have you been a detective?

5 A I, actually, just got moved up there about a month ago.

6 Q Prior to that, what was your role with North
7 Charleston?

8 A I was on the patrol -- uniform patrol unit.

9 Q And how long were you on patrol?

10 A 16 years, roughly, 15, 15 years.

11 Q So in April in 2020, you were, also, on patrol?

12 A Yes.

13 Q Describe for the jury, if you would, what your roles
14 and responsibilities are as a patrolman?

15 A So in patrol, you respond to 911 calls, calls for
16 service, do minor investigations and generating and writing
17 case reports.

18 Q Now, focusing your attention to April 18th, 2020, were
19 you working that day?

20 A I was.

21 Q And describe for the jury how you became involved in
22 this case?

23 A We were dispatched to that call and that was a call
24 that as in my area of responsibility.

25 Q And what was your area?

1 A Zone 4, which, geographically, where this neighborhood
2 is is part of that area.

3 Q And what was the nature of the call you were initially
4 dispatched for?

5 A Originally, it was shots fired call.

6 Q At some point, did that change?

7 A Yes. We were advised by dispatch as well as on-scene
8 officers that it changed to a subject being shot.

9 Q And once you arrived on scene, would you describe for
10 the jury what that scene was like?

11 A Very fast moving. As soon as we got on scene, there
12 was -- I was the third one, I believe, on scene at that
13 time. And my sergeant and another officer were there. They
14 had gone to where the victim was and then we all started
15 looking for witnesses and hunting anybody we could to see
16 what we could find.

17 Q And you mentioned trying to find witnesses. Describe
18 for the jury, if you would, what is your role as a patrol
19 officer when you get to a chaotic scene like this?

20 A Number one is to locate and secure any witnesses. And
21 then second, is to secure the integrity of the crime scene,
22 so taping it off and moving forward from there.

23 Q And both when it comes to the integrity of the crime
24 scene and looking for witnesses, do you, generally, know
25 what's important on the night of or no?

1 A Um --

2 Q Or what would become important in a case on the night
3 of the crime.

4 A At the moment, no. You're, really, just trying to get
5 your witnesses and get them in line for investigators who
6 will be coming.

7 Q Did you at some point speak with a witness who had
8 observed something?

9 A I did.

10 Q What did you learn from that witness?

11 A He had stated that a black Ford Focus he had seen
12 leaving at a high rate of speed that was parked right in
13 front of his trailer or house.

14 Q Was that trailer [REDACTED] Street?

15 A It was.

16 Q And when you get information like that, what do you do
17 with that information?

18 A I pass that along to my supervisor and then, in turn,
19 will get moved up to the detectives when they start coming
20 on scene and getting debriefed as to what we have so far.

21 Q And why is it important to make them aware of that kind
22 of information?

23 A It's pertinent information, you know, a witness that
24 saw something that could be of value in the case.

25 Q And in this case, you did make them aware of a possible

1 sighting of a vehicle?

2 A Yes, and the location of that witness for any further
3 questioning if they needed it.

4 Q And once you did that, what was the rest of your time
5 on the scene spent doing?

6 A From that point on, I started a crime scene log and
7 continued taping off all of the crime scene and directing
8 others that were coming in to do the same.

9 MR. COOPER: Beg the Court's indulgence.

10 (Pause.)

11 MR. COOPER: Detective Malone, I have no further
12 questions for you. Thank you for your time. If you'll
13 answer anything Mr. Shelton may have for you.

14 THE COURT: You may proceed.

15 MR. SHELTON: No questions.

16 THE COURT: Any objection to the witness being excused?

17 MR. COOPER: Subject to recall.

18 THE COURT: Sir, you're excused subject to being
19 recalled.

20 THE WITNESS: Thank you.

21 THE COURT: Call your next witness.

22 MS. BARBER: The State calls Kendra Moseley.

23 THE COURT: Ma'am, if you would come forward to be
24 sworn.

25 KENDRA MOSELEY,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat. If you would state
3 your full name for the record, spelling your last name.

4 THE WITNESS: Kendra Moseley, M-O-S-E-L-E-Y.

5 THE COURT: You may proceed.

6 MS. BARBER: Thank you.

7 THE COURT: You're welcome.

8 DIRECT EXAMINATION

9 BY MS. BARBER:

10 Q Ms. Moseley, where is it that you currently work?

11 A North Charleston Police Department.

12 Q And what's your current role there?

13 A Crime scene investigator.

14 Q How long have you been in that role?

15 A With North Charleston, about four years or so.

16 Q Prior to being at North Charleston, did you have any
17 other involvement with law enforcement?

18 A Yes, ma'am.

19 Q And where was that?

20 A The Lancaster County Sheriff's Office.

21 Q How long were you employed by that sheriff's office?

22 A Approximately ten years.

23 Q And during that ten-year period, what was your role
24 with them?

25 A Sheriff's deputy, patrol sergeant and then, lastly,

1 before I came to North Charleston, I was a crime scene
2 investigator there as well.

3 Q Were you in crime scene back in April of 2020?

4 A Yes, ma'am.

5 Q How did you become involved in this case?

6 A I was contacted by my supervisor and requested to
7 respond to assist with this case. I responded to Trident
8 Medical Center.

9 Q And what did you do when you arrived to Trident Medical
10 Center?

11 A I located the victim in the trauma room, collected
12 photographs of him and his injuries.

13 Q If I showed you a picture of one of those photos you
14 took that day, would you recognize it?

15 A Yes, ma'am.

16 THE COURT: What number is that?

17 MS. BARBER: 156, Your Honor.

18 THE COURT: Any objection?

19 MR. SHELTON: Yes, Your Honor.

20 THE COURT: Proceed.

21 MS. BARBER: I'm sorry, did you say --

22 THE COURT: I thought you said --

23 MR. SHELTON: Yes, Your Honor. Objection 403.

24 THE COURT: She still has to continue with her
25 question.

1 You may proceed.

2 BY MS. BARBER:

3 Q Ms. Moseley, what is that I just handed you?

4 A This is the photograph I took of the victim.

5 MS. BARBER: Your Honor, at this time, the State does
6 move to admit what has been previously marked for
7 identification purposes only as Exhibit 156 into evidence.

8 THE COURT: I need to see the photo, please.

9 MS. BARBER: Yes, ma'am. Permission to approach?

10 THE COURT: Yes.

11 Counsel, approach.

12 (WHEREUPON, a bench conference was held in the presence
13 of the jury, but outside the hearing of the jury.)

14 THE COURT: 156 will be ID only. The nature of the
15 objection unduly prejudicial. The Court has overruled that
16 objection and finds the photograph is more probative than
17 prejudicial. It goes directly to one of the elements of the
18 offenses, which is incumbent upon the State to prove beyond
19 a reasonable doubt. However, 156 will be substituted with a
20 black and white photo. 156 will be ID only and then next in
21 line will be that photograph in black and white.

22 MS. BARBER: Thank you, Judge.

23 THE COURT: You may proceed.

24 MS. BARBER: Permission to publish the black and white
25 photograph?

1 THE COURT: You may.

2 This next exhibit will be State's 158 subject to the
3 objection.

4 (WHEREUPON, State's Exhibit No. 158 was admitted into
5 evidence.)

6 BY MS. BARBER:

7 Q To your knowledge, who is that in that photograph?

8 A That is my victim from Marson Street.

9 Q And you mentioned that you took pictures. After taking
10 those pictures, did you speak to the victim at all?

11 A No, language barrier. I believe someone came in an
12 translated.

13 Q What did you do after taking these photos at the
14 hospital?

15 A Once I did that, I responded to the scene at [REDACTED]
16 [REDACTED] Street.

17 Q And what's located at [REDACTED] Street?

18 A That was the main scene where the incident occurred.

19 Q Once you arrived there, what did you do next?

20 A I assisted my partner, PFC Wilcome, who was collecting
21 photographs. I then marked all the evidence, processed the
22 scene and collected evidence.

23 Q If I showed you some of those pictures here today,
24 would you recognize them?

25 A Yes, ma'am.

1 MS. BARBER: Permission to approach the witness?

2 THE COURT: Yes.

3 BY MS. BARBER:

4 Q Ms. Moseley, are those photographs that you took when
5 you arrived on scene?

6 A Yes, ma'am, they are.

7 MS. BARBER: Your Honor, at this time, the State would
8 move to admit Exhibits 35, 38 and 39 into evidence.

9 THE COURT: Any objection?

10 MR. SHELTON: No objection.

11 THE COURT: Marked and admitted State's 35, 38 and 39.

12 (WHEREUPON, State's Exhibit Nos. 35, 38 and 39 were
13 admitted into evidence.)

14 BY MS. BARBER:

15 Q Ms. Moseley, can you explain to the jury what is
16 depicted in Exhibit 35?

17 A This is the trailer, I believe, at [REDACTED] that was
18 struck by gunfire.

19 Q And Exhibit 38?

20 A This is an overall picture at the end of the trailer
21 where there's several bullet defects located.

22 Q And what is depicted there in Exhibit 39?

23 A That's a close-up photograph of one of the bullet
24 defects at the end of the trailer.

25 Q And just to clarify for the jury, who lives in that

1 trailer?

2 A Our victim, who was depicted in the first picture from
3 Trident.

4 THE COURT: I need to know his name, please, for the
5 record.

6 Q And did you learn his name?

7 A I think I did at one point, yes, ma'am.

8 Q Was the name of that victim Martin Jimenez?

9 A Yes, ma'am.

10 Q After photographing the outside of the trailer, what
11 did you do next?

12 A We -- Detective Pritchard and I or Detective Pritchard
13 spoke with the homeowner, who granted us consent to come in
14 and photograph the interior of the trailer where the victim
15 was when the shots were fired.

16 Q And if I showed you a few of those pictures, would you
17 recognize those?

18 A Yes, ma'am.

19 MS. BARBER: 40, 41 and 42.

20 THE COURT: What are those numbers, please?

21 MS. BARBER: 40, 41 and 42.

22 THE COURT: Any objection from the Defense?

23 MR. SHELTON: No objection, Your Honor.

24 THE COURT: 40, 41 and 42 are marked and admitted
25 without objection.

1 (WHEREUPON, State's Exhibit Nos. 40, 41 and 42 were
2 admitted into evidence.)

3 BY MS. BARBER:

4 Q Ms. Moseley, what does Exhibit 40 depict?

5 A This is the floor in the bedroom where the victim was
6 when he was struck.

7 Q And can you describe the contents of that photo for the
8 jury?

9 A It's blood on the floor and a towel that was used to
10 try to control bleeding prior to EMS arriving.

11 Q And Exhibit 41?

12 A That's the bed the victim was laying in when the
13 incident occurred.

14 Q And Exhibit 42?

15 A That is where the bullet struck the wall. That's the
16 victim's hair and blood on the wall as a result of the
17 incident.

18 Q Did you take any other photos while inside the home?

19 A Typical overall photographs that we normally take when
20 we document a scene.

21 Q And after walking through the house and documenting the
22 scene, was there any other -- was there anything that you
23 found?

24 A I do not believe so.

25 Q After documenting the scene on Marson Street, what did

1 you do after that?

2 A I responded back to [REDACTED] Street to finish
3 processing the scene and the decedent.

4 Q And if I showed you pictures and photographs from
5 there, would you recognize those?

6 A Yes, ma'am.

7 MS. BARBER: These are State's Exhibits 6 and 7.

8 THE COURT: Any exception, Mr. Shelton?

9 MR. SHELTON: No, Your Honor.

10 THE COURT: 6 and 7 marked and admitted without
11 objection.

12 (WHEREUPON, State's Exhibit Nos. 6 and 7 were admitted
13 into evidence.)

14 THE COURT: You may proceed.

15 MS. BARBER: Permission to publish, Your Honor?

16 THE COURT: You may.

17 BY MS. BARBER:

18 Q Ms. Moseley, would you please describe what's depicted
19 in Exhibit 6?

20 A This is the location where the decedent was found. The
21 tent was placed over him just to block it from bystanders
22 and anyone passing by.

23 Q And Exhibit 7?

24 A This is the front of the residence, [REDACTED]
25 Street.

1 Q Did you take more photos on that evening, Ms. Moseley?

2 A Yes.

3 Q And you'd recognize those as well?

4 A Yes, ma'am.

5 MS. BARBER: Judge, the State moves to admit Exhibits 9
6 through 30.

7 THE COURT: Any objection?

8 MR. SHELTON: No objection.

9 THE COURT: State's 9 through 30 are marked and
10 admitted without objection.

11 (WHEREUPON, State's Exhibit Nos. 9 through 30 were
12 admitted into evidence.)

13 BY MS. BARBER:

14 Q Ms. Moseley, what does Exhibit 9 reflect?

15 A This is the front entry of [REDACTED] Street where
16 several shell casings were located.

17 Q And the yellow markers in the photo, can you describe
18 those for the jury and tell them what they represent?

19 A Each of those numbered placards represents a piece of
20 evidence. It's just the means of us tracking evidence and
21 being able to document and show the location.

22 Q And do you recall what evidence was being marked?

23 A Various shell casings.

24 Q I'll show you Exhibit 10. What is this a photograph
25 of?

1 A It's a little closer-up photograph of the group of
2 casings located by the steps at [REDACTED] Street.

3 Q Exhibit 11?

4 A This is a rifle casing marked as evidence, marker
5 number one.

6 Q Exhibit 12?

7 A That is a close-up of the head stamp of a Norma 223
8 spent casing located at the scene.

9 Q And Ms. Moseley, why do you take pictures of the kind
10 of shell casings?

11 A To document the make, model and brand caliber of the
12 ammunition that was used and collected. It's to further
13 document it in further detail.

14 Q Exhibit 13, what is that item?

15 A That is a rifle casing marked as evidence marker number
16 two.

17 Q And 14?

18 A That's two spent shell casings marked as evidence
19 markers or items number three and number four.

20 Q And from your understanding, do you recall what kind of
21 casings those were?

22 A Norma 223.

23 Q Exhibit 15?

24 A It's, also, the head stamp of one of the casings, Norma
25 223.

1 Q Exhibit 16?

2 A Evidence marker number five is a rifle spent casing.

3 Q 17?

4 A Number six is, also, a spent rifle casing.

5 Q 18?

6 A And number seven is, also, a spent rifle casing.

7 Q And what is depicted in 19?

8 A Going up the steps of [REDACTED] Street, it's
9 another spent casing marked as evidence marker number ten.

10 Q Showing you now what's been marked as Exhibit 26?

11 A Spent rifle casing --

12 Q Exhibit 26?

13 A Spent rifle casing on the steps leading up to [REDACTED]
14 [REDACTED] Street marked as evidence marker number ten.

15 Q And Exhibit 23?

16 A A spent rifle casing marked as evidence marker number
17 nine.

18 Q Ms. Moseley, that one appears to be different. How is
19 that similar or different from the other shell casings?

20 A So the other ones were brass. This is what we call,
21 typically, steel casing.

22 Q And to your knowledge, would that be fired from the
23 same kind of gun?

24 A It can be, yes, ma'am.

25 Q Showing you now what's been marked as Exhibit 24.

1 A That is a -- looks like, a Tulammo spent rifle casing.

2 Q And Exhibit 27?

3 A That is another spent casing that was located on the
4 porch under a dog cage marked as evidence marker number 11.

5 Q And is that the porch still located at [REDACTED]
6 Street?

7 A Yes, ma'am, it is.

8 Q And is that the same porch that was depicted in the
9 earlier photo?

10 A Yes, ma'am.

11 Q Exhibit 28?

12 A This is a closer-up photo showing the item that we
13 marked with evidence marker number 11, which is the spent
14 casing.

15 Q And 29?

16 A It's a spent pistol casing. This is after the dog cage
17 was removed.

18 Q And showing you Exhibit 30?

19 A Cor-Bon 40 caliber spent casing. It's a close-up of
20 the head stamp from the casing marked with evidence marker
21 number 11.

22 Q And is that the same kind of casing you located before?

23 A No.

24 MS. BARBER: At this time, the State moves to admit
25 Exhibit 34 into evidence.

1 THE COURT: Any objection?

2 MR. SHELTON: No objection.

3 THE COURT: State's 34 marked and admitted without
4 objection.

5 (WHEREUPON, State's Exhibit No. 34 was admitted into
6 evidence.)

7 MS. BARBER: Permission to publish to the jury?

8 THE COURT: You may proceed.

9 BY MS. BARBER:

10 Q Ms. Moseley, do you recognize that photo?

11 A Yes, ma'am.

12 Q And why do you recognize it?

13 A This is our victim or decedent from [REDACTED]
14 Street.

15 Q After taking pictures at [REDACTED] Street, did you
16 have any other involvement in this case?

17 A Yes, I did.

18 Q And what was that involvement?

19 A Couple days later, we executed a search warrant at [REDACTED]
20 [REDACTED] Street regarding this incident.

21 THE COURT: Could you spell the name of that street for
22 the court reporter, please?

23 THE WITNESS: [REDACTED]

24 THE COURT: Thank you.

25 You may proceed.

1 BY MS. BARBER:

2 Q And once arriving to Emden Street, what is it that you
3 did?

4 A We executed a search warrant where I collected overall
5 photographs of the exterior and interior of the residence
6 and a search was then conducted on the residence.

7 Q And to your knowledge, did the codefendant of this case
8 live there, Antwan Johnson?

9 A Yes.

10 Q If I showed you pictures of that home today, would you
11 recognize them?

12 A Yes, ma'am.

13 MS. BARBER: The State moves to admit State's 52 and
14 53.

15 THE COURT: Any objection?

16 MR. SHELTON: No objection.

17 THE COURT: 52 and 53 are admitted without objection.
18 You may proceed.

19 (WHEREUPON, State's Exhibit Nos. 52 and 53 were
20 admitted into evidence.)

21 MS. BARBER: Thank you, Your Honor.

22 THE COURT: You're welcome.

23 BY MS. BARBER:

24 Q Ms. Moseley, is that the house that you remember being
25 at at [REDACTED] Street?

1 A Yes, ma'am.

2 Q And what does this picture depict?

3 A This is the front of the residence showing the
4 numerical address, also, a picture of the security cameras
5 and the sign as well, which we do usually try to document.

6 Q And after taking pictures of the outside of the home,
7 did you do anything else?

8 A Yes.

9 Q And what was that?

10 A I collected photographs of the interior of the
11 residence and any evidence that we located within.

12 MS. BARBER: At this time, the State moves to admit
13 Exhibits 55 and 57 into evidence.

14 THE COURT: Any objection?

15 MR. SHELTON: No objection.

16 THE COURT: Marked and admitted without objection,
17 State's 55 and 57.

18 (WHEREUPON, State's Exhibit Nos. 55 and 57 were
19 admitted into evidence.)

20 BY MS. BARBER:

21 Q Ms. Moseley, what did you understand that to show?

22 A This is a photograph of a monitor inside the residence
23 that was displaying life feed from the surveillance cameras
24 mounted on the exterior of the residence. And that's other
25 officers that were there with me assisting that day. So it

1 was active at the time we were there.

2 Q And Exhibit 57?

3 A Two school IDs were found in a plastic pencil box
4 inside the residence.

5 MS. BARBER: At this time, the State moves to admit
6 Exhibit 56 into evidence.

7 THE COURT: Any objection?

8 MR. SHELTON: No objection.

9 THE COURT: State's 56, correct?

10 MS. BARBER: Yes, ma'am.

11 THE COURT: State's 56 marked and admitted without
12 objection.

13 (WHEREUPON, State's Exhibit No. 56 was admitted into
14 evidence.)

15 MS. BARBER: Permission to publish?

16 THE COURT: You may proceed.

17 BY MS. BARBER:

18 Q What is depicted there in Exhibit 56?

19 A This is a closer version of the previous photograph
20 showing the active surveillance cameras and that it was
21 actively depicting what was going on outside while we were
22 there.

23 Q After taking these pictures, did you collect anything
24 from the home?

25 A Yes, ma'am, I did.

1 Q And what was that?

2 A Various calibers, makes, models of ammunition as well
3 as two firearms.

4 Q And after collecting those items, what did you do with
5 them?

6 A They were transported back to the station where they
7 were packaged and submitted into evidence after being
8 processed.

9 Q And what does processing exhibits entail?

10 A Each firearm that's collected is processed by crime
11 scene. We swab it for DNA, dust it for latent prints. It
12 is test fired before entering into IBIS. E-trace is ran,
13 it's ran through NCIC to ensure it's not stolen.

14 MR. SHELTON: May we approach?

15 THE COURT: Uh-huh.

16 (WHEREUPON, a bench conference was held in the presence
17 of the jury, but outside the hearing of the jury.)

18 THE COURT: Objection is overruled. It's based on the
19 witness's rational perception and based on the procedure
20 that is followed in the collection and processing of
21 evidence.

22 You may proceed.

23 MS. BARBER: Thank you.

24 THE COURT: You're welcome.

25 BY MS. BARBER:

1 Q Ms. Moseley, would you like me to reask the question?

2 A Sure.

3 Q What does processing entail?

4 A We swab and print all guns for DNA. They are all test
5 fired. E-traces are completed. They're run through NCIC to
6 ensure they are not stolen.

7 MS. BARBER: Beg the Court's indulgence.

8 (Pause.)

9 BY MS. BARBER:

10 Q Ms. Moseley, after testing for DNA, did you enter that
11 information into IBIS?

12 A Yes, the casings were entered into IBIS once they were
13 test fired.

14 Q And within your official capacity, have you been
15 trained to use IBIS?

16 A Yes, I have.

17 Q Is that an intricate part of your job?

18 A Yes, ma'am.

19 Q And what is IBIS used for?

20 A Shell casings are entered into the system and they are
21 compared to other casings entered to determine whether or
22 not the firearm has been used in any other incidence
23 anywhere else.

24 Q And that's what you did in this case?

25 A Yes. They were entered by PFC Wilhelm, but, yes,

1 that's what was done.

2 THE COURT: Spell that acronym and what it stands for
3 for the court reporter.

4 THE WITNESS: IBIS is I-B-I-S, it's the Integrated
5 Ballistics Identification System, I believe is what it is.

6 THE COURT: You may continue.

7 BY MS. BARBER:

8 Q Was that the extent of your involvement?

9 A Yes, ma'am.

10 MS. BARBER: Thank you. At this time, I have no
11 further questions and I ask that you answer any questions
12 the Defense may have.

13 THE COURT: Cross-examination for the witness?

14 MR. SHELTON: Yes, ma'am.

15 THE COURT: You may proceed.

16 CROSS-EXAMINATION

17 BY MR. SHELTON:

18 Q You mentioned that you collected two firearms at Emden
19 Drive?

20 A Emden Street, yes, sir.

21 Q Were they assault rifles?

22 A Yes, they were.

23 Q So there were two assault rifles that were collected on
24 Emden?

25 A Yes, sir.

1 Q There were multiple other guns, also, found on scene,
2 correct?

3 A Yes.

4 Q But those were not collected?

5 A No, sir. They were photographed in detail.

6 Q There is a -- was it Savage Arms 38 caliber?

7 A Yes.

8 Q A Smith & Wesson nine millimeter?

9 A Yes.

10 Q A Taurus 38?

11 A Yes.

12 Q A Charter Arms 22?

13 A Yes.

14 Q And a Winchester 3030?

15 A Yes.

16 Q The PSA 223, that was one you did collect, right?

17 A Yes.

18 Q That's an assault rifle, correct?

19 A Yes.

20 Q There's a Savage Arms, a Browning Arms?

21 A Savage and Browning? Do you have the models because
22 they make various different types of guns.

23 Q Doesn't have it here. Shotguns?

24 A Browning is likely the shotgun and maybe a Savage as
25 well, but, yes.

1 Q And then a Norinco 362 by 39?

2 A Yes.

3 Q And a Remington 22?

4 A Yes.

5 Q A Taurus 380?

6 A Yes.

7 Q A new Keystone, a DTI Evolution, correct?

8 A Yes.

9 Q And that was all the guns that were found at Emden?

10 A Yes.

11 Q And that was the same place that you found Antwan
12 Johnson's ID, correct?

13 A Yes.

14 Q And you gave descriptions of the home at Marson Street,
15 correct? You went inside the home on Marson Street?

16 A Yes.

17 Q And you gave descriptions. But all you know is there
18 was blood on the bed, correct? You don't know how it got
19 there, correct? You weren't there?

20 A Right, I wasn't there when it happened, no.

21 Q And you weren't there to say how what looked like
22 possibly a bullet hole, you don't know when that happened,
23 correct? You weren't there?

24 A Right.

25 Q Same with the bullet on the ground, you don't know when

1 that happened, you weren't there, correct?

2 A Correct, but it did appear fresh.

3 Q But you weren't there, so you don't know how it
4 occurred, correct?

5 A Correct.

6 Q The shell casings that were found -- this may be a dumb
7 question, but it doesn't have a date on them that they were
8 fired, correct?

9 A No.

10 Q So you don't know when they were fired, correct?

11 A No.

12 MR. SHELTON: No further questions.

13 THE COURT: Any redirect of the witness?

14 MS. BARBER: Yes, Your Honor.

15 THE COURT: You may proceed.

16 MS. BARBER: Thank you.

17 REDIRECT EXAMINATION

18 BY MS. BARBER:

19 Q Ms. Moseley, as it relates to the home at [REDACTED]
20 Street, about how many shell casings did you find at that
21 location?

22 A I believe it was 11.

23 Q And after collecting those shell casings, what did you
24 do with them?

25 MR. SHELTON: Objection, Your Honor.

1 THE COURT: Basis?

2 MR. SHELTON: Beyond cross.

3 THE COURT: Repeat the question, please.

4 MS. BARBER: I asked Ms. Moseley what she did with the
5 shell casings after she collected them.

6 THE COURT: I think it's permissible. Overruled.

7 THE WITNESS: They were -- once we got back to the
8 station, they were triaged and prepped for IBIS entry.

9 BY MS. BARBER:

10 Q And how do you prep those?

11 A Each shell casing, the head stamp is examined to
12 determine whether or not all the casings were fired by the
13 same gun or a different gun. They're broken up into groups
14 per gun. The best one out of each group is selected for
15 IBIS entry and entered into IBIS.

16 Q And after completing that process, what did you do with
17 the physical shell casings?

18 A After the triage process?

19 Q Correct.

20 A The one that's selected to be entered is entered and
21 once that's completed, they are submitted to evidence.

22 Q If I showed you those items that you submitted into
23 evidence here today, would you recognize them?

24 A Yes, ma'am.

25 MS. BARBER: May I approach the witness?

1 THE COURT: You may.

2 BY MS. BARBER:

3 Q Ms. Moseley, do you recognize those items?

4 A Yes, ma'am.

5 Q And how do you recognize them?

6 A That's the labels we create once we are prepping items
7 to be entered into evidence.

8 Q And do you recognize anything on the outside of that
9 envelope?

10 A Yes, the labels and the case number and the item
11 descriptions.

12 MS. BARBER: Beg the Court's indulgence.

13 (Pause.)

14 MS. BARBER: Your Honor, at this time, the State moves
15 to admit State's Exhibit --

16 BY MS. BARBER:

17 Q Ms. Moseley, how many shell casings did you say were
18 located in that envelope?

19 A I believe it was 11.

20 Q On cross-examination, the Defense asked you about a
21 series of guns that were found at Emden Street?

22 A Yes.

23 Q Do you recall that?

24 A Yes.

25 Q And he asked you if you collected all of those guns.

1 Did you?

2 A No, ma'am, we did not.

3 Q And why didn't you?

4 A Only the two guns that matched the caliber of the
5 casings found on scene were collected. The other ones were
6 not of the same caliber, so they were not pertinent and
7 needed to be collected, so we photographed them in detail
8 with the serial numbers and all the information.

9 Q But you did collect the ones that were pertinent?

10 A Yes.

11 Q And is this usual protocol to take the ones that are
12 pertinent and not the ones that you deem not pertinent?

13 A Yes.

14 Q Defense counsel, also, asked you about the bullet hole
15 that you found at the home on Marson Street, do you recall
16 that?

17 A Yes.

18 Q And he asked you if you looked at that bullet hole and
19 you stated you did, didn't you?

20 A Yes.

21 Q And how would you describe that bullet hole?

22 A The one inside the residence or the one you showed
23 earlier outside?

24 Q The one inside the residence?

25 A Repeat the question.

1 Q How would you describe the bullet hole that you located
2 inside the residence?

3 A The path of travel for the projectile was consistent
4 with where the shots were believed to have come from, where
5 the shell casings were found.

6 Q And you mentioned to the Defense that you weren't there
7 at the time of the incident when it occurred, but did you
8 know whether that hole was fresh or not?

9 A Yes.

10 MR. SHELTON: Objection.

11 THE COURT: Basis?

12 MR. SHELTON: Opinion.

13 THE COURT: You need to lay the foundation for her
14 rational perception to answer that question and if it does
15 not require specialized training or experience and what the
16 foundation for that testimony would be before she can answer
17 that question. The objection is sustained.

18 MS. BARBER: Thank you, Judge.

19 BY MS. BARBER:

20 Q How would you describe that bullet hole?

21 A It matched the trajectory or the flight path of the
22 projectile and, also, from where the spent casings were
23 located. And it still had hair around it as well as fresh
24 blood.

25 MS. BARBER: Permission to approach the witness?

1 THE COURT: You may.

2 BY MS. BARBER:

3 Q I'm showing you now what's been marked as Exhibit 116.

4 Do you recognize that item?

5 A Yes, I do.

6 Q And how do you recognize it?

7 A This is the projectile that I collected from the
8 bathroom floor of [REDACTED] Street, which is just on the
9 other side of the bedroom where the incident occurred.

10 Q And I'm sorry, Ms. Moseley, would you describe again
11 how you recognize that?

12 A It was the projectile that was located on the bathroom
13 floor of [REDACTED] Street, which is located -- the
14 bathroom is just on the other side of the wall from the
15 victim's bedroom where he was laying.

16 Q And what did you do with that item after collecting it?

17 A It was properly packaged and submitted to evidence.

18 MS. BARBER: Thank you, Ms. Moseley. I have no further
19 questions.

20 THE COURT: Any objection to the witness being excused
21 from the State?

22 MS. BARBER: No objection from the State, Your Honor.

23 THE COURT: From the Defense?

24 MR. SHELTON: What was the number of that last one?

25 MS. BARBER: 116.

1 THE COURT: That was ID only, wasn't it?

2 MS. BARBER: Yes, ma'am.

3 MR. SHELTON: No objection to the witness being
4 excused.

5 THE COURT: Ma'am, you're excused.

6 THE WITNESS: Thank you.

7 THE COURT: You're welcome.

8 Counsel, approach for me, please.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 THE COURT: Call your next witness.

12 MR. COOPER: The State calls Investigator Jon Glenn.

13 THE COURT: Sir, if you'd come forward and be sworn.

14 JONATHAN GLENN,

15 after being duly sworn, testified as follows:

16 THE CLERK: If you will have a seat for me. If you
17 will state your full name for the record, spelling your last
18 name, please.

19 THE WITNESS: It's Jonathan Glenn, and it's G-L-E-N-N.

20 THE COURT: You may proceed.

21 MR. COOPER: Thank you, Judge.

22 THE COURT: You're welcome.

23 DIRECT EXAMINATION

24 BY MR. COOPER:

25 Q Investigator Glenn, will you tell the jury where you're

1 currently employed?

2 A The Ninth Circuit Solicitor's Office.

3 Q Do we work in the same office?

4 A That's correct.

5 Q And what is your role with the solicitor's office?

6 A I'm an investigator for the solicitor's office.

7 Q Describe for the jury what that role entails.

8 A As an investigator, I'm assigned four prosecutors and I
9 just help complete the criminal files. If anything is
10 missing, like body-worn camera, things need to be sent to
11 SLED, like DNA, drug reports, just anything to complete the
12 file. In short, I prepare cases for pleas, trials or even
13 if it's just a dismissal.

14 Q How long have you been with the solicitor's office?

15 A Two and a half years.

16 Q Prior to working for the solicitor's office, tell the
17 jury where you were employed.

18 A I was employed at North Charleston Police Department.

19 Q And were you employed there in April of 2020?

20 A Yes, I was.

21 Q How long did you work for North Charleston Police
22 Department?

23 A 15 years.

24 Q What roles did you hold over that time?

25 A Started like everybody, on patrol. I went to a team,

1 which is like a street level drug and prostitution. I dealt
2 with community complaints. There for two years and I went
3 to narcotics for five. Then I went to patrol day shift,
4 which my wife really liked because I got home time. I did
5 that for a year and then went to the detective bay. I
6 worked violent crimes for a year, was promoted to sergeant
7 from there. I was a sergeant for five years. The last was
8 special victims unit sergeant in the detective bay.

9 Q And focusing your attention to April of 2020, what was
10 your role at that time?

11 A I was the sergeant over the special victims unit. And
12 part of that is I would be on call for a week at a time with
13 a call-out team of detectives to respond to any violent
14 crime.

15 Q More specifically, April 18th of 2020, were you on call
16 at that time?

17 A I was.

18 Q How did you become involved in this case?

19 A I got a call from patrol saying there was a homicide on
20 Lakewood Drive and a juvenile was involved, so I responded
21 to that scene.

22 Q And you did respond to that scene?

23 A Yes, I did.

24 Q Once you were on scene, what did you do?

25 A On the way there, I called the detective. One was

1 Detective Pritchard, who was the case agent for this. But
2 on scene, I would meet with the sergeant on scene, learn as
3 much as I could and then start canvassing for videos.

4 Q And then you mentioned start canvassing. What were you
5 looking for?

6 A We were looking for any houses with Ring doorbell
7 cameras, any surveillance so we can kind of track anything,
8 any suspects leaving the scene. We try to secure that as
9 soon as we can.

10 Q And when you're trying to canvas, do you necessarily
11 know in that moment what's going to be important down the
12 road?

13 A No, not at all.

14 Q You're just trying to collect as much as you can?

15 A Yes, sir.

16 Q Were you able to collect video from a specific
17 residence on the end of the street?

18 A I was.

19 Q And what was that residence?

20 A It was [REDACTED].

21 Q And why did you go to that residence?

22 A Going by that house, it's on the corner of Emden and
23 Piedmont, and there's cameras on the outside of it, so it
24 would have a good footage from that area leaving the
25 neighborhood.

1 MR. COOPER: Beg the Court's indulgence.

2 (Pause.)

3 BY MR. COOPER:

4 Q Investigator Glenn, I want to show you what's been
5 marked for ID purposes only as State's 1.

6 A Yes, sir.

7 Q Do you recognize that?

8 A I do.

9 Q And what is that?

10 A It's just an overview of Ferndale, which is the
11 neighborhood right off Rivers Avenue.

12 Q And you're familiar with that area?

13 A Yes.

14 MR. COOPER: Your Honor, at this time, the State would
15 offer what's been marked for ID purposes only as State's 1
16 into evidence.

17 THE COURT: Any objection?

18 MR. SHELTON: No objection.

19 THE COURT: Mark and admitted without objection State's
20 1.

21 (WHEREUPON, State's Exhibit No. 1 was admitted into
22 evidence.)

23 BY MR. COOPER:

24 Q Investigator Glenn, would you indicate to us one, where
25 on this picture was the crime scene located?

1 A If you look at Lakewood Drive right near Railroad
2 Avenue, right where that mark is there. I can make it
3 bigger. There we go.

4 Q And this neighborhood is what's known as Ferndale?

5 A Yes.

6 Q And that at the top is what's known as Ferndale Mobile
7 Home Park?

8 A Yes, sir, it is.

9 Q And where is that residence, [REDACTED] Street?

10 A If you go to the bottom of this screen, it's Emden and
11 -- right here.

12 Q And again, why was that residence important to you
13 initially?

14 A Well, it had cameras on the outside. In this
15 neighborhood, you have Railroad Avenue, which is this first
16 red dot here. If you go Railroad, it will go all the way to
17 East Montague, so that's an exit point. Obviously,
18 Piedmont, this street coming in would be the other way to
19 get out of the neighborhood.

20 Q And at that point, you knew there was a vehicle
21 involved in this incident?

22 A Ye.

23 Q And were you looking for potential excerpts to try to
24 catch that vehicle on camera?

25 A Yes, sir.

1 Q Focusing your attention on [REDACTED] Street, when did
2 you go to that residence?

3 A That was on the 19th, April 19th.

4 Q And this incident occurred approximately when?

5 A This was on the 18th, close to midnight from what I
6 remember.

7 Q So the next day is when you would have gone to Emden
8 Street?

9 A Yes, sir.

10 Q And once at Emden Street, what did you do?

11 A I went and knocked on the door. There was a lady that
12 met me at the door. I explained there was a homicide there,
13 not there, but in the neighborhood the day prior, and said
14 you had a surveillance footage, if I could take a look. I
15 went inside and she showed me the equipment set up on like a
16 laptop or a screen and allowed me to go through the video.

17 Q Would you characterize the people you spoke to as being
18 willing to help?

19 A Yes, definitely.

20 Q I'm showing you what's already moved into evidence as
21 State's 52. What is this a picture of?

22 A This is just the outside of that house. We can see
23 here's a camera and, actually, there's a sign below it
24 saying there's a surveillance camera on the house.

25 Q And that house that you drew on, that's [REDACTED]

1 Street?

2 A It is.

3 Q And showing you State's 53. What does this picture
4 show?

5 A The front of that house.

6 Q And do we see a camera in this picture as well?

7 A Yes, there's one on the corner of that house.

8 Q And then showing you State's 55. What does this
9 picture show us?

10 A That's the screen that has the surveillance footage on
11 there. That looks like a little red dot on there just
12 saying it's recording. But that's just the views of the
13 camera.

14 Q And in State's 56, is this a closer view of that same
15 video?

16 A It is.

17 Q And then one angle that you collected, is that that big
18 portion of the screen?

19 A Yes.

20 Q And, again, you physically collected video from this
21 device?

22 A I did.

23 Q Did you notice anything about the time stamps?

24 A It's six minutes off, slow, slower than the actual
25 time.

1 Q So the time stamps on the video was six seconds --

2 A Six minutes.

3 Q Minute what the actual time would have been?

4 A Correct.

5 Q And how did you determine that?

6 A On the screen, you can hear 1610, I pull up my cell
7 phone, look at the correct time on my phone and see that it
8 was off.

9 Q And so with that being 1610, which is what time?

10 A 1610, that would 4:10.

11 Q And so the actual time, the correct time would have
12 been?

13 A 4:16.

14 Q And then I'm going to show you -- Investigator, I'm
15 going to show you what's been marked for ID purposes only as
16 State's 100 and State's 158. If you'll tell us do you
17 recognize these items?

18 A I do.

19 Q And how do you recognize them?

20 A I put my initials on this one as well and on this one
21 saying I reviewed both.

22 Q And you reviewed them?

23 A Yes, I did.

24 Q And they appear to be the video footage you collected
25 that night?

1 A It is.

2 Q And I think it's State 158. Is that just a shorter
3 clip of that same video?

4 A Yes.

5 Q And other than being a clip, has it been modified in
6 any way?

7 A No.

8 Q Altered --

9 THE COURT: 158, that's not the correct number. It's
10 157. 158 is the picture of my Jimenez in the hospital. My
11 list has that as 157 that you're referring to.

12 MR. COOPER: Judge, just because I have this one
13 numbered and the black and white not, is there a way that I
14 can just substitute the black and white one for --

15 THE COURT: No, because I have to have that for
16 appellate purposes. And I've already renumbered the black
17 and white as 158. Your original list had what you're
18 referring to as 157. 160, the Court has that as well?

19 THE COURT: 159 would be your next number, but I'm
20 confused as to why it's not 157 as originally numbered.
21 That's what my list has.

22 MR. COOPER: 157 is a different CD, Judge. 158 and 159
23 were stipulations.

24 THE COURT: So that would be 159 that you're referring
25 to now because --

1 MR. COOPER: Judge, actually, 159 is marked as a
2 stipulation already.

3 THE COURT: 159 is a Court's Exhibit, so is 158. So
4 we've reused those numbers.

5 MR. COOPER: Okay. I've got a sticker for 160, can I
6 use that or do you want me to change it to a different
7 number?

8 THE COURT: It's up to you. I just wanted to keep the
9 court reporter straight.

10 MR. COOPER: The court reporter has already made it
11 160.

12 THE COURT: Okay.

13 BY MR. COOPER:

14 Q Investigator Glenn, I'm showing you what has now been
15 properly marked as State's Exhibit 160. Is that the CD that
16 has the shorter clip of the video?

17 A Yes.

18 Q Okay. And other than, again, being a shorter clip, it
19 is still the same video footage you viewed that night when
20 you collected it?

21 A Yes.

22 Q And then Investigator Glenn, when you were viewing the
23 video footage, did you notice anything of importance?

24 A There's a car that arrives shortly after the shooting
25 and there's two gentlemen that get out of the car and walk

1 in the house.

2 Q And did you recognize the car?

3 THE COURT: Sir, I need you to speak directly into that
4 microphone.

5 THE WITNESS: I apologize.

6 It appears to be the same car that's on the
7 surveillance footage on Lakewood Drive that was obtained.

8 BY MR. COOPER:

9 Q Showing you now what has been --

10 MR. COOPER: Your Honor, at this time, the State would
11 offer State's Exhibit 100, the full video, and then 160, the
12 shorter clip, into evidence.

13 THE COURT: Any objection?

14 MR. SHELTON: No objection.

15 THE COURT: Marked and admitted State's 160 without
16 objection, which is the shorter clip, and my notes that you
17 gave me says No. 100 is [REDACTED] Street.

18 MR. COOPER: Correct. 100 is the longer video, 160 is
19 the shorter clip. 100 is like 45 minutes long.

20 THE COURT: Without objection, 100 and 160.

21 MR. COOPER: Thank you, Judge.

22 THE COURT: You're welcome.

23 (WHEREUPON, State's Exhibit No. 100 and State's Exhibit
24 No. 160 was admitted into evidence.)

25 BY MR. COOPER:

1 Q Now, showing you what's been marked into evidence as
2 State's 160, is this that video footage that you observed?

3 A It is.

4 Q And what direction is that vehicle going to come from?

5 A Looking at the screen, it will come from the right-hand
6 side into view.

7 Q You can just draw with your finger on the screen if you
8 want to.

9 A (Witness complies.)

10 Q And we hit play, what is the time stamp and date and
11 time listed?

12 A It says 18042020, April 18th of 2020. It's 2300 hours
13 and 13 minutes. It's 11:13 p.m. on the time stamp.

14 Q And then if you adjust it for that six-minute
15 difference that you noticed, what would the actual time be?

16 A 11:19 p.m.

17 Q And in your duties with North Charleston, you've seen
18 CAD reports before?

19 A Yes.

20 Q If you were to see a CAD report again, you'd recognize
21 it?

22 A I would.

23 Q Showing you what was marked as State's Exhibit 146 for
24 ID purposes only. At the top, can you tell us what time
25 that 911 came in? I know it's small?

1 A That is very small or I'm getting very old. Looks like
2 2318, 11:18.

3 Q So about a minute before this video?

4 A Right, it's an incident date, yes. 11:18 p.m.

5 MR. COOPER: Would you hit play for us, please?

6 Q Is there any sound on this video, Investigator Glenn?

7 A I don't believe so.

8 (WHEREUPON, video was played for the jury.)

9 MR. COOPER: All right. Will you pause it for me?

10 Q And so, Investigator Glenn, is that the vehicle that
11 you saw that seemed to match the description from the prior
12 video?

13 A Yes, it is.

14 Q And what is the time stamp on that?

15 A 2313 and 35 seconds.

16 Q And that would be 2319 when you adjust it for the
17 correct time?

18 MR. COOPER: All right. Hit play for us, please.

19 (WHEREUPON, video was continued.)

20 BY MR. COOPER:

21 Q And how many subjects do you notice getting out of the
22 vehicle?

23 A Two.

24 Q And where do they get out of the vehicle from?

25 A Back seat.

1 Q And then the vehicle backs up and leaves the scene?

2 A Correct.

3 Q And at that point, those two individuals that walk into
4 the camera view, how are they regarded at that point?

5 A As of me collecting it, I didn't know who they were at
6 the time, but it was, obviously, saved because of the
7 timeframe.

8 Q Maybe I could ask a better question. At that point,
9 them getting out of that vehicle make them potential
10 suspects?

11 A Yes, now, later. Not the day I picked it up, but
12 through the investigation, yes.

13 Q And then once you saw this video footage, what did you
14 do with that information?

15 A It was downloaded to a share drive and I let Detective
16 Pritchard know of the video, which he, also, reviewed
17 himself.

18 Q And then what did you later learn about that address?

19 A After speaking with Detective Pritchard, those were the
20 potential suspects that were getting out of the vehicle.
21 Through other interviews and from there, a search warrant
22 was secured based on the suspects going to that address and,
23 also, the surveillance video at the address.

24 Q Was that, also, determined to be the address of Antwan
25 Johnson?

1 A It was, yes, sir.

2 Q And you mentioned this a second ago, but after seeing
3 the video footage and learning information from the
4 investigation, did y'all later return with a search warrant
5 for that residence?

6 A We did. That was the following day on the 20th, April
7 20th.

8 Q So when you collected this video, you had no idea that
9 would eventually become important to the investigation?

10 A Correct. It was a surprise for sure.

11 MR. COOPER: Beg the Court's indulgence.

12 (Pause.)

13 BY MR. COOPER:

14 Q And then, I want to make sure I made this point clear,
15 how did you decide or how did you initially go to that
16 residence to try to video? What led you there initially?

17 A Just canvassing that neighborhood. I was driving
18 through with my car, saw this house with several cameras and
19 went and spoke to the occupants of the house. If I knew at
20 the time they were suspects, I would have approached this a
21 lot differently, but at the time, I just walked to the door
22 very consensually. I had no idea what it would lead to at
23 the time.

24 Q And then, lastly, I want to --

25 MR. COOPER: If you could play for us again.

1 (WHEREUPON, video is continued.)

2 BY MR. COOPER:

3 Q Investigator Glenn, coming in the top right corner of
4 the video, what do we see there?

5 A That is a police car with the lights on. You can see
6 the headlights like a wig-wag that are flashing going
7 through the neighborhood.

8 Q And what is that time stamp at this point?

9 A It's 2315.

10 Q Which adjusted to the correct time would have been?

11 A 2321.

12 Q So 11:21 p.m.?

13 A Yes.

14 MR. COOPER: Just for the record, Your Honor, on
15 Exhibit 160, the State played from 00 and stopped it at 2:38
16 for the record.

17 At this point, Investigator Glenn, I have no further
18 questions. Please answer anything the Defense may have.

19 THE COURT: You may proceed, Mr. Shelton.

20 CROSS-EXAMINATION

21 BY MR. SHELTON:

22 Q So State's 100 was the full video that you obtained
23 that first night on April 19th?

24 A Correct. Yes, sir.

25 Q So this was just a small segment that was on that full

1 video?

2 A Yes, sir.

3 Q And you said that it was -- you noticed a vehicle that
4 appeared to be similar to the one that was on, I guess,
5 Lakewood?

6 A Yes, sir.

7 Q Similar as in dark in color sedan?

8 A As in just being a smaller sedan. It's, also, a Ford
9 and it's point five miles from the incident location and it
10 arrived two minutes afterwards, so for us watching it, it
11 was something for us to be interested in.

12 Q Interested in, but you don't know if that's exactly the
13 same car that was at the incident location?

14 A At that time, I did not.

15 Q Well, there's no license plate visible, correct?

16 A Correct.

17 Q So there's no way to be able to tell if that vehicle is
18 this vehicle, correct?

19 A Correct.

20 Q And I think you said there was a search warrant that
21 was later done. Was it your understanding that Antwan
22 Simmons -- Antwan Johnson, who lived at Emden Street, he had
23 an altercation with the victim, the deceased victim?

24 A Is that a --

25 Q Is it your understanding that one of the bases for the

1 search warrant was, also, that Antwan Johnson, who lived at
2 Emden Street, had an altercation with the victim?

3 A I don't know all the facts of the case. Yeah, I'm not
4 sure. I just know it was connected to the Lakewood video
5 and through some interviews and things like that, it was
6 identified as being the suspect or the Defendant for this
7 case, for the shooting.

8 Q Okay.

9 A I'm not sure about any argument or issues before.

10 Q Any type of altercation? You weren't informed of that
11 prior to doing the search warrant?

12 A I don't believe so.

13 Q But you were present when the search warrant was
14 conducted?

15 A Yes, sir.

16 Q And there were multiple guns found throughout the
17 house, correct?

18 A Yes, sir.

19 MR. SHELTON: I have no further questions.

20 THE COURT: Any redirect?

21 MR. COOPER: Just briefly, Judge.

22 THE COURT: You may proceed.

23 REDIRECT EXAMINATION

24 BY MR. COOPER:

25 Q Investigator Glenn, Mr. Shelton asked you several

1 questions regarding the basis of the search warrant. You
2 assisted with that search warrant; is that right?

3 A Correct.

4 Q Did you draft that search warrant?

5 A I did not.

6 Q Were you the case agent in this case?

7 A No, sir, I was not.

8 Q Was Detective Pritchard the case agent?

9 A He was.

10 Q And so you, oftentimes, may assist without knowing the
11 full facts or scope of the investigation?

12 A Correct.

13 Q And then he mentioned the video on the full CD, that
14 was about 45 minutes?

15 A Yes, sir.

16 Q Did you collect several files that were hours worth of
17 video?

18 A Yes, I did.

19 Q Was there anything else that you noticed that was of
20 note?

21 A I did not.

22 Q The only part that was of importance and relevant to
23 the case is what we showed the jury just a minute ago?

24 A Yes.

25 MR. COOPER: I have no further questions, Judge.

1 Thank you, sir.

2 THE COURT: Any objection to the witness being excused?

3 MR. SHELTON: No objection.

4 THE COURT: Sir, you're excused.

5 THE WITNESS: Thank you.

6 THE COURT: You're welcome.

7 MR. COOPER: Judge, may we approach?

8 THE COURT: Uh-huh.

9 (WHEREUPON, a bench conference was held in the presence
10 of the jury, but outside the hearing of the jury.)

11 THE COURT: Madam Forelady, ladies and gentlemen, we're
12 going to take advantage of this break in testimony to take
13 our evening recess. During the break, please, do not
14 discuss the case among yourselves or with anyone else.

15 I'm not aware of any media coverage, but I would ask
16 that you be diligent in making sure that you do not read,
17 watch or listen to any media accounts about this case. That
18 includes anything that could be on radio, television,
19 newspaper or internet.

20 You are strictly instructed that you're not to do any
21 independent research or any independent investigation of any
22 type regarding any of the facts and circumstances of this
23 case. You are bound by your oath to decide this case
24 according to the sworn testimony from the witnesses and any
25 other evidence that may be introduced.

1 I would, also, ask that you refrain from making any
2 comments regarding your jury service on any social
3 networking sites. We would not want an innocent comment to
4 be observed and misinterpreted as you being predisposed
5 regarding your service on the jury.

6 Ladies and gentlemen, the bailiffs will show you. Your
7 parking will be provided for next door in the garage on
8 tomorrow. They will give you further instructions regarding
9 that.

10 I hope y'all have a great evening. If you'll leave
11 your notepads in your seats, we'll secure them during the
12 break.

13 THE BAILIFF: 9:30, Your Honor.

14 THE COURT: Nine o'clock, I'm sorry.

15 (WHEREUPON, the jury exits the courtroom at 5:06 p.m.)

16 THE COURT: You may be seated.

17 I'm trying to find the statute that deals with --
18 because I understand the sheriff's office asked me to sign
19 an order revoking his bond, but that would not be accurate.
20 He no longer has a bond. Once this case is called for
21 trial, the bonding company has no further obligation. He
22 does not have a bond and the statute mandates that you all
23 take him into custody.

24 I've got to find the statute. If you'll bear with me.
25 Somebody moved it out of my book. That's why you all have

1 been seeing me feverishly looking for it.

2 But there's no bond to revoke because once the case is
3 called for trial, the statute says there is no bond. The
4 bondsman has satisfied his obligation, so, therefore, no
5 bond exist. And the statute provides that the defendant
6 shall be taken into custody.

7 We have created exceptions for that rule where bondsman
8 say they will stay on a bond, but, really, there's no way to
9 enforce that because they don't have an obligation anymore.
10 They could write a new bond, for which they'd have to charge
11 another fee if they want to, but I am of the opinion -- I
12 just feel the only way to treat people fairly is treat
13 everybody the same. When you start making exceptions,
14 you've got to make creative exceptions to everybody,
15 therefore, I don't make any exceptions.

16 So if I treat him differently, then I've got to start
17 having creative rules for everybody and I'm just not going
18 to do that. And I don't want to deal with a situation where
19 I'm trying somebody in their absence because they failed to
20 appear.

21 Y'all bear with me for a second. I'm going to try to
22 find that statute real quick.

23 Is there anything else before we adjourn for the
24 evening from the State?

25 MR. COOPER: The only thing with me, Judge, I did speak

1 with the sheriff's office and even though I agree with you,
2 I hope they would have the sense to keep them separate, it
3 was advised that it would be easier if Your Honor could sign
4 the order.

5 THE COURT: That's fine. Did you show it to Mr.
6 Shelton? I would assume he would feel better about that as
7 well.

8 Any exception?

9 MR. SHELTON: No, Your Honor.

10 MR. COOPER: Thank you, Judge.

11 THE COURT: You're welcome.

12 And has the co-defendant in this case, Mr. Johnson,
13 been transported from SCDC?

14 MR. COOPER: Judge, I have not called up this
15 afternoon, but I, certainly, hope he's in Charleston.

16 THE COURT: Can we find out? Can y'all check that for
17 me?

18 THE DEPUTY: Yes, ma'am.

19 THE COURT: The deputy is going to check for me.

20 (Pause.)

21 THE DEPUTY: He is.

22 THE COURT: He's at the detention center. Perfect.

23 And you said on tomorrow your first witness will be?

24 MS. BARBER: Just a moment, Your Honor.

25 THE COURT: I have that y'all are calling Dozier,

1 Sanchez, DeSheers, Freeman. And I would imagine more than
2 that, that sounds to me like that's just the morning. And
3 maybe not even the whole morning.

4 MS. BARBER: Yes, ma'am, that's just the morning.

5 THE COURT: If it went as quick as today, you might
6 want to have more witnesses.

7 MS. BARBER: Yes, ma'am. The other witnesses are
8 prepared to be here. I'm just not certain in what order we
9 will be calling them, but they will be here.

10 THE COURT: And I may order lunch for the jury, just
11 for y'all's planning purposes.

12 MS. BARBER: Thank you, Your Honor.

13 THE COURT: You're welcome.

14 Mr. Shelton, were you saying that the bonding company
15 is going to write a new bond for him? Is that what they're
16 saying they're going to do?

17 MR. SHELTON: Your Honor, Greg Robinson, who has the
18 ankle monitor, he's willing to stay on the ankle monitor. I
19 didn't inquire about --

20 THE COURT: So who is his bond with? Because that's a
21 whole different matter.

22 MR. SHELTON: Yes, Judge.

23 THE COURT: And I doubt they're willing to stay on his
24 bond.

25 MR. SHELTON: It's a complicated matter. Actually, it

1 was on Dunlap and Mr. Dunlap passed. The family,
2 technically, cannot stay on the bond. I could call Steve
3 Schmutts, who's the personal representative, because it was
4 a sole proprietorship. I talked to his daughter on Friday,
5 but that is a complicated matter. Potentially, I could find
6 another bondsman if Your Honor would --

7 THE COURT: I just don't think the statute provides for
8 it. And keeping him on a monitor is not a bond require --
9 that was maybe a requirement of his bond, but once this case
10 was called for trial, nobody has -- there's nothing for me
11 take if he doesn't show up.

12 MR. SHELTON: Yes, Your Honor.

13 THE COURT: And I guess I'm trying to figure out, who
14 said that y'all needed something revoking a bond that
15 doesn't exist?

16 MR. COOPER: Your Honor --

17 THE COURT: I've never had that experience or had that
18 requested of the Court.

19 MR. COOPER: The detention downstairs is the one who
20 advised me of that. We've done it in other cases.

21 THE COURT: That must be of recent origin because
22 there's no bond to revoke. Once his case is called, there
23 is no more bond. The bonding company has satisfied its
24 obligation, so there's nothing for the Court to revoke.

25 MR. COOPER: Judge, I don't know if it helps, but Judge

1 McCoy, I think back in December, she requested to make it
2 cleaner and easier a revocation order just to make it easier
3 for the jail.

4 THE COURT: I can't do what's not legal to make it
5 easier for the jail. I need somebody to tell me why they're
6 requiring it when the statute is clear. There's no bond --

7 MR. COOPER: Judge McCoy signed it --

8 THE COURT: But there's no bond to revoke, so what am I
9 revoking is my question? And I understand the theory, but,
10 you know.

11 MR. COOPER: I mean, I can make an order that says
12 there is no longer a bond and he shall remain in custody.

13 THE COURT: I need that statute. I'm sorry, it's not
14 your fault. It's going to drive me nuts till I find it.
15 Because it says shall, it's mandatory, and it imposes that
16 obligation on the sheriff's office or whoever is in charge
17 of the detention center to take the person into custody and
18 continue to provide their appearance at court until such
19 time the person is either convicted or acquitted or there's
20 a dismissal or whatever else.

21 And I didn't realize he had a bonding company. They're
22 not defunct because they're still conducting business. I'm
23 certain that's something with the department's insurance
24 where they can't appear on his -- those taking over the
25 business can't continue on his bond. But it really doesn't

1 matter because his bond has been called and he's satisfied
2 his obligation as the bonding -- I mean, the bonding company
3 has satisfied their obligation, which is to procure his
4 appearance at trial.

5 MR. SHELTON: Yes, Your Honor.

6 THE COURT: Because revoking somebody's bond, also,
7 gives the appearance that somehow they've done something
8 wrong and their bond is being revoked and that's just not
9 the case. He's appeared for trial. The only reason he's
10 being kept in custody is because the statute requires it.
11 And then that's going to be in his record as a revocation
12 and that's problematic.

13 MR. COOPER: Judge, to your last point, I did put in
14 that order, if Your Honor wants to see it, it is being -- I
15 know it's not being revoked, but because the case is being
16 called for trial, which would absolve him of any wrongness
17 on his part, it would be because the case is being called
18 for trial.

19 THE COURT: Yeah, but you're still revoking a bond and
20 unless somebody opens that and has the capacity to open it,
21 which they don't, the public doesn't, it's just going to
22 show a revocation of bond order. And the public index,
23 nobody can look in there and see what it says. And in his
24 criminal history, it's going to reflect a revocation of
25 bond, which is not really -- I know I'm a stickler for

1 rules. I know it probably annoys people, but it is what it
2 is. We all live by rules, that's our Bible.

3 MR. COOPER: Your Honor, I'm happy to draft an order
4 that cites that statute.

5 THE COURT: Normally, y'all know the statute.
6 Normally, y'all are the ones that bring it to my attention.

7 MR. COOPER: Ma'am?

8 THE COURT: I said normally, the State is the one that
9 has the statute available. I normally have a copy of it in
10 my trial notebook, I don't know how it got moved. Because
11 it's not in that bond -- it's in a separate statutory
12 provision and it's just three lines in the wording of the
13 statute. It's not a long statutory provision.

14 MR. COOPER: Can we look for it and send it to you
15 tonight or do we need to do it before --

16 THE COURT: I don't know. Are they going to take him
17 or are they requiring that I give them an order, which is --
18 bear with me one second.

19 (Pause.)

20 MR. COOPER: May I approach?

21 THE COURT: Yes.

22 MR. COOPER: It just says revocation and it says --

23 THE COURT: I'm not revoking it, I'm changing the
24 language.

25 MR. COOPER: Yes, ma'am. But it just says that because

1 we selected a jury in the trial --

2 THE COURT: The jury has been sworn.

3 MR. COOPER: And, Judge, also, Solicitor Wilson and Ms.
4 Shealy have both been looking as well and we can't find --

5 THE COURT: It's not in the bond statute. It's not in
6 Code 17. It's some place else.

7 MR. COOPER: She was looking somewhere in Code 38 and
8 we're still looking for it.

9 THE COURT: It's some place else and it's the statute,
10 it's like three lines in a whole different section. It took
11 me a long time to find it and that's why I'm so frustrated
12 that it was moved. It's not where you would be looking for
13 it and that's why it's so hard to find. It doesn't have the
14 standard language that you would expect, but that's what it
15 says. I'm not aware of it being amended or revoked.

16 If y'all would make sure the court reporter has all the
17 exhibits before we leave today, that would be helpful.

18 Is there anything else we need to take up for the
19 evening, from the State?

20 MR. COOPER: No, ma'am. We're starting back at what
21 time tomorrow?

22 THE COURT: 9:00.

23 From the Defense?

24 MR. SHELTON: No, Your Honor.

25 THE COURT: And Mr. Shelton, do you need to make

1 arrangements for your client to be dressed out? Do you need
2 to bring fresh clothes for him in the morning?

3 MR. SHELTON: Yes, Your Honor.

4 THE COURT: What do y'all need him to do to achieve
5 that?

6 THE DEPUTY: He just needs to bring the proper clothing
7 and supply it to our detention.

8 THE COURT: What time does he need to have it here?

9 THE DEPUTY: 8:30ish.

10 THE COURT: Okay. That works.

11 MR. SHELTON: I will do that, yes, ma'am.

12 THE COURT: Make sure he doesn't have anything of value
13 on him.

14 MR. SHELTON: He does not, Judge.

15 THE COURT: Y'all go ahead and enjoy your evening and
16 I'll see you in the morning at 9:00. I'll let you know in
17 the morning if I'm going to order lunch for the jury so you
18 all can make arrangements.

19 (WHEREUPON, Court was adjourned for the day to be
20 reconvened on Tuesday, June 13, 2023.)

21 TUESDAY, JUNE 13, 2023

22 THE COURT: Is the State ready to proceed?

23 MR. COOPER: Just a little housekeeping. I do
24 anticipate at the end of this, the State will be able to
25 rest at some point tomorrow. We have, potentially, this

1 afternoon three lay witnesses, one of which is incarcerated,
2 Mr. Johnson. I do believe it may be necessary --

3 THE COURT: I've already dealt with that -- go ahead.

4 MR. COOPER: I just wanted to make you aware, we may
5 need to have some testimony in-camera with him before we put
6 him on the stand in front of the jury --

7 THE COURT: Why would we need to do that?

8 MR. COOPER: So, Judge, he has been adjudicated in the
9 Family Court for murder in this case, assault and battery of
10 a high and aggravated nature and a weapons charge. I have
11 spoken to him once before. I have since been informed that
12 he has just been uncooperative, didn't want to be
13 cooperative with us. I don't know what his testimony will
14 be on the stand. I don't know if he'll try to throw a fit,
15 I don't know if he'll try to refuse to answer. With that,
16 I'm certain he wouldn't do anything outside the presence of
17 the jury. That way, we won't have any issues in front of
18 the jury.

19 THE COURT: I don't know that it's going to make any
20 appreciable difference whether he does it -- I mean, what do
21 you propose that I do if he's not cooperative? I'm not
22 going to force him to do anything.

23 MR. COOPER: Well, I think, Judge, part of it is, if
24 he's uncooperative, pursuant to Rule 611, I would suggest
25 that he is either an adverse party, which is a codefendant

1 in this case, or, at the very least, a witness associated
2 with an adverse party and I would be able to cross-examine
3 him. He did give a recorded statement. So I think I could
4 handle his testimony that way. But my only concern --

5 THE COURT: The only way you get to use an extraneous
6 statement to impeach someone, especially your own witness is
7 if you ask them the exact same question and they answer
8 inconsistently.

9 MR. COOPER: Yes, ma'am. And that may happen. He may,
10 ultimately, be cooperative. The only other concern I have
11 is --

12 THE COURT: You can talk to him in advance and figure
13 that out, but I'm not aware of any rules that require me to
14 do that in-camera.

15 MR. COOPER: His attorney is coming over here.

16 THE COURT: Who's his attorney?

17 MR. COOPER: Caroline Bickley with the PD's office.
18 She's the one that informed me that he didn't wish to talk
19 to us. I don't know if that will change. If it doesn't,
20 I'll let the Court know. I just wanted to make the Court
21 aware because I know there was case law that talks about I
22 can't have a witness get on the stand just to claim the
23 Fifth. I don't think he can claim the Fifth, but --

24 THE COURT: He can do whatever he'd like to do.

25 MR. COOPER: There's case law that --

1 THE COURT: I think you need to inquire about your
2 witness and figure out what he's going to say.

3 MR. COOPER: I'll see about that and let the Court
4 know.

5 THE COURT: And then you figure out how you want to
6 handle it, but I'm not going to have a discovery exercise.

7 MR. COOPER: Sure.

8 THE COURT: So who do you have ready for today?

9 MR. COOPER: We have Candy Dozier, that will be our
10 first witness this morning.

11 THE COURT: What number is she on your witness list?

12 MR. COOPER: Beg the Court's indulgence?

13 THE COURT: That's number 15. Who else do you have
14 ready this morning?

15 MR. COOPER: Officer Michael Sanchez will be the second
16 witness.

17 THE COURT: That's number 18.

18 MR. COOPER: And, let's see, potentially, Judge, I will
19 either call Detective Jerome DeSheers or Jessica Freeman,
20 who is, also, present. Judge, I, actually, do have -- I
21 think Detective DeSheers would be number 22 and Jessica
22 Freeman would be number six. After that would be Officer
23 Michael Cook, number 20, and after that would be Crime Scene
24 Technician Anita Moore, 26.

25 And then after those, we would be getting into the

1 three lay witnesses. I don't know if that will get us to
2 the afternoon break or not. But those witnesses are number
3 three --

4 THE COURT: I assume your SLED person is coming today?

5 MR. COOPER: Yes, ma'am. Actually, thank you, before I
6 put those lay witnesses up, he will be here at lunchtime
7 today.

8 THE COURT: Is that Mr. Green?

9 MR. COOPER: Yes, ma'am, it's number 31 on your list.
10 And then it will be the lay witnesses, number three, Jamaul
11 Simmons, number four, Pierre Nelson. And Judge, I did make
12 Mr. Shelton aware, Mr. Nelson was the witness that was in
13 the vehicle. He was never charged. He was appointed a
14 lawyer last week by Judge Price because there was some
15 concerns he may try to take the Fifth.

16 We proffered with him last night. I made Mr. Shelton
17 aware of that proffer agreement, that his statements to us
18 were materially the same as what he told law enforcement.
19 He made one statement somewhat implicating a conversation
20 with Mr. Marable, I made Mr. Shelton aware of that. I just
21 wanted to make the Court aware that was all last night and
22 we have made Mr. Shelton aware of that.

23 And, also, Judge, made him aware of Mr. Nelson is on
24 probation from Family Court. I provided him with those
25 convictions. We discussed it. I think there's only one --

1 THE COURT: What are his convictions?

2 MR. COOPER: So he was convicted of two counts of
3 unlawful carrying a pistol. And I say convicted, Judge, it
4 was in Family Court. I think the proper word is
5 adjudicated, if I have that right. But he was adjudicated
6 in Family Court two counts of unlawful carrying of a pistol,
7 one count possession of marijuana and then one count of a
8 zero to five-year felony, possession of a firearm by a
9 minor. And I think pursuant to --

10 THE COURT: I'm not going to argue about that right
11 now. I just needed to know.

12 Are we ready to proceed?

13 MR. COOPER: I believe so.

14 THE COURT: Defense ready to proceed?

15 MR. SHELTON: Yes, Your Honor. When we do get to the
16 lay witnesses, which will be this afternoon, hopefully, this
17 afternoon --

18 THE COURT: If we go as fast as we did yesterday, it
19 might be before then.

20 MR. SHELTON: Given that there's new statements, I do
21 need some time to go over this new statement. I know it's
22 only --

23 THE COURT: Which new statement are you referring to?

24 MR. SHELTON: There's a new statement saying that
25 Pierre had a Facetime with my client. I need to go back

1 through his transcripts of his interview, so I will need
2 some time prior to that.

3 THE COURT: Is that a new statement?

4 MR. SHELTON: Yes, Your Honor.

5 MR. COOPER: That's the one that was provided to us
6 last night.

7 THE COURT: Is that different from what he told police
8 is my question?

9 MR. COOPER: I don't think he told police that.

10 THE COURT: So it's a new statement then, correct?

11 MR. COOPER: Correct.

12 THE COURT: You'll have time at lunch to go over it,
13 Mr. Shelton.

14 MR. SHELTON: Yes, and that's all I ask, Judge. I'm
15 ready to proceed.

16 MR. COOPER: The State is ready.

17 THE COURT: Thank you.

18 Is the witness present in the courtroom so we don't
19 have to go looking for them?

20 MR. COOPER: No, Your Honor, but I can have --

21 THE COURT: You need to go get your witness. Thank
22 you.

23 MR. COOPER: Judge, in the future, before the jury
24 comes in, would you like us to facilitate that because I can
25 do that?

1 THE COURT: I think that would be best so that they're
2 not waiting.

3 MR. COOPER: Yes, ma'am.

4 THE COURT: That would be helpful. Thank you.

5 (WHEREUPON, the jury enters the courtroom at 9:42 a.m.)

6 THE BAILIFF: All jurors are present, Your Honor.

7 THE COURT: Thank you.

8 You may be seated. Good morning, ladies and gentlemen.
9 I hope everybody had a pleasant evening.

10 We apologize for the slight delay in getting started.
11 We had some matters of law we needed to take up that will,
12 hopefully, help us move a little more smoothly through the
13 process. I, also, had a matter unrelated to this case that
14 I needed to give attention. We appreciate your patient.
15 Please know that we do not take your time for granted.

16 The State may proceed.

17 MR. COOPER: Thank you, Judge. Good morning. The
18 State would call Candy Dozier.

19 THE COURT: If the witness will come forward to be
20 sworn.

21 CANDY DOZIER JOHNSON,

22 after being duly sworn, testified as follows:

23 THE CLERK: Please have a seat for me, please. And if
24 you will state your full name for the record, spelling your
25 last name.

1 THE WITNESS: My name is Candy Dozier Johnson. The
2 last name is spelled J-O-H-N-S-O-N.

3 THE COURT: You may proceed.

4 MR. COOPER: Thank you, Judge.

5 THE COURT: You're welcome.

6 DIRECT EXAMINATION

7 BY MR. COOPER:

8 Q Good morning, Ms. Dozier-Johnson. How are you?

9 A Good morning, I'm fine.

10 Q Will you tell the jury where you're currently employed?

11 A I'm employed at the North Charleston Police Department.

12 Q And what is your role at the North Charleston Police
13 Department?

14 A I am now administrative assistant.

15 Q How long have you been with North Charleston?

16 A 26 years.

17 Q And do you live in North Charleston as well?

18 A Yes, sir.

19 Q Do you have any involvement of affiliation with
20 Ferndale Mobile Home Park?

21 A Yes, I do, part owner.

22 Q You're part owner?

23 A Yes, sir.

24 Q Do you recall this incident back in April of 2020?

25 A Yes, sir, I do.

1 Q Did you facilitate providing some video from a
2 residence on Lakewood Street to law enforcement?

3 A Yes, I did.

4 Q What was the address of that residence?

5 A [REDACTED] Street.

6 Q And you provided video surveillance from that residence
7 to law enforcement?

8 A Yes, sir.

9 Q If I were to show you a CD with that video on there,
10 would you recognize it?

11 A Yes, sir.

12 MR. COOPER: May I approach the witness, Judge?

13 THE COURT: Uh-huh.

14 Q Showing you what's been marked for ID purposes only as
15 State's 102. Do you recognize this?

16 A Yes, sir, I do.

17 Q What is that?

18 A This is the video for [REDACTED] Street and has my
19 initial on it.

20 Q And you viewed it to make sure it was an accurate copy?

21 A To make sure it's the right copy, yes, I did.

22 Q And will you tell the jury regarding the time stamp on
23 that video, is it off?

24 A It's off.

25 Q And why is it off?

1 A Because we had a power surge and we didn't go back and
2 reset it, but it's like between two and three hours off.

3 Q But this video footage provided is the accurate video
4 footage from that house?

5 A Yes, sir, it is.

6 MR. COOPER: Your Honor, at this time, I have no
7 further questions for Ms. Dozier.

8 Please answer any questions Mr. Shelton may have for
9 you.

10 THE COURT: You may proceed.

11 MR. SHELTON: No questions.

12 THE COURT: Any objection to the witness being excused?
13 What number is that? I don't believe you identified
14 what number that is yet.

15 MR. COOPER: 102. I haven't admitted it yet. I'm
16 going to show it to the next witness as well.

17 THE COURT: Any objection to the witness being excused
18 from the State?

19 MR. COOPER: No, ma'am.

20 THE COURT: From the Defense?

21 MR. SHELTON: No, Your Honor.

22 THE COURT: Ma'am, you're excused.

23 THE WITNESS: Thank you.

24 THE COURT: You're welcome.

25 THE WITNESS: Have a good day.

1 THE COURT: You do, too.

2 THE WITNESS: Thank you.

3 THE COURT: Call your next witness.

4 MR. COOPER: The State would call Officer Michael
5 Sanchez.

6 MICHAEL SANCHEZ,

7 after being duly sworn, testified as follows:

8 THE CLERK: Please have a seat for me. If you will
9 state your full name for the record, spelling your last
10 name.

11 THE WITNESS: Michael Alexander Sanchez, S-A-N-C-H-E-Z.

12 THE COURT: You may proceed.

13 MR. COOPER: Thank you, Judge.

14 THE COURT: You're welcome.

15 DIRECT EXAMINATION

16 BY MR. COOPER:

17 Q Good morning, Officer Sanchez.

18 A Good morning.

19 Q Will you tell the jury where you're currently employed?

20 A North Charleston Police Department.

21 Q And how long have you been with North Charleston Police
22 Department?

23 A 11 years.

24 Q What is your current role?

25 A I am a patrol officer in the south bureau of North

1 Charleston Police.

2 Q Focusing your attention to April of 2020, what was your
3 rule with North Charleston?

4 A I was a persons crime detective at that time.

5 Q What was your involvement in this case?

6 A I was assigned to the area when I was dispatched to the
7 call for the incident and canvassed the area for video.

8 Q Did you happen to locate any video?

9 A I did. I located video at [REDACTED] which was
10 just down the street from this incident.

11 Q And did you make contact with that residence and
12 collect video from there?

13 A Yes, I did.

14 Q I'm going to show you --

15 MR. COOPER: Your Honor, may I approach the witness?

16 THE COURT: You may.

17 BY MR. COOPER:

18 Q I'm going to show you, Officer Sanchez, what's been
19 marked for ID purposes only as State 102. Do you recognize
20 this?

21 A Yes.

22 Q And what is that?

23 A That is the video that I collected from [REDACTED]

24 Q And you reviewed it to make sure it was an accurate
25 copy, no modifications, anything like that?

1 A Yes, that's correct.

2 Q And you signed this accordingly?

3 A Yes, I did.

4 Q And once you downloaded that video, what did you do
5 with the video?

6 A That video was then turned over to the lead case agent,
7 Detective Pritchard.

8 MR. COOPER: Beg the Court's indulgence.

9 (Pause.)

10 BY MR. COOPER:

11 Q Do you remember, Officer Sanchez, where [REDACTED]
12 Street was in relation to the crime scene?

13 A It's just down the street.

14 Q I'm going to show you -- see if you recognize this.
15 I'm showing you what's been marked for ID purposes only
16 State's 3. Do you recognize that?

17 A Yes, that's a map of the -- an overall view from, looks
18 like maybe Google maps, of Lakewood Street.

19 Q Does it appear to show where the crime scene was and
20 where you collected the video?

21 A Absolutely, it does.

22 Q And you recognize it because of your experience in
23 North Charleston?

24 A Yes, that and my recollection from the evening.

25 MR. COOPER: Your Honor, at this time, I would offer

1 what's been marked for ID purpose only State's 3 into
2 evidence.

3 THE COURT: Any objection?

4 MR. SHELTON: No objection.

5 THE COURT: Marked and admitted without objection
6 State's 3.

7 (WHEREUPON, State's Exhibit No. 3 was admitted into
8 evidence.)

9 MR. COOPER: And if I could publish?

10 THE COURT: You may proceed.

11 BY MR. COOPER:

12 Q And this is the picture we were just talking about?

13 A Yes, it is.

14 Q Would you indicate for the jury where the crime scene
15 was located?

16 A That would have taken place right here.

17 Q And then where is the trailer where you collected the
18 video?

19 A That would be this one right here.

20 Q And do you recall what all the video is showing?

21 A It shows a vehicle driving around the area about 20
22 minutes prior to this incident. It's the same vehicle we
23 had seen on video of the actual shooting location.

24 MR. COOPER: Beg the Court's indulgence.

25 (Pause.)

1 MR. COOPER: Officer Sanchez, I have no further
2 questions for you. Please answer any Mr. Shelton has.

3 THE COURT: Any questions for the witness?

4 CROSS-EXAMINATION

5 BY MR. SHELTON:

6 Q You say it's the same video from the incident -- or
7 same vehicle?

8 A Yes, it looks like the same vehicle, yes.

9 Q There's no license plate. There's no distinguishing
10 characteristics so you can say it's the exact same --

11 A No, you couldn't say exactly, but it is the same make
12 and model from appearance.

13 MR. SHELTON: Thank you. No further questions.

14 THE COURT: Any redirect?

15 MR. COOPER: Just one question, Judge. Officer Sanchez
16 identified this exhibit. I would just ask that Exhibit 102
17 be moved into evidence.

18 THE COURT: Any objection?

19 MR. SHELTON: No objection.

20 THE COURT: Marked and admitted without objection.

21 MR. COOPER: Thank you, Your Honor.

22 THE COURT: You're welcome. State's 102.

23 (WHEREUPON, State's Exhibit No. 102 was admitted into
24 evidence.)

25 MR. COOPER: Yes, ma'am. And I have no further

1 questions.

2 THE COURT: Any objection to the witness being excused
3 from the State?

4 MR. COOPER: None from the State, Judge.

5 THE COURT: And the Defense?

6 MR. SHELTON: No, Your Honor.

7 THE COURT: Sir, you're excused.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 Call your next witness.

11 MR. COOPER: The State calls Jessica Freeman.

12 THE COURT: Please come forward to be sworn.

13 JESSICA FREEMAN,

14 after having been duly sworn, testified as follows:

15 THE CLERK: Please have a seat for me. If you will
16 state your full name for the record, spelling your last
17 name.

18 THE WITNESS: Jessica Freeman, F-R-E-E-M-A-N.

19 THE COURT: You may proceed.

20 MR. COOPER: Thank you, Judge.

21 THE COURT: You're welcome.

22 DIRECT EXAMINATION

23 BY MR. COOPER:

24 Q Ms. Freeman, will you tell the jury what area of town
25 do you currently live in?

1 A North Charleston.

2 Q Back in April of 2020, where did you live?

3 A [REDACTED] Street.

4 Q Who is Antwan Johnson to you?

5 A He's like my nephew. I've raised him since the day
6 that he was born.

7 Q Are you -- is this easy for you to be here this
8 morning?

9 A Absolutely not.

10 Q We can tell you're upset. Why are you here this
11 morning?

12 A I have to be.

13 Q Because I served you with a subpoena?

14 A Yes, sir.

15 Q Will you tell the jury -- focusing your attention to
16 April 18th of 2020. Did at some point you hear some shots
17 fired that night?

18 A Yes, sir.

19 Q Did you call 911 about that?

20 A My mom did.

21 Q About hearing those shots?

22 A Yes, sir.

23 Q At some point shortly after that, will you tell the
24 jury what, if anything, you saw at your house?

25 A Just Antwan being dropped off.

1 Q And you saw Antwan come in the house?

2 A Yes.

3 Q Was he with anybody?

4 A Pierre.

5 Q Pierre Nelson?

6 A Yes, sir.

7 Q Did you see who dropped him off?

8 A Alonza.

9 Q And you know Alonza?

10 A I don't know him personally, but I know of him.

11 Q What was he driving?

12 A It was a gray car.

13 Q Let me show you -- do you remember speaking with
14 Detective Pritchard a few days after the incident?

15 A Yes, sir.

16 Q And him asking you the same kind of questions I just
17 asked you?

18 A Yes, sir.

19 THE COURT: Ma'am, if you could scoot up a little bit
20 closer and speak directly into the microphone.

21 THE WITNESS: Yes, ma'am.

22 MR. SHELTON: I just ask leading questions.

23 THE COURT: Well, when he propounds a question, I need
24 you to make a contemporaneous objection and then I'll rule
25 on it.

1 MR. SHELTON: Yes, Your Honor.

2 THE COURT: You may proceed.

3 BY MR. COOPER:

4 Q At some point during your conversation with Detective
5 Pritchard, were you shown two pictures?

6 A Yes, sir.

7 Q Were you able to identify the items or people in those
8 pictures?

9 A Yes, sir.

10 Q And if I were to show you them again this morning,
11 would you recognize them?

12 A Yes, sir.

13 Q I'm going to show you what's been marked for ID
14 purposes only as State's 147 and 148. What do those items
15 appear to be?

16 A The car.

17 Q Were those the pictures the detective showed you?

18 A Yes, sir.

19 Q And then, I think, is that your name and signature on
20 there?

21 A Yes, sir.

22 MR. COOPER: Your Honor, at this time, the State would
23 offer what's been marked for ID purposes only as State's 147
24 and 148 into evidence.

25 THE COURT: Any objection?

1 MR. SHELTON: No objection.

2 THE COURT: Without objection, State's 147 and 148.

3 (WHEREUPON, State's Exhibit Nos. 147 and 148 were
4 admitted into evidence.)

5 MR. COOPER: May I publish?

6 THE COURT: You may.

7 BY MR. COOPER:

8 Q I'm going to show you State's 147. If you'll tell the
9 jury, what does this picture show?

10 A The car that Antwan was dropped off in.

11 Q Is that your name at the top and your signature at the
12 bottom?

13 A Yes, sir.

14 Q And what does that say where it says name of person
15 pictured above?

16 A Looks like the car.

17 Q And just to be clear, you're referencing the car you
18 saw that night?

19 A Yes, sir.

20 Q I show you State's Exhibit 148. Would you tell the
21 jury what this shows us?

22 A A picture of Alonza.

23 Q And is that Alonza Marable, the Defendant in the
24 courtroom?

25 A Yes, sir.

1 Q And is that the person you saw as the driver of the car
2 that night?

3 A Yes, sir.

4 Q And that was the one that dropped off Antwan and Pierre
5 after you heard the shots?

6 A Yes, sir.

7 MR. COOPER: Beg the Court's indulgence.

8 (Pause.)

9 MR. COOPER: Ms. Freeman, I have no further questions
10 for you. Thank you for being here. If you'll answer
11 anything the Defense has for you.

12 THE WITNESS: Yes, sir.

13 THE COURT: Any cross-examination of the witness?

14 MR. SHELTON: Yes, Your Honor.

15 THE COURT: You may proceed.

16 CROSS-EXAMINATION

17 BY MR. SHELTON:

18 Q Jessica, this was 11 o'clock at night?

19 A Yes, sir.

20 Q So it was pretty dark out?

21 A Yes, sir.

22 Q And I'm showing you what's been marked as State's
23 Exhibit 52 and 53. Do you recognize those?

24 A Yes, sir.

25 Q Is that the house on Emden?

1 A Yes, sir.

2 Q And there's no spotlights on top of the house, correct?

3 A No, sir.

4 Q And this car, when it was dropping off Antwan and
5 Pierre, was it -- it was outside the fence?

6 A Yes, sir.

7 Q Take a look at State's 149 through 151. Does that
8 depict the scene when Antwan and Pierre were dropped off?

9 A Yes, sir.

10 Q Correct?

11 A Yes, sir.

12 Q And there's probably one, two, three, four, five, six,
13 seven, at least, eight cars out there that night, correct?

14 A Yes, sir.

15 Q When that car pulls up. So where are you sitting at
16 this time?

17 A I was standing on the porch.

18 Q And so there's, at least, two other people out there
19 that night, correct?

20 A Yes, sir.

21 Q Were there many other people out there that night?

22 A I believe so.

23 Q So there was a large group that was out there?

24 A Yes, sir.

25 THE COURT: Can you please say what number that is

1 you're referring to?

2 BY MR. SHELTON:

3 Q These are State's 149, 150 and 151, correct?

4 A Yes, sir.

5 Q So how many people do you think were out there in total
6 that night? A dozen?

7 A Maybe, possible. About a dozen.

8 Q So there were a lot of people around there that night?

9 A Yes, sir.

10 Q There was a lot going on?

11 A Yes, sir.

12 Q So the car you indicated to Detective Pritchard, you
13 said it looks like the car?

14 A Yes, sir.

15 Q But you're not sure that was the car that dropped him
16 off?

17 A I mean, I could be wrong.

18 Q You didn't see a license plate, nothing that indicated
19 it was the exact car?

20 A No, sir.

21 Q The driver of the car never got out of the car,
22 correct?

23 A No, sir.

24 Q And you're standing from the porch?

25 A Yes, sir.

1 Q Probably 25, 30 yards?

2 A Maybe.

3 Q From where that car was?

4 A Yes, sir.

5 Q Okay. And they stayed in the car the whole time?

6 A Yes, sir.

7 Q Did you see anybody else in the car?

8 A No, sir.

9 Q Did you see any other individuals in the car?

10 A Huh-uh.

11 Q Do you know if the driver was leaning back or anything
12 in that car?

13 A I don't remember.

14 Q Do you remember if Antwan went up to the driver?

15 A No, sir, I don't think so.

16 Q He didn't, Antwan did not go up to the driver?

17 A No, I don't believe so.

18 Q Did Pierre go up to the driver?

19 A I don't believe so.

20 Q They just walked out and they left?

21 A Yes, sir.

22 Q So that's your memory?

23 A Yes, sir.

24 MR. SHELTON: No further questions.

25 THE COURT: Any redirect of the witness?

1 MR. COOPER: Yes, ma'am. Beg the Court's indulgence
2 one second.

3 (Pause.)

4 REDIRECT EXAMINATION

5 BY MR. COOPER:

6 Q Ms. Freeman, I want to show you State's Exhibit 52.
7 What does this picture show us?

8 A The house, my mom's house.

9 Q If you can draw on the screen, will you circle where
10 the porch is on your house?

11 A (Witness complies.)

12 Q And if I understand your testimony to Mr. Shelton, is
13 that where you were standing when Alonza -- when Antwan and
14 Pierre were dropped off?

15 A Yes, sir.

16 Q Can you show on the picture where that car would have
17 pulled up?

18 A (Witness complies.)

19 Q So that's how close it was to where you were standing?

20 A Yes, sir.

21 THE COURT: Please make sure you're saying what exhibit
22 you're referring to.

23 MR. COOPER: Ma'am?

24 THE COURT: Please make sure you're saying for the
25 record which exhibit you're referring to.

1 MR. COOPER: This is State's Exhibit 52.

2 BY MR. COOPER:

3 Q And then, Ms. Freeman, Mr. Shelton showed you -- I'm
4 showing you what's been marked for ID purposes only as
5 State's 149, State's 150 and State's 151. These are the
6 three pictures Mr. Shelton showed you?

7 A Yes, ma'am.

8 Q And is that camera footage from your residence?

9 A Yes, sir.

10 MR. COOPER: Your Honor, at this time, the State would
11 offer what's been marked for ID purposes only as State's
12 149, 150 and 151 into evidence.

13 THE COURT: Any objection?

14 MR. SHELTON: No objection.

15 THE COURT: Marked and admitted without objection 149,
16 150 and 151.

17 (WHEREUPON, State's Exhibit Nos. 149, 150 and 151 were
18 admitted into evidence.)

19 BY MR. COOPER:

20 Q Showing you State's Exhibit 149. Is this one of the
21 pictures we just saw?

22 A Yes, sir.

23 Q Would you indicate what is shown in this picture? Do
24 you see the vehicle where Mr. Johnson and Mr. Nelson were
25 dropped off?

1 A Yes, sir.

2 Q Would you please circle that for the jury?

3 A (Witness complies.)

4 Q Tell me, if you would, does the driver's window appear

5 to be down?

6 A Yes, sir.

7 Q And is that how you saw who the driver was?

8 A Yes, sir.

9 Q And do you know Alonza Marable?

10 A I know of him, yes, sir.

11 Q I mean, you recognize him?

12 A Yes, sir.

13 Q Showing you State's 150. What does this picture show?

14 A Antwan and Pierre.

15 Q And if you'll circle Antwan for me.

16 A (Witness complies.)

17 Q And, again, you know him how?

18 A I've raised him since the day he was born.

19 Q And where is Pierre in this pictures?

20 A (Witness indicates.)

21 Q And I don't know if we've asked this, but how do you

22 know Pierre?

23 A Antwan's friend as well.

24 Q So you've seen him many times?

25 A Yes, sir.

1 Q And I'll ask you, at the bottom right beside where it
2 says Saturday, can you read that time stamp for us, where it
3 starts with 23?

4 A 23:13:45.

5 Q And are you familiar with military time?

6 A A little bit.

7 Q Would that be 11:13:45 p.m.?

8 A Yes, sir.

9 MR. COOPER: And if you'd go back to 149 real quick for
10 us.

11 Q What is that time stamp?

12 A 23:13:35.

13 Q So this picture happened just before the one where you
14 just identified Mr. Johnson and Mr. Nelson?

15 A Yes, sir.

16 MR. COOPER: And then show us 151, please.

17 BY MR. COOPER:

18 Q What does this picture show?

19 A Pierre.

20 Q And if you'd circle Pierre for us.

21 A (Witness complies.)

22 Q And as they're walking up, where are they going?

23 A To the porch.

24 Q Is that where you were standing?

25 A Yes, sir.

1 MR. COOPER: Mr. Sams, if you would, would you please
2 show State's Exhibit 160, that video clip of [REDACTED]
3 already in evidence?

4 Q This is just the video footage of the pictures we've
5 been looking at?

6 A Yes, sir.

7 MR. COOPER: If you'll play that for us, sir.

8 (WHEREUPON, video was played for the jury.)

9 BY MR. COOPER:

10 Q What do we see approaching the house?

11 A Antwan and the car.

12 Q That's the car that you saw?

13 A Yes, sir.

14 Q That's him getting out of the back passenger seat?

15 A Yes, sir.

16 Q Then Pierre gets out of the other side?

17 A Yes, sir.

18 Q And if you'll tell the jury, where are they walking?

19 A To the porch inside the house.

20 Q Where you were standing?

21 A Yes, sir.

22 MR. COOPER: Beg the Court's indulgence.

23 Mr. Sams, you can pause the video.

24 (WHEREUPON, video was paused.)

25 MR. COOPER: Ms. Freeman, again, I thank you for being

1 here. I have no further questions.

2 THE COURT: Mr. Cooper, did you say what number this
3 was?

4 MR. COOPER: I'm sorry, Judge?

5 THE COURT: Did you say what number this was?

6 MR. COOPER: Yes, ma'am, I did, it was State's Exhibit
7 160.

8 THE COURT: Has that been admitted or is it ID only?

9 MR. COOPER: It has been admitted. It was admitted
10 yesterday.

11 THE COURT: Any recross-examination of the witness?

12 MR. SHELTON: Yes, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. SHELTON:

15 Q So this picture right here, this is from up high,
16 correct?

17 A Off the porch, yes, sir.

18 Q So you're lower than where this video camera would be,
19 correct?

20 A It's about the same.

21 Q It's a little higher, though, correct?

22 A Yes, sir.

23 Q But we, also, see cars parked sideways and long ways
24 all prior to getting into the fence, correct?

25 A Yes, sir.

1 Q So there's a quite a bit of room between the porch and
2 the fence, correct?

3 A Yes, sir.

4 Q That two, three cars can be all parked in there,
5 correct?

6 A (No audible response.)

7 Q So there's cars moving, there's cars going in and out,
8 correct?

9 A Yes, sir.

10 Q Those could, also, be in your way when you're standing
11 on the porch, correct?

12 A Yes, sir.

13 Q Because there is a car that's coming right across
14 there?

15 A Uh-huh.

16 Q In your line of sight, correct?

17 A Yes, sir.

18 MR. SHELTON: No further questions.

19 THE COURT: Any redirect?

20 MR. COOPER: Beg the Court's indulgence?

21 (Pause.)

22 MR. COOPER: I have no further questions for this
23 witness.

24 THE COURT: Any objection to this witness being excused
25 from the State?

1 MR. COOPER: Subject to recall, no, ma'am.

2 THE COURT: From the Defense?

3 MR. SHELTON: No, ma'am.

4 THE COURT: Ma'am, you're excused subject to being
5 recalled.

6 Call your next witness.

7 MR. COOPER: Beg the Court's indulgence one second.

8 (Pause.)

9 MR. COOPER: Your Honor, may we approach briefly?

10 THE COURT: Uh-huh.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 MR. COOPER: Your Honor, at this time, the State would
14 call Officer Michael Cook.

15 MICHAEL COOK,

16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat for me. If you would,
18 please, state your full name, spelling your last.

19 THE WITNESS: Michael Cook, C-O-O-K.

20 THE COURT: You may proceed.

21 MR. COOPER: Thank you, Judge.

22 DIRECT EXAMINATION

23 BY MR. COOPER:

24 Q Officer Cook, will you tell the jury where you're
25 currently employed?

1 A The North Charleston Police Department.

2 Q And what is your current role with the North Charleston
3 Police Department?

4 A I am a supervisor over a day shift team.

5 Q And what does that role entail?

6 A So when the sergeant is not there, I take over as the
7 supervisor. I'm, also, the field training officer for the
8 team.

9 Q Back in April of 2020, what was your role with North
10 Charleston?

11 A I was a patrol officer for the south bureau day shift
12 team.

13 Q And what does that entail?

14 A Answering calls, working accidents, going to burglary
15 class or any call that comes out from dispatch.

16 Q Little bit of everything?

17 A Yes, sir.

18 Q Focusing your attention to April 21st, 2020.

19 A Yes, sir.

20 Q Were you working that day?

21 A I was.

22 Q If you will tell the jury how you became involved in
23 this case?

24 A Some detectives had come across our south channel,
25 which is the channel we worked off of, and advised they were

1 following a vehicle that they needed stopped.

2 Q And they advised you -- did they give you a description
3 of the vehicle?

4 A They did.

5 Q Would you provide that for the jury?

6 A It was a brown, four-door Ford focus with a tag of RWS
7 238.

8 Q And then what did you do with that information?

9 A I proceeded to the -- they said it was at Meeting
10 Street and Dorchester. At that time, I was coming off of
11 McMillian onto Meeting Street, where I was able to get in
12 behind the vehicle.

13 Q Officer Cook --

14 MR. COOPER: May I approach the witness?

15 THE COURT: You may.

16 BY MR. COOPER:

17 Q I'm going to show you what's been marked for ID
18 purposes only as State's 61. Do you recognize that picture?

19 A I do.

20 Q What is it a picture of?

21 A That's the vehicle that I stopped.

22 Q And you know that based on?

23 A The tag number and the description.

24 Q And I think you said brown, what color does that appear
25 to be?

- 1 A Looks to be a blue.
- 2 Q But either way, that's the tag?
- 3 A Yes, sir.
- 4 Q It's a dark-colored vehicle?
- 5 A Yes, sir.
- 6 Q You mentioned where you were. Did you initiate a
- 7 traffic stop on that vehicle?
- 8 A I did.
- 9 Q Tell the jury how the traffic stop progressed.
- 10 A Once the detectives advised where the car was, I was
- 11 able to get in behind it. I activated my blue lights and
- 12 siren, which automatically activates my in-car camera and my
- 13 body camera. I had some other units that were working with
- 14 me. We all got behind the car. He pulled into 3610
- 15 Dorchester Road, which is the old Greyhound bus station.
- 16 Q Who was identified as the driver of that vehicle?
- 17 A Alonza Donta Marable, Jr.
- 18 Q And what you're looking at is your report that you
- 19 wrote from that incident?
- 20 A I am.
- 21 Q And he was the driver?
- 22 A Yes.
- 23 Q Was he the sole occupant?
- 24 A He was.
- 25 Q Was he detained?

1 A He was.

2 Q And was that the directive you were issued by the
3 detectives?

4 A It was.

5 Q So what happened after you detained Mr. Marable?

6 A I placed him in the back of my car after I searched him
7 and I was advised to take him to the detective bay.

8 Q And did you speak to him at all?

9 A No.

10 MR. COOPER: Beg the Court's indulgence.

11 (Pause.)

12 BY MR. COOPER:

13 Q Speaking of the car that he was driving, what happened
14 to that vehicle?

15 A We had it towed to the city warehouse.

16 Q Are you aware if there was a search warrant for it?

17 A I believe they did do one for it.

18 MR. COOPER: Your Honor, at this time, I have no
19 further questions for Mr. Cook.

20 If you'll answer anything Mr. Shelton may have for you.

21 THE COURT: Any cross-examination?

22 MR. SHELTON: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. SHELTON:

25 Q Officer Cook, he pulled over?

1 A Yes, sir.

2 Q He didn't take off running from you or anything like
3 that?

4 A No, sir, he was very cooperative.

5 Q Very cooperative?

6 A Yes, sir.

7 MR. SHELTON: Thank you. No further questions.

8 THE COURT: Any redirect?

9 MR. COOPER: I have no redirect, Your Honor.

10 THE COURT: Any objection to the witness being excused?

11 MR. COOPER: None from the State.

12 THE COURT: Any from the Defense?

13 MR. SHELTON: No, Your Honor.

14 THE COURT: Sir, you're excused.

15 THE WITNESS: Thank you.

16 THE COURT: Call your next witness.

17 MR. COOPER: The State calls Detective Jerome DeSheers.

18 JEROME DESHEERS,

19 after being duly sworn, testified as follows:

20 THE CLERK: Please have a seat for me. If you will
21 state your full name for the record, spelling your last
22 name.

23 THE WITNESS: My name is Jerome DeSheers, it's
24 D-E-S-H-E-E-R-S.

25 THE COURT: You may proceed.

1 MR. COOPER: Thank you, Judge.

2 DIRECT EXAMINATION

3 BY MR. COOPER:

4 Q Good morning, Detective DeSheers.

5 A Good morning.

6 Q Will you tell the jury where you're currently employed?

7 A Yes, I work for the North Charleston Police Department
8 here in South Carolina.

9 Q How long have you been with North Charleston?

10 A 15 and a half years.

11 Q What is your current role?

12 A Currently, I'm assigned to the FBI's violent crime task
13 force as well as the FBI cellular analysis survey team.

14 Q And what does all that entail? Would you describe that
15 for the jury?

16 A So for the task force, I'm assigned to North Charleston
17 in the detective division working the violent crimes. And
18 then I'm attached to the FBI, which has a task force that
19 works gang-related violent crimes.

20 Q And was that the role that you were in back in April of
21 2020?

22 A Yes, it was.

23 Q Will you describe for the jury how you became involved
24 in this case?

25 A So on April 20th of 2020, I arrived to work and

1 attended a meeting to go over the incident that happened on
2 the 18th, and then was tasked to go out and search for a
3 suspect vehicle that was seen on video.

4 Q When you mentioned the incident that happened on the
5 18th, are you referring to the homicide on Lakewood Street?

6 A That's correct.

7 Q And you mentioned you were tasked with trying to go out
8 and find this vehicle. Will you kind of describe for the
9 jury how you went about that?

10 A Yes. So myself, along with other task force members,
11 we were provided some suspect description involving a house
12 on Emden Street as well as a couple of addresses we could
13 potentially look at. Then we set up surveillance, actually,
14 on Emden Street to see if we saw the vehicle ride by through
15 the neighborhood and then, also, checked out some of the
16 addresses that were associated to one of the suspects,
17 Antwan Johnson, who was the resident at the Emden Street
18 address.

19 Q Did you, also, have an opportunity to review some
20 surveillance footage that had already been collected that
21 potentially showed people?

22 A Yes. So part of doing surveillance is knowing what
23 you're looking for, so I was able to get video that was
24 already recovered by detectives and, also, had some screen
25 shots sent to me.

1 Q I'm going to show you --

2 MR. COOPER: If I may approach the witness, Judge?

3 THE COURT: You may.

4 BY MR. COOPER:

5 Q Detective DeSheers, I'm going to show you what's been
6 marked for ID purposes only as State's 152. Do you
7 recognize that?

8 A Yes. So this is a photograph from one of the
9 surveillance cameras that captured the back side of the
10 suspect vehicle here with the lights on.

11 MR. COOPER: At this time, the State would offer what's
12 been marked for ID purposes only as State's 152.

13 THE COURT: Any objection?

14 MR. SHELTON: No objection.

15 THE COURT: Marked and admitted without objection
16 State's 152.

17 (WHEREUPON, State's Exhibit No. 152 was admitted into
18 evidence.)

19 MR. COOPER: Thank you, Judge.

20 THE COURT: You may proceed.

21 BY MR. COOPER:

22 Q Is that that same picture I just showed you?

23 A Yes, this is the same image.

24 Q So what does that show us, will you tell that to the
25 jury, please?

1 A So this vehicle with the lights on is identified as the
2 suspect vehicle during this investigation and that's what we
3 were sent out to look for.

4 Q And what, if anything, is important on this picture
5 that could help you identify the vehicle?

6 A So couple things that we look at when we're out looking
7 for vehicles, so there's a marking right here, lower left
8 end of the trunk by the license plate. There's a noticeably
9 large sticker of some sort. And then from this picture, it
10 looks like there might be some tint on the windows, so those
11 are things we want to keep an eye out for.

12 Q And were you, also, provided a description of what type
13 and model of the vehicle?

14 A Yes. So it was described as a Ford, I believe it was a
15 Focus three series.

16 Q And tell the jury, if you would, were you, ultimately,
17 able to locate a vehicle that matched that description?

18 A Yes, I was.

19 Q And how were you able to, ultimately, locate what you
20 believed to be the suspect vehicle?

21 A So a couple things came into play. We reviewed Ford
22 Focuses that were registered in the Charleston and
23 tri-county area to try to narrow down potential suspects.
24 And then at about 8:30 on the 20th, a suspect, Antwan
25 Johnson, came into the detective division where I watched

1 the video. I learned through that interview that a possible
2 Alonza was the driver of this vehicle and it went towards
3 Railroad Avenue. There was a vehicle that was on my list of
4 Fords that was registered to, I believe it was [REDACTED]
5 [REDACTED] Lot B. So myself and another task force officer
6 went over to that address and saw this vehicle backed into
7 the trailer that was believed to be marked Lot B.

8 Q And I want to ask you a couple things about that. You
9 mentioned some information you got from interviews with the
10 detectives. Is part of your work in this case and cases in
11 general where information comes in in piecemeal?

12 A That's correct.

13 Q And try to piece it together to see if you can find
14 what you're looking for?

15 A That's correct.

16 Q And then you, also, mentioned finding one at [REDACTED]
17 [REDACTED] Avenue. Are you familiar with the Ferndale area?

18 A Yes.

19 Q Let me show you what's already been marked into
20 evidence as State's Exhibit 1. Is this a map of the
21 Ferndale area?

22 A Yes, this is.

23 Q Can you indicate for us if you would where Lakewood and
24 Marson Street are?

25 A So Lakewood runs between Piedmont and Railroad and then

1 the last street is Marson. The streets go in alphabetical
2 order, so Lakewood and Marson are the last two.

3 Q And would you indicate for us where the crime scene
4 was?

5 A So the crime scene was between this area and then we
6 had some video from this area.

7 Q And then are you able to show us where Emden Street --
8 [REDACTED] Street is?

9 A So Emden is this corner right here.

10 Q And then, ultimately, where was [REDACTED] Avenue?

11 A So 4997 is the trailer park, I believe it was this area
12 here.

13 Q And that long road on the right side of the screen that
14 runs down from Lakewood to Emden, that long road, is that
15 Railroad?

16 A Yes. So this side of Ferndale is the Railroad Avenue
17 side that runs parallel to Rivers and Piedmont.

18 Q And then the one that you circled on Railroad, that's
19 the address where you located the vehicle?

20 A Yes, the [REDACTED].

21 Q What was the tag number of the vehicle that you
22 located?

23 A So it was RWS 238.

24 Q And what address was it registered?

25 A [REDACTED] Lot B.

1 Q And that's the location where you, ultimately, found
2 it?

3 A Yes, in North Charleston.

4 Q And who was it registered to?

5 A Shanicea Pease, if I'm saying that correctly.

6 Q Did you, ultimately, learn what relation she had with
7 the Defendant in this case?

8 A She's going to be the sister of the Defendant in this
9 case.

10 Q And then I'm going to show you what's been marked for
11 ID purposes only State's Exhibit 62. Do you recognize that?

12 A Yes, I do. I recognize this as the Ford Focus in
13 question.

14 MR. COOPER: And Your Honor, the State would offer
15 what's been marked for ID purposes only as Exhibit 62 into
16 evidence.

17 THE COURT: Any objection?

18 MR. SHELTON: No objection.

19 THE COURT: Marked and admitted without objection.

20 (WHEREUPON, State's Exhibit No. 62 was admitted into
21 evidence.)

22 MR. COOPER: Permission to publish?

23 THE COURT: You may proceed.

24 BY MR. COOPER:

25 Q Is this the Ford Focus that you saw on Railroad Avenue?

1 A Yes, that's correct.

2 Q And describe for the jury if you would what you noticed
3 on the side?

4 A So the True Auto sticker and the Focus emblem lower
5 left-hand side is what looks uniquely specific to the
6 suspect vehicle along with the tinted windows.

7 Q And if you would, I'm going to have you go back to --
8 going back to State's Exhibit 152. Again, if you'll connect
9 you mentioning that decal?

10 A So this lower left-hand corner, which after seeing the
11 other picture, we can see that that True Auto sticker above
12 that Focus emblem is what makes up this big looking sticker
13 in this black and white image.

14 Q And, again, we can see the vehicle in this picture.
15 Were you ever able to make this picture clear where you
16 could see the tag, for example?

17 A I was not, no.

18 Q And then once you figured out and located that vehicle
19 on Railroad Avenue, what did you then do?

20 A So, initially, I contacted the call-out detective
21 supervisor to come out to respond for a possible search
22 warrant. Supervision required us to sit at the location, so
23 myself and another task force officer sat at the Railroad
24 address until we were able to see that vehicle leave.

25 Q And once that vehicle left, what did you do?

1 A So it was about 8:30 in the morning is when we saw
2 someone that looked like the Defendant leave the Lot B
3 trailer, get into the vehicle and left down Railroad towards
4 Montague Avenue where we maintained surveillance until we
5 could get a marked patrol car to stop the vehicle.

6 Q And that was on the morning of April 21st?

7 A Yes, it was.

8 Q And are you aware if that vehicle was stopped -- was
9 that vehicle stopped by North Charleston?

10 A Yes, the vehicle was followed and then, eventually,
11 stopped at Dorchester right before 26.

12 Q Do you remember if it was Officer Cook that would have
13 stopped that vehicle?

14 A I believe it was.

15 Q And then who was, ultimately, detained as the driver?
16 Are you aware of that?

17 A The Defendant was detained as the driver and sole
18 occupant.

19 MR. COOPER: Beg the Court's indulgence.

20 (Pause.)

21 MR. COOPER: Detective DeSheers, I have no further
22 questions for you. If you would answer anything Mr. Shelton
23 may have for you.

24 THE COURT: You may proceed.

25 MR. SHELTON: Thank you, Your Honor.

1 THE COURT: You're welcome.

2 CROSS-EXAMINATION

3 BY MR. SHELTON:

4 Q Detective DeSheers, you mentioned you could not get the
5 license plate from that video or any other videos, correct?

6 A That's correct.

7 Q In addition, you couldn't get that sticker or whatever
8 it is on the side of the car, correct?

9 A Correct.

10 Q So is this the only picture you have of that little
11 possibly sticker on the side?

12 A I believe there's other video that shows it.

13 Q Okay. But nothing that says it says True Auto?

14 A That's correct.

15 Q And I think you -- did you pull all the different Ford
16 Focuses in the whole tri-county area?

17 A So the request was sent to SLED to do that for us.

18 Q Okay. And it's expansive?

19 A That's correct.

20 Q There's a lot of Ford focuses in the tri-county area?

21 A That's correct.

22 Q And did you go through and -- it doesn't have any
23 descriptions on those, correct?

24 A Correct. The best we can get is possibly the color
25 based on the VIN code.

1 Q But there's nothing that says there's a sticker on the
2 side or anything like that, correct?

3 A That's correct.

4 Q I mean, we're expansive. It's probably 50, 60 pages of
5 just a list, correct?

6 A Yes, it would be a rather large list, correct.

7 Q Thousands?

8 A Thousands of vehicles, yes.

9 Q Registered in the tri-county area of Ford Focuses,
10 correct?

11 A Correct.

12 Q Antwan Johnson's mother owns a Ford Focus, correct?

13 A I don't know off the top of my hand.

14 Q Would it be helpful to see your report?

15 A Yes, it would.

16 Q It's the very first paragraph.

17 A Would you like me to read the first paragraph?

18 Q Just read to yourself.

19 A Okay.

20 Q Does that refresh your memory?

21 A So this is not saying that it's a Ford Focus that
22 belongs to Mr. Johnson's mother. What this is saying is
23 that I was tasked to find generation three Ford Focus and
24 obtained an address during the briefing, which was
25 identified as Heather Murray's listed DMV address, who is

1 the mother of suspect, Antwan Johnson. So it would have
2 been just something to go off of trying to find the vehicle.
3 It's not saying that it's a vehicle registered to Ms.
4 Murray.

5 Q So it doesn't say right there that Ms. Murray has a --
6 you just obtained her DMV address?

7 A Yes. That's just showing that I was tasked to find a
8 Ford Focus and a possible lead would be looking at addresses
9 associated to a known suspect, who, at the time, was Antwan
10 Johnson.

11 Q Okay.

12 MR. SHELTON: I have no further questions.

13 THE COURT: Any redirect of the witness?

14 MR. COOPER: Just a few, Judge.

15 THE COURT: You may proceed.

16 MR. COOPER: Thank you.

17 THE COURT: You're welcome.

18 REDIRECT EXAMINATION

19 BY MR. COOPER:

20 Q Detective DeSheers, Mr. Shelton asked you about going
21 out to [REDACTED] Street. Will you kind of describe for the
22 jury generally how you go about trying to find a vehicle
23 like that? Like, how you got information, what information
24 you use.

25 A So when we get a list of these vehicles, one thing that

1 can be done is when we get the list from SLED, which is the
2 State Law Enforcement Division, they can, actually, make it
3 so that the registered addresses or the order is listed
4 based on registered address from distance from the crime
5 scene. So we can look at that to see if there's some
6 association of this vehicle to a particular area or to a
7 crime scene.

8 We can, also, look at the registered owners to see if
9 there's any connection to that and persons of interest that
10 we know of. And then we could, also, look at other types of
11 cameras, license plate readers to kind of take away or
12 resolve some of those vehicles as not being our suspect
13 vehicle and then we narrow that pool of vehicles down.

14 And then we, also, look at addresses that are
15 associated to known individuals to see if maybe the vehicle
16 was parked there, not necessarily registered to that
17 address, but maybe parked there because that could be
18 somewhere where they're hiding out or things or that nature.

19 Q And you mentioned it a little bit, but it's almost a
20 little bit awkward, we're asking you now after the fact, but
21 when you begin searching, you don't know necessarily where
22 you're looking for or what you're looking for?

23 A We know what we're looking for, we're just trying to
24 figure out where and set surveillance or do some sort of
25 enforcement.

1 Q And would it be fair to say that one of the places to
2 start is with individuals that are related or involved in
3 that case?

4 A That's correct.

5 Q And just to confirm, you did not find a Ford Focus at
6 [REDACTED] Street?

7 A Correct.

8 Q And you didn't find one registered to [REDACTED]
9 Street?

10 A Correct.

11 MR. COOPER: Beg the Court's indulgence.

12 (Pause.)

13 BY MR. COOPER:

14 Q And if you would, Detective DeSheers, are you aware of
15 who lived at [REDACTED] Street?

16 A The Defendant, Antwan Johnson, I believe he lived with
17 his grandmother at the time.

18 MR. COOPER: I have no further questions, Detective
19 DeSheers. Thank you for your time.

20 THE COURT: Any objection to the witness being excused
21 from the State?

22 MR. SHELTON: Your Honor, I do have one question based
23 off the redirect.

24 THE COURT: Direct, cross, redirect. I'm going to give
25 you latitude this time.

1 MR. SHELTON: Yes, Your Honor.

2 THE COURT: Limited to redirect.

3 RECROSS-EXAMINATION

4 BY MR. SHELTON:

5 Q You mentioned that you look at the registered owners of
6 the suspects, correct?

7 A So when we get that list of vehicles, we can see
8 registered owners and see if there's any connection of a
9 particular owner to a suspect.

10 Q And you looked at all of the -- and you looked at the
11 registered to the known individuals, correct? So you're
12 looking at the known individuals and if it correlates to any
13 of the registered owners?

14 A That's correct. So in this case, we knew Antwan
15 Johnson and we tried to look at his associates to see if any
16 of those associates may have been on the list.

17 Q And you looked at his father, his stepfather, those
18 individuals?

19 A I don't know particular relatives that we looked at,
20 but, again, it's seeing if we have something in our system.
21 Maybe Antwan was stopped with someone before that could lead
22 us down to a right vehicle or right registered owner, things
23 of that nature.

24 MR. SHELTON: No further questions.

25 THE COURT: Any further questions from the State?

1 MR. COOPER: No, ma'am.

2 THE COURT: Any objection to the witness being excused
3 from the State?

4 MR. COOPER: Not from the State.

5 THE COURT: From the Defense?

6 MR. SHELTON: No, Your Honor.

7 THE COURT: Sir, you're excused.

8 THE WITNESS: Thank you, ma'am.

9 THE COURT: You're welcome.

10 Call your next witness.

11 MR. COOPER: Judge, may we approach briefly?

12 THE COURT: You may.

13 (WHEREUPON, a bench conference was held in the presence
14 of the jury, but outside the hearing of the jury.)

15 THE COURT: Madam Forelady, ladies and gentlemen, we're
16 going to take a brief comfort break. It will be about ten
17 minutes. During the break, please, do not discuss the case
18 and, please, leave your notepads in your seats.

19 (WHEREUPON, the jury exits the courtroom at 10:38 a.m.)

20 THE COURT: You may be seated.

21 I need you to procure the location of your witnesses.
22 We started at 9:40. We have not been in court an hour. I
23 expect us to move seamlessly through this testimony. Time
24 is a premium.

25 MR. COOPER: Yes, ma'am.

1 THE COURT: And I'm referring to the jury's time, not
2 ours.

3 We'll be at ease for ten minutes.

4 (WHEREUPON, a short break was taken.)

5 THE COURT: Please get the jury:

6 (WHEREUPON, the jury enters the courtroom at 11:05
7 a.m.)

8 THE COURT: Does the State have their witnesses ready
9 to go forward?

10 MS. BARBER: Just a moment, Judge.

11 (Pause.)

12 MR. COOPER: Judge, I apologize for the delay. Our
13 witness, they have filled up the garage. She is on the way
14 --

15 THE COURT: You don't have but one witness ready to go
16 forward?

17 MR. COOPER: Well, Judge, the other issue is going to
18 be our next several witnesses are going to be lay witnesses,
19 both of which have attorneys. I have reached out to Lisa
20 Gay for Jamaul Simmons, she's in route. Ms. Bickley for Mr.
21 Johnson --

22 THE COURT: So my question becomes why didn't you do
23 this on yesterday? Why did you not anticipate when I told
24 you on Friday that we were going to be moving at a pace and
25 that I was not inclined to waste the jury's time?

1 MR. COOPER: Judge, I advised them that it was going to
2 be today at lunchtime. I just didn't expect --

3 THE COURT: You knew yesterday, we were moving --

4 MR. COOPER: That's my fault.

5 THE COURT: Now, I have a jury that's been sitting for
6 30 minutes with nothing to do and no explanation for that.

7 MR. COOPER: And I am sorry for that. Once Ms. Moore
8 testifies, there may be some issues we have to take up.

9 THE COURT: Like what?

10 MR. COOPER: One, Mr. Johnson is incarcerated and needs
11 to speak with his attorney.

12 THE COURT: Why hasn't she spoken with him before now?

13 MR. COOPER: She is in court. I have made every effort
14 to let her know. I think she's working on that. Ms. Gay
15 was in court and is coming here.

16 There is a chance, it's remote, but we may have to ask
17 the Court for a bench warrant for one of our lay witnesses,
18 potentially. I'm hoping to avoid that, but I wanted to make
19 the Court aware.

20 So Ms. Moore is --

21 THE COURT: You can't issue a bench warrant. You've
22 got to do a Rule to Show Cause and give the person the
23 opportunity to show up and explain why they did not comply
24 with the subpoena. Bench warrants are for criminal
25 appearances for defendants. They're not for witnesses.

1 It's not how the process works. It's not how the rules
2 work. If someone doesn't comply with a subpoena, you've got
3 to serve them first with a Rule to Show Cause because I can
4 put them in jail. Them not complying with the subpoena is
5 about the Court, it's not about you.

6 MR. COOPER: Okay.

7 THE COURT: You've got to serve them because they can
8 go to jail for six months for not complying with a subpoena.
9 And they have an opportunity to come and explain why they
10 did not comply with it. That's why the rules provide for a
11 Rule to Show Cause, for them to show cause why they did not
12 comply with a lawful court order. It is not to issue a
13 bench warrant. That's not how the rules work.

14 MR. COOPER: We'll cross that bridge when we get there.

15 Ms. Moore is here to testify. Once she testifies,
16 she'll take a few minutes, we're going to ask for an early
17 recess for lunch and deal with some of these witness issues
18 and get them squared away for this afternoon so we can roll
19 through this afternoon. The State still expects to rest
20 tomorrow.

21 I know we're running behind and I apologize for that,
22 Judge. We expected it to take longer than it did. We have
23 witnesses that will take the full afternoon. Again, we will
24 still rest tomorrow. I apologize for the delay.

25 THE COURT: Who's your next witness?

1 MR. COOPER: Anita Moore and she is here.

2 THE COURT: Please get the jury.

3 When is Mr. Green going to arrive?

4 MR. COOPER: He is stuck in traffic on I-26. He was
5 supposed to be here by noon. He's on 26. We're getting
6 updates from him every couple of minutes.

7 THE COURT: Are you calling Alexandria Reid?

8 MR. COOPER: Yes, I was going to call her after -- and
9 I can see --

10 THE COURT: Are you calling Detective Pritchard?

11 MR. COOPER: Detective Pritchard will be after the lay
12 witnesses testify. Because their testimony --

13 THE COURT: Are you calling Jennifer Butler?

14 MR. COOPER: No, ma'am, unless it becomes relevant --

15 THE COURT: Are you calling Ryan DeWane?

16 MR. COOPER: We are, Judge. She is flying in from the
17 State of Washington.

18 THE COURT: When is she planning to get here?

19 MR. COOPER: I think she lands in the afternoon.

20 Judge, there were some witnesses that need to be brought
21 before to lay the foundation, so we have her here this
22 afternoon, expect to get to her tomorrow morning. Dr.
23 Batalis, also --

24 THE COURT: You might want to have her available today.
25 I'm not breaking early. Is Melissa High being called as a

1 witness.

2 MR. COOPER: She will be, Judge.

3 THE COURT: When is Dr. Batalis going to be here?

4 MR. COOPER: Tomorrow morning.

5 And, Judge, these three lay witnesses will take a
6 decent amount of time --

7 THE COURT: You've told me that about others and we've
8 gone at a different -- I can't rely on your estimations.

9 Please bring in the jury.

10 (WHEREUPON, the jury enters the courtroom at 11:05
11 a.m.)

12 THE BAILIFF: All jurors are present, Your Honor.

13 THE COURT: You may be seated.

14 Ladies and gentlemen, we appreciate your patience.
15 Please know we do not take your time for granted.

16 Call your next witness.

17 MS. BARBER: The State calls Anita Moore.

18 THE COURT: If the witness would come to the stand to
19 be sworn.

20 ANITA MOORE,

21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat for me. If you would,
23 state your full name for there record, spelling your last
24 name.

25 THE WITNESS: Anita Marie Moore, M-O-O-R-E.

1 THE COURT: You may proceed.

2 MS. BARBER: Thank you, Judge.

3 THE COURT: You're welcome.

4 DIRECT EXAMINATION

5 BY MS. BARBER:

6 Q Good afternoon, Ms. Moore. Would you tell the jury
7 where you currently work?

8 A I work for the North Charleston Police Department.

9 Q And how long have you been with the North Charleston
10 Police Department?

11 A A little over seven and a half years.

12 Q Prior to working at that agency, were you involved with
13 law enforcement in any other way?

14 A Yes. I worked for 12 years for the City of Charleston
15 and six years for Isle of Palms.

16 Q And what were your roles working with both of those
17 agencies?

18 A For the City of Charleston, I was a crime scene
19 technician and criminalist. I started off as a dispatcher
20 at Isle of Palms.

21 Q What was your role back in April of 2020?

22 A I was a crime scene technician for the City of North
23 Charleston.

24 Q And do you mind explaining that role for the jury?

25 A When there's a potential crime scene, they call us out

1 and we respond. Our job is to document the location and
2 scene, collect any viable evidence, preserve it, package it
3 and turn it into the Department.

4 Q Are you familiar with the case we're here for today?

5 A Yes, ma'am.

6 Q And how are you involved with that case?

7 A I was requested to go to a location to assist in a
8 search warrant.

9 Q And where was that location?

10 A It was [REDACTED] Avenue, Lot B.

11 Q And is that in Charleston County?

12 A Yes, ma'am.

13 Q Can you describe for the jury what your process is like
14 when you arrive on scene to respond to a search warrant?

15 A We only speak with the agent that's on scene who has
16 the search warrant. We'll take a photograph of the search
17 warrant. Then we'll start with the exterior of the location
18 that we're at and we'll take overall photographs. Once we
19 do that, we'll enter the location. We'll take overall
20 photographs then and then the detectives will conduct their
21 search.

22 Q And is that what you did in this specific case?

23 A Yes, ma'am.

24 MS. BARBER: Your Honor, may I approach the witness?

25 THE COURT: You may.

1 BY MS. BARBER:

2 Q Showing you what's been marked for identification
3 purposes only as State's Exhibit 68. What is that I've just
4 handed you?

5 A That's a photograph that I took of the outside of the
6 location the search warrant was for.

7 MS. BARBER: At this time, the State moves to admit
8 Exhibit 68 in to evidence.

9 THE COURT: Any objection?

10 MR. SHELTON: No objection.

11 THE COURT: Marked and admitted without objection
12 State's 68.

13 (WHEREUPON, State's Exhibit No. 68 was admitted into
14 evidence.)

15 MS. BARBER: Permission to publish?

16 THE COURT: Yes, ma'am. You may proceed.

17 BY MS. BARBER:

18 Q Ms. Moore, is that the home that you remember
19 responding to at [REDACTED]

20 A Yes, ma'am, it is.

21 Q And can you just describe that photograph to the jury?

22 A It was a single-wide trailer and that was the front
23 entrance that we used to go into the trailer.

24 Q And after going into the trailer, what did you do after
25 that?

1 A The trailer opened up into the living room, kitchen and
2 then there was two bedrooms down the hallway, along with a
3 bathroom. So we took overall photographs of the residence
4 as it was before we conducted any searches.

5 MS. BARBER: Permission to approach the witness?

6 THE COURT: You may.

7 BY MS. BARBER:

8 Q Showing you what's been marked as Exhibit 69 through
9 77. Ms. Moore, feel free to take your time to look through
10 those pictures. How are you familiar with those?

11 A When we take the photographs, we download them onto our
12 server, number them with the case number and our initials.
13 And when I reviewed the case, these photographs are the ones
14 that were listed for that case number.

15 MS. BARBER: At this time, the State moves to admit
16 Exhibits 69 through 77.

17 THE COURT: Any objection?

18 MR. SHELTON: Yes, Your Honor. May we approach?

19 THE COURT: Uh-huh.

20 (WHEREUPON, a bench conference was held in the presence
21 of the jury, but outside the hearing of the jury.)

22 THE COURT: 69 and 70 are ID only at this time until
23 the Court can entertain the objection. 71 through 77 are
24 marked and admitted without objection.

25 (WHEREUPON, State's Exhibit Nos. 71 through 77 were

1 admitted into evidence.)

2 MS. BARBER: Permission to publish 71 through 77 to the
3 jury?

4 THE COURT: You may proceed.

5 MS. BARBER: Thank you, Judge.

6 THE COURT: You're welcome.

7 BY MS. BARBER:

8 Q Ms. Moore, you mentioned you took pictures inside the
9 home. Do you mind describing for the jury what this photo
10 depicts and where is that photo?

11 A That photo is in the corner of the first bedroom, that
12 we designated as the first bedroom that was in the hallway
13 to the left. And that's the box of ammunition and magazine
14 that was located.

15 Q Now, just to take a few steps back, you said you
16 entered the home through that doorway that we initially saw
17 in the previous photo. Can you walk the jury through the
18 layout of the house?

19 A Yes, ma'am. When you walk in through the front door,
20 immediately to your right, you have the kitchen area.
21 You're in the living room when you first walk in. To the
22 left, there's a little hallway or doorway that goes to the
23 hallway. When you walk towards the hallway, as you're
24 standing in the hallway on your right, there's a bathroom
25 and then there's two bedrooms on the left. The first one we

1 designated as bedroom one and the one in the back is bedroom
2 two.

3 Q And, again, you're describing that this is showing as
4 bedroom one?

5 A Yes, ma'am.

6 Q Was there any indication of who occupied bedroom one?

7 A There was an ID on the floor that we took a photograph
8 of.

9 Q And do you recall who that ID belonged to?

10 A Let me make sure I'm correct, the ID -- I'm sorry. It
11 was a South Carolina beginner's permit for Alonza Donta
12 Marable, Jr.

13 Q Showing you now what's been marked as Exhibit 72, can
14 you describe that photo for the jury?

15 A Once we take our overall photographs and detectives
16 conduct their search, if there's any items that they want to
17 be collected, I'll go through and I'll mark these items with
18 yellow placards or evidence markers so we can designate what
19 items are what. Then I'll go back through and I'll take
20 more photographs. This picture is an overall photograph of
21 those items in that corner that have the evidence markers on
22 it.

23 Q Exhibit 73, can you tell the jury what that is?

24 A That's just a close-up photograph showing the detail
25 and the name of the box of ammunition that was marked for

1 item 10.

2 Q And Exhibit 74?

3 A That's just the edge side of that box showing the type
4 of ammunition it is.

5 Q Showing you now what's been marked as Exhibit 75, what
6 does that picture depict?

7 A That is a sight mark. The box, it's for a sight for a
8 rifle or a handgun that's in that same corner underneath one
9 of the other boxes.

10 Q And now showing you what has been marked as Exhibit 76.
11 What is depicted in that photograph?

12 A Once the items were collected in the room that were
13 previously marked, we lifted up the mattress and this was
14 located under the mattress in bedroom one. It was a rifle
15 and a magazine.

16 Q And when you say the room, are we still referencing the
17 first bedroom?

18 A Yes, bedroom one.

19 Q And bedroom one is where you found the ID of Alonza
20 Marable?

21 A Yes.

22 MS. BARBER: Beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 (Pause.)

25 MS. BARBER: Permission to approach the witness?

1 THE COURT: Uh-huh.

2 BY MS. BARBER:

3 Q Showing you now what has been marked for identification
4 purposes only as Exhibit 124.

5 A You want me to pull it out?

6 Q Yes, please. Ms. Moore, do you recognize that item?

7 A Yes, ma'am, I do.

8 Q And how do you recognize it?

9 A The packaging that I originally packaged in has the
10 seal, my initials, has the case number of the packaging and
11 the serial number on the rifle matches the series number in
12 my report.

13 MS. BARBER: Your Honor, at this time, the State moves
14 to admit what has been previously marked for identification
15 purposes as Exhibit 124 into evidence.

16 THE COURT: Any objection?

17 MR. SHELTON: No objection.

18 THE COURT: Marked and admitted without objection
19 Exhibit 124.

20 (WHEREUPON, State's Exhibit No. 124 was admitted into
21 evidence.)

22 BY MS. BARBER:

23 Q Ms. Moore, where did you find that piece of evidence?

24 A It was in bedroom one underneath the mattress of the
25 bed.

1 Q Showing you now what has been marked for ID purposes
2 only as Exhibit 120 and 121.

3 MS. BARBER: Permission to approach the witness?

4 THE COURT: You may.

5 BY MS. BARBER:

6 Q Ms. Moore, do you recognize those items?

7 A Yes, I recognize the packaging. What's in it is the
8 items that were marked, has my seal and initial and the case
9 number. So this one is marked as item 9, which is the
10 Tulammo ammunition box with 99.223 caliber REM rounds.

11 Q And the other one?

12 A This is marked as item number 8, which is going to be a
13 black plastic magazine designated P-Mag for a 5.56 by 45
14 gun.

15 MS. BARBER: At this time, Your Honor, the State moves
16 to admit Exhibits 121 and 122 into evidence.

17 THE COURT: Did you mean 120 and 121 or did you mean
18 121 and 122?

19 MS. BARBER: 120 and 121.

20 THE COURT: Any objection?

21 MR. SHELTON: No objection.

22 THE COURT: Marked and admitted without objection, 120
23 and 121.

24 (WHEREUPON, State's Exhibit Nos. 120 and 121 were
25 admitted into evidence.)

1 BY MS. BARBER:

2 Q And, Ms. Moore, if you'd be so kind to open each of
3 those?

4 A Certainly, yes, ma'am. Do you want me to tear it? I
5 don't have scissors.

6 THE COURT: We have scissors.

7 THE WITNESS: They don't allow me to bring my knife in.

8 So this is item 8, and it's a black magazine. It has
9 my identification on there with the case number and the item
10 number as well.

11 BY MS. BARBER:

12 Q And where exactly did you find that item?

13 A It would have been in bedroom one. It's a box of
14 Tulammo ammunition with 99 rounds.

15 Q And where were those found?

16 A In the first bedroom in the corner.

17 Q After taking photographs and collecting items from the
18 first bedroom, how did you proceed?

19 A They requested photographs of the second bedroom. We
20 took some photographs of items that was collected from the
21 second bedroom.

22 Q And after entering that second bedroom, do you recall
23 the items that you did take photographs of?

24 A In bedroom two, there was a social security card that
25 was on top of the dresser and it, also, had the name of

1 Alonza Donta Marable with the social security number. And
2 then there was a purse that had a South Carolina driver's
3 license for a Shanicea Leone Pease.

4 Q And after taking photos in that second bedroom, did you
5 take any other photos in the house?

6 A We went and took additional photographs for items in
7 the kitchen and the living room that were collected.

8 Q If I showed you those photos, would you recognize them?

9 A Yes, ma'am.

10 MS. BARBER: Permission to approach the witness?

11 THE COURT: You may.

12 BY MS. BARBER:

13 Q Showing you what has been marked for identification
14 purposes only as State's Exhibit 79 and 80. Do you
15 recognize those?

16 A Yes, I do.

17 Q How is it that you recognize them?

18 A They have the evidence markers and the location and,
19 again, from reviewing the photographs from the ones we
20 downloaded to our server.

21 MS. BARBER: Your Honor, at this time, the State moves
22 to admit Exhibits 79 and 80 in to evidence.

23 THE COURT: Any objection?

24 MR. SHELTON: No objection.

25 THE COURT: Marked and admitted without objection,

1 State's 79 and 80.

2 (WHEREUPON, State's Exhibit Nos. 79 and 80 were
3 admitted into evidence.)

4 MS. BARBER: Permission to publish?

5 THE COURT: Yes, ma'am, you may proceed.

6 BY MS. BARBER:

7 Q Ms. Moore, showing you Exhibit 79. Is this the living
8 room area that you referred to earlier?

9 A Yes, ma'am, it is.

10 Q And can you describe what's shown in that photograph?

11 A When the detectives were doing their search, they
12 requested that I come back out and take a photograph of an
13 item. The item was a paper bag that was in the living room
14 by the TV. I marked it with item number 16 and took
15 photographs of the bag and then opened it and took
16 additional photographs of the contents inside.

17 Q And showing you Exhibit 80. What is that a depiction
18 of?

19 A That was the items that were inside of the paper bag in
20 the living room. It was a plastic bag of ammunition and
21 then it was a magazine that was in a packaging.

22 Q Did you collect any items from the living room?

23 A Yes. We collected those items that were in the living
24 room and then there were some phones that were between the
25 living room and the kitchen. There was another phone in the

1 living room and then there was some phones in between the
2 kitchen and the living room.

3 Q If I showed you those items, would you recognize them?

4 A Yes, ma'am.

5 MS. BARBER: Permission to approach the witness?

6 THE COURT: Yes, ma'am.

7 BY MS. BARBER:

8 Q Ms. Moore, do you recognize that specific bag?

9 A Yes. It has my initials on it and has our evidence
10 markers and the case number with my item number as well.

11 Q And if you could, would you open that bag?

12 A (Witness complies.)

13 MS. BARBER: Your Honor, at this time, the State moves
14 to admit what is previously marked for identification
15 purposes only as Exhibit 123 into evidence.

16 THE COURT: Any objection?

17 MR. SHELTON: No objection.

18 THE COURT: Marked and admitted without objection, 123.

19 (WHEREUPON, State's Exhibit No. 123 was admitted into
20 evidence.)

21 THE WITNESS: So 13 is a magazine and these are the
22 ammunition that was from the magazine.

23 BY MS. BARBER:

24 Q Ms. Moore, after collecting those items, what did you
25 do with them?

1 A Once we collected them, we, also, processed them for
2 potential fingerprints and/or DNA.

3 Q Were you involved in this case in any other way?

4 A No, ma'am.

5 Q So after taking the photos and canvassing the address
6 at Railroad, did you ever respond to [REDACTED] Street?

7 A Yes, I did, after the search warrant. I was called out
8 to Lakewood. The detectives did a recanvas of the location
9 and they found a couple more of the cartridge casings and
10 they needed photographs and documentation to be collected.

11 Q To your knowledge, what was the significance of [REDACTED]
12 [REDACTED] Street?

13 A From what I understand, that was the location of the
14 actual incident, the shooting.

15 Q You say that you went out there to take photos at that
16 location. Would you recognize those photos?

17 A Yes, ma'am.

18 MS. BARBER: Permission to approach the witness?

19 THE COURT: Yes, ma'am.

20 MS. BARBER: Thank you.

21 THE COURT: You're welcome.

22 BY MS. BARBER:

23 Q Ms. Moore, I am handing you what's been marked for
24 identification purposes only Exhibits 43 through 51. Do you
25 recognize those photos?

1 A Yes, ma'am.

2 Q And how do you recognize them?

3 A With review of the case and the photos, being there and
4 the evidence markers that I took from that location.

5 MS. BARBER: At this time, the State moves to admit
6 Exhibits 43 through 51 into evidence.

7 THE COURT: Any objection?

8 MR. SHELTON: No objection.

9 THE COURT: Marked and admitted without objection,
10 State's 43 through 51.

11 (WHEREUPON, State's Exhibit Nos. 43 through 51 were
12 admitted into evidence.)

13 MS. BARBER: Permission to publish?

14 THE COURT: Yes, ma'am, you may proceed.

15 MS. BARBER: Thank you.

16 THE COURT: You're welcome.

17 BY MS. BARBER:

18 Q What's marked as Exhibit 43, can you explain what's
19 depicted in that photograph?

20 A That is the overall photograph of the location of
21 Lakewood where I was requested to go to collect the
22 additional evidence. That is just an overall as I first
23 approached.

24 Q And Exhibit 44?

25 A This is -- some folks move out of the way and get a

1 close-up as we take our photographs. We're going to do our
2 overalls and as we get a little bit closer, we'll continue
3 to take photos. This is showing the porch area.

4 Q And just to clarify for the jury, when you arrived
5 there after being called to that specific address, what did
6 you learn your purpose for going there was?

7 A I spoke with Detective Vantine. They located some
8 fired cartridge casings in between the awning and the porch,
9 the wood area of the porch and they needed it documented and
10 collected.

11 Q And Ms. Moore, if you would so kindly click that arrow
12 in the right corner and clear the screen.

13 A (Witness complies.)

14 Q Thank you. Showing you now what's been marked as
15 Exhibit 46. What is that a photograph of?

16 A This location right here is the fired shell casing and
17 it's between that white awning and the wooden porch.

18 Q And if you'll clear the screen again. I apologize,
19 ours isn't working.

20 A That's okay.

21 Q Showing you Exhibit 47?

22 A This is a close-up photograph of that same item, a
23 little bit clearer to where you can see the detail.

24 Q And Exhibit 48?

25 A Again, another photograph that has the evidence marker

1 on it, so I can identify it.

2 Q 49?

3 A That's the head stamp. All ammunition will have a head
4 stamp on the end of it where it gives usually the
5 manufacturer or caliber or other information.

6 Q And did you find anything else at that scene?

7 A Yes, there was a second cartridge casing. I believe it
8 was just a little bit further to the left.

9 Q Showing you now what's been marked as Exhibit 60. Is
10 that the shell casing you're referring to?

11 A Yes, ma'am.

12 Q Was that shell casing similar to the first one you
13 found?

14 A Yes, it was.

15 Q And where were both of these shell casings located?

16 A When you're looking at the front of the house and you
17 saw the stairs to the porch, it was to the left. One was
18 closer to the corner and one was kind of in the middle.

19 Q Showing you Exhibit 61, what does that depict?

20 A That's going to be the head stamp of item number 2.

21 Q And did that complete your task at Lakewood Street?

22 A Yes. The detectives searched underneath the porch area
23 and the trailer, we did not find anything else that needed
24 to be collected at that time.

25 Q And what did you do after collection of those items?

1 A Returned them in my vehicle, transferred them back to
2 central where all items were either processed or packaged
3 and submitted to evidence.

4 Q And what does processing consist of?

5 A Depending on the items, we're looking for either DNA or
6 we're looking for fingerprints.

7 Q Did you do that in this particular case?

8 A Yes, I did.

9 Q If I showed you an envelope with the DNA collected,
10 would you recognize that?

11 A Yes, ma'am.

12 MS. BARBER: May I approach the witness?

13 THE COURT: You may.

14 BY MS. BARBER:

15 Q Showing you now what's been marked for identification
16 purposes only as Exhibit 127. Do you recognize that?

17 A Yes, ma'am.

18 Q And how do you recognize it?

19 A The envelope itself has my initials across the seal.
20 It, also, states the case number, the item number, my
21 initials and it describes where I took the DNA swab from,
22 which was the Ruger rifle.

23 MS. BARBER: At this time, the State moves to admit
24 Exhibit 127 into evidence.

25 THE COURT: Any objection?

1 MR. SHELTON: No objection.

2 THE COURT: Marked and admitted without objection,
3 State's 127.

4 MS. BARBER: Thank you, Judge.

5 THE COURT: You're welcome.

6 (WHEREUPON, State's Exhibit No. 127 was admitted into
7 evidence.)

8 BY MS. BARBER:

9 Q Ms. Moore, you stated that it showed where you
10 collected that DNA. Do you mind stating that for the jury
11 just to clarify?

12 A Certainly.

13 Q This was item 18, so the DNA was collected from the
14 grip and trigger area of the Ruger rifle?

15 A Yes.

16 Q And the Ruger rifle, is that the rifle you found at
17 [REDACTED] [sic] Railroad?

18 A Yes, ma'am.

19 Q Ms. Moore, I'm going to take you through a few of those
20 items that you collected at [REDACTED] Avenue. Showing
21 you again Exhibit 121. Can you tell the jury what kind of
22 ammunition that is?

23 A They're Tulammo point 223 Remington rounds, or REM
24 rounds.

25 Q Would you do the same with Exhibit 123?

1 A These are from the magazine that was underneath the
2 mattress next to the rifle and they state they are going to
3 be the Norma 223 REM rounds.

4 Q Showing you now what has been marked for identification
5 purposes only as Exhibit 122. Do you recognize the
6 packaging of that item?

7 A Yes, ma'am.

8 Q And how so?

9 A The initials on the seal and our evidence markers and
10 my initials on the packaging as well.

11 MS. BARBER: At this time, the State moves to admit
12 Exhibit 122 into evidence.

13 THE COURT: Any objection?

14 MR. SHELTON: No objection.

15 THE COURT: 122, marked and admitted without objection.

16 (WHEREUPON, State's Exhibit No. 122 was admitted into
17 evidence.)

18 BY MS. BARBER:

19 Q Ms. Moore, if you would so kindly open that packaging
20 and explain to the jury what ammunition that is?

21 A This is a box of Pow'rBall. It's a 40 S&W cartridge.

22 MS. BARBER: Permission to approach the witness?

23 THE COURT: Yes, ma'am.

24 MS. BARBER: Thank you.

25 THE COURT: You're welcome.

1 BY MS. BARBER:

2 Q Showing you now what's been marked for identification
3 purposes only as State's Exhibit 126. Do you recognize that
4 packaging?

5 A Yes, ma'am.

6 Q And, again, how so?

7 A My initials on the seal and it has the case number with
8 the item number and the initials on the bag as well.

9 MS. BARBER: At this time, the State moves to admit
10 Exhibit 126 into evidence.

11 THE COURT: Any objection?

12 MR. SHELTON: No objection.

13 THE COURT: 126, marked and admitted without objection.

14 (WHEREUPON, State's Exhibit No. 126 was admitted into
15 evidence.)

16 BY MS. BARBER:

17 Q Like the previous ones, Ms. Moore, do you mind opening
18 that package and describing the contents?

19 A This is the plastic bag of ammunition that was found in
20 the paper bag that was in the living room once it was
21 removed and processed. And they were -- let me make sure.
22 It's the Norma 223 REM rounds. There's, also, 40 caliber
23 rounds in there as well.

24 MS. BARBER: Permission to approach the witness?

25 THE COURT: You may.

1 BY MS. BARBER:

2 Q Showing you now what's been marked for identification
3 purposes only as State's Exhibit 144. Do you recognize that
4 packaging?

5 A Yes, ma'am.

6 Q And how do you recognize it?

7 A Initials on the seal and then the case number, item
8 number and my initials on the packaging.

9 Q If you wouldn't mind, tell the jury what the contents
10 of that package are.

11 A It's item number 12, which is the Sight Mark box, the
12 contents of that box as well.

13 MS. BARBER: At this time, the State moves to admit
14 Exhibit 144 into evidence.

15 THE COURT: Any objection?

16 MR. SHELTON: No objection.

17 THE COURT: Marked and admitted without objection,
18 State's 144.

19 (WHEREUPON, State's Exhibit No. 144 was admitted into
20 evidence.)

21 BY MS. BARBER:

22 Q Ms. Moore, if you would be so kind to open that
23 package?

24 A That's the Sight Mark box that was in bedroom one in
25 that corner.

1 Q And, again, bedroom, is that the bedroom you found the
2 ID?

3 A Yes, ma'am.

4 MS. BARBER: May I approach the witness?

5 THE COURT: Yes, ma'am.

6 BY MS. BARBER:

7 Q I'm showing you now what's been marked for
8 identification purposes only as Exhibit 125. Do you
9 recognize that packaging?

10 A Yes, ma'am.

11 Q And how so?

12 A My initials and then the case number, item number and
13 my initials on the bag as well.

14 MS. BARBER: At this time, the State moves to admit
15 Exhibit 125 into evidence.

16 THE COURT: Any objection?

17 MR. SHELTON: No objection.

18 THE COURT: Marked and admitted without objection,
19 State's 125.

20 (WHEREUPON, State's Exhibit No. 125 was admitted into
21 evidence.)

22 BY MS. BARBER:

23 Q And, Ms. Moore, if you would so kindly open it?

24 A It is the magazine and the packaging that was in the
25 paper bag in the living room.

1 Q Can you tell the jury what caliber?

2 A It's a 40 caliber S&W.

3 Q And what kind of weapon is that used for?

4 A It's a handgun, 40 caliber.

5 Q Ms. Moore, you mentioned that the bullets you found
6 were point 223 rounds rifle. Can you tell the jury where
7 exactly you found them?

8 A Item 13 is located -- I'm sorry, which ones? I know we
9 had several rounds.

10 Q So, specifically, the point 223 rounds that you just
11 previously described?

12 A Sorry. They were in the plastic bag that was in the
13 living room that was in the paper bag.

14 Q And, again, can you say the address for the jury?

15 A It was [REDACTED] Avenue, Lot B.

16 Q And what kind of weapon would those be fired by?

17 A A 223 rifle or 5.56 rifle.

18 Q Can you, also, show the jury the sight box?

19 A Yes, ma'am.

20 Q On this weapon, is this the sight that would have been
21 located in that sight box?

22 A I don't recall offhand, but I can check it to clarify.
23 I believe it was, but just let me make sure. Yes, it is
24 Sight Mark, so it could be the one that is from that box.

25 Q The point 223 rounds that we just discussed, could

1 those be specifically fired by that rifle?

2 A Yes, ma'am, they can.

3 MS. BARBER: Your Honor, may we approach?

4 THE COURT: You may.

5 (WHEREUPON, a bench conference was held in the presence
6 of the jury, but outside the hearing of the jury.)

7 THE COURT: You may proceed.

8 MS. BARBER: Thank you, Judge.

9 THE COURT: You're welcome.

10 BY MS. BARBER:

11 Q Ms. Moore, is that the extent of your involvement in
12 this particular case?

13 A Other than processing the evidence, yes, ma'am.

14 MS. BARBER: Thank you, Ms. Moore. At this time, I
15 have no further questions. Please answer any questions the
16 Defense may have for you.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Any questions for the witness?

19 MR. SHELTON: Yes, ma'am.

20 THE COURT: You may proceed.

21 CROSS-EXAMINATION

22 BY MR. SHELTON:

23 Q Ms. Moore, you've got a lot of evidence in front of
24 you.

25 A Yes, sir.

1 Q Those boxes, they have bar codes on the back of them,
2 correct?

3 A Some of them did, yes.

4 Q So they can be commonly purchased from C&S Shooting
5 Sports, which is right around the corner, correct?

6 A It's ammunition. It can be purchased in a lot of
7 places, yes, sir.

8 Q Palmetto State Armory, correct?

9 A Yes.

10 Q And then the -- I guess, the sight box, it could have,
11 also, been purchased from Palmetto State Armory or --

12 A It can be purchased from anywhere. I'm not sure where
13 they were purchased from.

14 Q Okay. And the rifle, that was, also -- there was -- I
15 think, No. 31 in your evidence is the rifle box and manuals?

16 A Yes, sir, there was.

17 Q And that serial number of that rifle number matched the
18 serial number of the rifle, correct?

19 A I believe so. I would have to verify with my report,
20 but I believe it did.

21 Q Do you have your report?

22 A Yes, I do. I don't see where it says specifically that
23 the numbers matched. I would have to verify with the
24 photographs that were taken. The serial number on the
25 bottom of the box, of the rifle box was photographed along

1 with the rifle. I'm sorry, sir, I did find it.

2 Q You found it?

3 A Yes. I'm sorry, it's a long report. I do have it
4 written down that the serial number on the rifle matched the
5 serial number on the rifle box leaning against the wall,
6 therefore, the box was, also, collected with the rifle.

7 Q Okay. So the rifle -- the box for the rifle was, also,
8 in that bedroom?

9 A Yes.

10 Q And you mentioned that you took some DNA and
11 fingerprints off the bullets found; is that correct?

12 A I took processing of the plastic bag and numerous items
13 collected from the residence, yes.

14 Q So it is possible to get DNA off of cartridge casings
15 and bullets -- I may not be using the term correctly, but
16 cartridges, correct?

17 A It is possible. Once the cartridges have been fired,
18 the chance of getting DNA off of them is decreased
19 exponentially due to the heat and the oils from the handgun
20 or rifle, but it is possible.

21 Q It is possible. And the casings that you found at
22 Lakewood, sounds like a dumb question, but there's no time
23 stamp on that, correct?

24 A No, sir, there's not.

25 Q So those casings could have been out there for years?

1 A It's possible.

2 Q The magazine that was, also, found in the brown paper
3 bag, that was in packaging, correct?

4 A Yes, sir, it was.

5 Q So that could be purchased at any Palmetto State Armory
6 or gun store, correct?

7 A It can be purchased anywhere, yes, sir.

8 Q You were not present on Emden Drive during that search,
9 correct?

10 A No, sir, I was not.

11 Q So you didn't collect any of the evidence, the guns or
12 the ammo or anything from that residence, correct?

13 A No, sir.

14 Q The magazine underneath the mattress, that had ammo in
15 it?

16 A Yes, sir, it did.

17 Q I think you said in bedroom number two, that's where
18 you found the social security card for Mr. Marable?

19 A Yes.

20 Q It, also, looks like in the -- in State's 79, that's
21 the den?

22 A That's the living room, yes, sir.

23 Q The living room area. And it looks like there's
24 clothes and underwear --

25 A There was a lot of things in that residence, yes.

1 Q So there's no time stamp on when that brown bag got
2 right there?

3 A No, I have no way of knowing when it was put there.

4 Q It could have been there for months, years, however
5 long?

6 A Yeah, I have no way of knowing.

7 Q Looks like there's a lot of things in that den,
8 correct?

9 A Yes, sir.

10 Q Do you know the legal age to purchase a firearm or a
11 rifle?

12 A Not off the top of my head, no, sir, I don't.

13 MR. SHELTON: No further questions.

14 THE COURT: Any redirect of the witness?

15 MS. BARBER: Yes, ma'am.

16 THE COURT: You may proceed.

17 MS. BARBER: Thank you.

18 THE COURT: You're welcome.

19 REDIRECT EXAMINATION

20 BY MS. BARBER:

21 Q Ms. Moore, Mr. Shelton mentioned the DNA you took. Can
22 you explain to the jury how you took that DNA?

23 A We use what we call a two-swab technique. We take a
24 sterile packaging of two cotton swabs. We take one swab.
25 We moisten with a little bit of distilled water that's

1 sterile. We take that swab and we rehydrate any skin cells
2 that may be on the area that we're looking for. In this
3 case, it was the trigger and the grip of the rifle.

4 Once we do that, we place it in a drying box. We take
5 the other swab and then we rub that same area to collect any
6 skin cells that were left behind. And those two get
7 packaged together and then sent for analysis.

8 Q Showing you what's been admitted as Exhibit 72 -- 77.
9 Showing you now what's been admitted as Exhibit 77. Mr.
10 Shelton just referenced the magazine. Did you collect that
11 magazine?

12 A Yes, ma'am, I did.

13 Q And did that magazine fit into that rifle?

14 A I didn't place it in there, but it is consistent with
15 fitting with that rifle, yes.

16 Q And you found the items where again?

17 A It was in the first bedroom of the trailer underneath
18 the mattress.

19 Q And in the second bedroom was the ID of the Defendant?

20 A Yes, ma'am.

21 MS. BARBER: Beg the Court's indulgence.

22 (Pause.)

23 BY MS. BARBER:

24 Q And Ms. Moore, we discussed the DNA that you took from
25 the rifle. Can you show the jury where exactly you swabbed

1 for that DNA?

2 A So this would be the grip. So this whole area along
3 this part of the rifle and then the trigger and, usually,
4 around the trigger guard as well is what we would swab.

5 Q And after taking that DNA, what did you do with it?

6 A It gets packaged and then it will be submitted, if it
7 needs analysis, to the State Law Enforcement Division for
8 DNA analysis.

9 Q And until it's sent there, where is it kept?

10 A It's kept in the evidence property unit that's at
11 central and headquarters.

12 Q Who has access to that unit?

13 A It's the property personnel, the sergeant or, at this
14 time, the lieutenant that's over that unit.

15 Q So you'd have to have specific access to go into that
16 room or wherever it's kept.

17 A Yes, ma'am.

18 MS. BARBER: I have no further questions of Ms. Moore.
19 Thank you.

20 THE COURT: Madam Forelady, ladies and gentlemen, I
21 have a brief matter of law to take up with counsel. During
22 the break, please, do not discuss the case and, please,
23 leave your notepads in your seats. We appreciate your
24 patience.

25 (WHEREUPON, the jury exits the courtroom at 12:03 p.m.)

1 THE COURT: Okay. Starting with 69, what is the basis
2 of your objection to 69?

3 MR. SHELTON: Yes, Your Honor. For 69, it does show
4 marijuana on the ground.

5 THE COURT: How do we know that's marijuana? I didn't
6 know it was marijuana when I looked at it. I thought it
7 might have been some food or a snack. It really kind of
8 could look like popcorn and granola. I don't know. I've
9 seen a lot of marijuana, but that's not what that struck me
10 as initially.

11 MR. SHELTON: Well, coupled --

12 THE COURT: Until you said it.

13 MR. SHELTON: Yes, Your Honor. Coupled with the fact
14 that there is -- it does look like there's drug
15 paraphernalia that's next to it. I just feel --

16 THE COURT: You're talking about the --

17 MR. SHELTON: It looks like a bong situation, yes, Your
18 Honor. So, Judge, I just think that's more prejudicial than
19 probative. It goes into other matters --

20 THE COURT: Do you really think in this day and time
21 people really blink about marijuana?

22 MR. SHELTON: Just out of an abundance of caution,
23 Judge. I think this could be accomplished with -- possibly
24 with 69, I think the State's --

25 THE COURT: Let me ask the State a question. Do you

1 all really need this -- I know I'm talking from a distance,
2 but do you really need this portion of the photograph? Do
3 you really need that portion of it? Can that picture be
4 cropped with Photoshop or something so that the only thing
5 we really see are his ID?

6 And, likewise, Mr. Cooper indicated at the bench he
7 thought y'all could crop this portion of No. 70.

8 MS. BARBER: Yes, ma'am. So our reason for entering
9 both of these is just to show the proximity of the ID to the
10 ammunition, so we're fine with cropping those suggestive
11 items out of the picture.

12 THE COURT: Okay. So can y'all maybe accomplish that
13 before we resume?

14 69 and 70 will then become -- well, I guess the easier
15 way to do it would be leave them 69 and 70 for ID only and
16 then you would -- what you've cropped could then be 69A and
17 70A.

18 MR. COOPER: If you'd like, I may even have an easier
19 route, I can change that here on the fly on the Powerpoint
20 to show the jury. And if Your Honor is okay, once we break
21 and come back, I can print and remark new ones that match
22 that.

23 THE COURT: Yeah, but I, also, have to have the
24 originals that were the subject of the discussion for
25 appellate purposes.

1 MR. COOPER: We can make those 69A and then 70A for
2 Your Honor, absolutely.

3 MS. BARBER: So, Your Honor, just to clarify, 69 and 70
4 will be for identification purposes only and then,
5 thereafter, we will create 69A, 70A, which will be published
6 to the jury.

7 THE COURT: Well, you can publish them if you can crop
8 them on your computer screen before we conclude this
9 witness's testimony. That's why I took the break when I did
10 in the event y'all wanted to do that. And then if you can
11 crop those out and substitute those pictures.

12 Any exception to that, Mr. Shelton?

13 MR. SHELTON: No, Your Honor.

14 THE COURT: So why don't we do it that way?
15 If you could get the jury, please.

16 MR. COOPER: Your Honor, I've got those cropped
17 digitally. Do you want us to have someone go now and print
18 the physical ones or just we can ask --

19 THE COURT: You might want to go ahead because just --
20 I've already ruled on it. 69A and 70A will come in. Mr.
21 Shelton doesn't have any objection to them. It probably
22 would be easier for you to get someone to get them because
23 that way, we can look at them and contemporaneously go ahead
24 and mark them.

25 MR. COOPER: Yes, ma'am.

1 THE COURT: That's easier for the court reporter.

2 (WHEREUPON, State's Exhibit Nos. 69A and 70A were
3 admitted into evidence.)

4 THE COURT: Are we ready?

5 MS. BARBER: Should you not need the printed pictures
6 prior to us beginning, yes, we're ready.

7 THE COURT: Please bring in the jury.

8 (WHEREUPON, the jury enters the courtroom at 12:09
9 p.m.)

10 THE COURT: You may be seated.

11 The State may proceed.

12 MS. BARBER: Thank you, Judge.

13 THE COURT: You're welcome.

14 MS. BARBER: At this time, the State moves to admit
15 Exhibit 69A into evidence --

16 THE COURT: The Court has already marked and admitted
17 State's Exhibit 69A and 70A without objection.

18 MS. BARBER: Permission to publish?

19 THE COURT: You may proceed.

20 MS. BARBER: Thank you, Judge.

21 THE COURT: You're welcome.

22 BY MS. BARBER:

23 Q Ms. Moore, can you explain to the jury what's depicted
24 in that photograph?

25 A That is the ID that was located in the first bedroom.

1 Q And what exactly is that ID laying against?

2 A That's the mattress or box spring that was in that
3 first bedroom as well.

4 Q And showing you 70A, what does this picture depict?

5 A That's the same bedroom, same corner. This is the
6 rifle box and then that's the corner with the ammunition and
7 the magazine and the bed.

8 Q And is that the same bed in which the ID was found
9 laying against?

10 A Yes, ma'am, it was.

11 Q And the same mattress that was lifted where the gun was
12 found?

13 A Yes, ma'am.

14 MS. BARBER: I have nothing further at this time, Ms.
15 Moore. Thank you.

16 THE COURT: Any objection to the witness being excused
17 from the State?

18 MS. BARBER: No objection from the State.

19 THE COURT: From the Defense?

20 MR. SHELTON: No, ma'am.

21 THE COURT: Ma'am, you're excused.

22 THE WITNESS: Thank you.

23 THE COURT: You're welcome.

24 Who's the State's next witness?

25 MR. COOPER: Your Honor, may we approach?

1 THE COURT: You may.

2 (WHEREUPON, a bench conference was held in the presence
3 of the jury, but outside the hearing of the jury.)

4 THE COURT: The State may call its next witness.

5 MR. COOPER: The State would call Jamie Green.

6 And Judge --

7 THE COURT: Sure.

8 MR. COOPER: I'm sorry.

9 THE COURT: No worries.

10 (WHEREUPON, a bench conference was held in the presence
11 of the jury, but outside the hearing of the jury.)

12 JAMIE GREEN,

13 after being duly sworn, testified as follows:

14 THE CLERK: Please have a seat for me. If you would
15 state your full name for the record, spelling your last
16 name.

17 THE WITNESS: James Green, G-R-E-E-N.

18 THE COURT: You may proceed.

19 MR. COOPER: Thank you, Judge.

20 THE COURT: You're welcome.

21 DIRECT EXAMINATION

22 BY MR. COOPER:

23 Q Mr. Green, if you'll tell the jury, where are you
24 currently employed?

25 A I'm employed by the South Carolina Law Enforcement

1 Division, commonly referred to as SLED.

2 Q And how long have you been with SLED?

3 A Since June of 2005, so just at 18 years.

4 Q And what do you do at SLED?

5 A I'm a forensic firearms examiner in the forensics
6 services laboratory.

7 Q And what does that mean?

8 A Firearms examiner, in this instance, we look at fired
9 bullets and fired cartridge cases with each other to see if
10 they were fired by the same firearm or if we can make that
11 determination. And if a firearm is submitted, we will test
12 fire that firearm and then use those test specimens that we
13 fire from that gun. We know they were fired by that gun
14 because we fired them ourselves. We'll compare with each
15 other and then we'll compare to the applicable evidence to
16 try to reach a conclusion.

17 Q Will you tell the jury a little bit about your
18 educational background?

19 A I have a Master's and a Bachelor's from Charleston
20 Southern University. Then once I was hired at SLED, I
21 started the SLED firearm and tool make course instruction.
22 It's about a three to three and a half year course of
23 instruction studying under court-qualified firearm examiners
24 in an apprentice-type fashion learning to do what I do now.

25 Q Did you complete that course?

1 A Yes, sir.

2 Q Would you discuss some of your training certifications
3 with the jury?

4 A Okay. I'm a member of the Association of Firearm and
5 Took Mark Examiners, or AFTE, that's a worldwide
6 organization of firearm examiners. We have conferences
7 yearly where we get together and discuss what we're seeing
8 in case work, new trends and ammunition design and firearms
9 manufacturer. We go to training as often as we can based on
10 a rotating basis with our department as funds allow.

11 We, also, undergo yearly competency exams. They're
12 given out to firearm examiners nationwide. No one knows the
13 answer. You just take them and you provide your answers to
14 the board.

15 Q And even if you just answer generally, how many
16 firearms analysis would you have received during your
17 career?

18 A I can't give you a number because it's a lot, but it's
19 in the tens of thousands.

20 Q And how many times have you testified regarding firearm
21 examinations?

22 A I've testified as an expert 108 times, been qualified
23 as an expert, but as far as testimony goes when I've been at
24 SLED, I've testified 110 times. The other two times were
25 like chain of custody and then one was outside the jury

1 where they didn't need to qualify me as an expert.

2 Q And when you mentioned testifying as an expert, what
3 field were you qualified as an expert in those, I believe
4 you said, 108 times?

5 A Firearms identification.

6 MR. COOPER: Your Honor, at this time, the State would
7 offer Mr. Green as an expert in the field of firearms
8 identification.

9 THE COURT: Any questions or objections?

10 MR. SHELTON: No objection.

11 THE COURT: So admitted firearm identification without
12 objection.

13 You may proceed.

14 MR. COOPER: Thank you, Judge.

15 THE COURT: You're welcome.

16 BY MR. COOPER:

17 Q So Mr. Green, if you'll tell the jury a little bit
18 about how did you become involved in this case?

19 A At SLED in the firearms department, we're given cases,
20 we're assigned cases on a rotating basis. It just happened
21 to be my turn and I was assigned this case.

22 Q How many reports or supplemental reports in total did
23 you issue in this case?

24 A I issued one original or initial report and then three
25 supplementals.

1 Q When was the first report issued?

2 A I believe it was May 14th, 2020.

3 Q Okay. And what items did you analyze in that
4 examination?

5 A I'm going to go with SLED item numbers. SLED item 1
6 was a fired bullet fragment. SLED item 8 was a Ruger
7 semi-automatic rifle. And then SLED items 9 through 18,
8 each one was a fired 223 Remington caliber cartridge case.

9 MR. COOPER: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 BY MR. COOPER:

12 Q Showing you what's been marked for ID purposes only as
13 State's 137, it should be your SLED lab number 1.

14 MR. COOPER: May I approach the witness?

15 THE COURT: Yes, sir.

16 BY MR. COOPER:

17 Q Do you recognize this item?

18 A Yes, sir. State 137 is the bullet fragment I examined
19 as item 1.

20 Q And how do you recognize it?

21 A Well, the package is still intact. It has my heat seal
22 at the bottom. And then on the inner-packaging, I can see
23 the packaging is still intact from my heat seals and, also,
24 has the SLED lab number and my initials on the packaging.

25 MR. COOPER: Your Honor, at this time, the State would

1 offer what's been marked for ID purposes only as State's
2 137, which is SLED 1, into evidence.

3 THE COURT: Any objection?

4 MR. SHELTON: No objection.

5 THE COURT: No. 137 marked and admitted without
6 objection.

7 (WHEREUPON, State's Exhibit No. 137 was admitted into
8 evidence.)

9 BY MR. COOPER:

10 Q I'm, also, going to show you, you mentioned, Mr. Green,
11 ten fired casings. They are going to be State's 105 through
12 114. So 105 should be, I believe, SLED 9, State's 106
13 should be SLED 10, State's 107 should be SLED 11, State's
14 108 should be SLED 12, State's 109 should be SLED 13,
15 State's 110 should be SLED 14, State's 111 should be SLED
16 15, State's 112 should be SLED 16, State's 113 should be
17 SLED 17 and then State's 114 should be SLED 18. Do you
18 recognize all ten of those items?

19 A Yes, sir. These are the ten fired cartridge cases I
20 examined.

21 Q How do you know that?

22 A The packaging is sealed with my initials and my date.
23 The inner-packaging has my writing on it. Also, if you saw
24 me rolling the evidence around in my hand. When we get
25 evidence at the laboratory, particularly, the firearms

1 department, we use a Dremel tool or electric pencil and we
2 scribe our lab number, item number and case number,
3 initials, all those on each piece of evidence if it's big
4 enough so when we go to court, we can look at it and say
5 yes, this is what we looked at.

6 So, yes, sir, State's 105 through 114 are the ten
7 cartridge cases I examined.

8 MR. COOPER: And, Judge, at this time, the State would
9 move what's been marked for ID purposes as State's 105, 106,
10 107, 108, 109, 110, 111, 112, 113 and 114 into evidence at
11 this time.

12 THE COURT: Any objection?

13 MR. SHELTON: No objection.

14 THE COURT: State's 105 through 114 marked and admitted
15 without objection.

16 (WHEREUPON, State's Exhibit Nos. 105 through 114 were
17 admitted into evidence.)

18 THE COURT: You may proceed.

19 BY MR. COOPER:

20 Q Finally, showing you what's marked as State's 124.
21 This should be SLED number 8. Can you tell us if this is
22 the rifle you examined?

23 A Yes, sir, this is the rifle I examined, SLED item 8.

24 Q Showing you those items that you analyzed, you
25 mentioned the projectile and you mentioned a cartridge case.

1 Can you describe for the jury the difference between those
2 two items?

3 A Yes, sir. A cartridge in correct terminology is a
4 single piece of unfired ammunition. When my dad was alive,
5 he would always tell me he was going to Wally World to buy
6 bullets. He wasn't. He was going to go buy cartridges.
7 It's a single piece of unfired ammunition.

8 Whenever a cartridge is fired, once the firing pin hits
9 the primer, the propellant that's inside starts burning at a
10 rate building up gases. Whenever that critical point is
11 reached, the mouth of the cartridge case slightly opens up
12 and expels the bullet down the barrel to the intended
13 target. So if it's a semi-automatic rifle, like in this
14 instance, the cartridge case will be extracted and ejected
15 and the bullet goes down the target.

16 So the cartridge case is simply the holder that holds
17 everything. This thing just holds the bullet, the
18 propellant and the primer. Once it's fired, you have a
19 projectile and a fired cartridge case.

20 Q And when you mentioned doing examinations and analyses
21 of firearm evidence, what does that mean? What are you
22 generally doing?

23 A We are trying to determine, in this instance, if all
24 the cartridges cases were fired by one firearm. If any
25 projectiles were submitted, if they were fired by the same

1 firearm. And then if a firearm is submitted, if all those
2 were fired by that firearm.

3 Q And talking about whether a projectile or a cartridge
4 case was fired by a potential firearm, are you ever able to
5 connect a cartridge case with a certain projectile?

6 A No, sir, we are not.

7 Q Why is that?

8 A That's not an examination that SLED performs. Some
9 agencies do do that examination, but when you have a
10 cartridge case and you're mass loading them and you're
11 taking a projectile mechanically and loading it into the
12 cartridge case, there will be some marks on the body of the
13 -- or the bearing surface, which is what contacts the barrel
14 of the bullet. There will be some marks on the bearing
15 surface from when the projectile is put into the cartridge
16 case. But if I can use some computer terminology for a
17 minute, whenever the bullet leaves the cartridge case and
18 goes down the barrel, all those marks that may have been
19 left there by the manufacturer are then overwritten by the
20 markings in the barrel. So at SLED, we do not determine
21 that to be a reliable examination to perform.

22 Q And would you describe for the jury the process you
23 would have taken in making your determinations in this first
24 analysis?

25 A The first thing we do is we take photographs of all the

1 evidence that is received, how it was packaged so we know
2 what goes in what when we package it back for return. Then
3 we look microscopically at the cartridge cases in this
4 instance to see if I could determine if they were fired by
5 the same firearm or not.

6 Cartridge cases, you can look for five areas. You can
7 look for the primer or the breach face markings, you can
8 look for the fine pin impressions, the extractor, the
9 ejector or possible chamber marks.

10 Q So in discussing your first report, what are the
11 possible conclusions that you as a firearms analysis can
12 draw?

13 A There are four conclusions we use at SLED, positive,
14 fired by, negative, not fired by, inconclusive, which is a
15 fancy word for I don't know or unsuitable, which means it
16 was too damaged and there wasn't enough markings on whatever
17 the piece of item was to make a determination one way or the
18 other.

19 Q And what potential issues affect your ability to
20 identify certain items being fired by a certain firearm?

21 A There's cartridge case design or construction, rather,
22 the hardness of the metals in the cartridge case versus the
23 hardness of the metals used on the primer and then versus
24 the firearm, the bolt, everything. The pressures in the
25 cartridges can sometimes affect how things mark.

1 Sometimes firearms just don't mark. They're designed
2 to mark, but through use or abuse or even cleaning with
3 certain things, sometimes you can some of those markings go
4 away or be covered up. Because what we're looking at are
5 really tiny microscopic scratches left on the cartridge case
6 or the bullets as they pass through the barrel or hit the
7 breach face of the firearm.

8 Q And so regarding the ten shell casings you examined, so
9 that would have been for us State's 105 through 114 or for
10 you, it would be SLED 9 through 18. Were you able to draw a
11 conclusion based on whether they were fired by the rifle,
12 your item 8, our item 124?

13 A Yes, sir. My results were inconclusive. There was
14 enough similarities on each of these cartridge cases for me
15 to say it could have been fired by that firearm, but there
16 were not enough similarities for me to say yes, it was fired
17 by that firearm.

18 My personal threshold, I know this is going to sound
19 weird, is if I make a determination, like, I say it's
20 positive, I am so sure in that conclusion that I would send
21 my mom to the electric chair. And that's my personal
22 conclusion.

23 There were some markings that made me believe that this
24 rifle could have fired these cartridge cases, but there
25 wasn't enough for me to say it was. It could have been

1 another firearm or firearms.

2 Q And I want to reiterate what you said. That means you
3 cannot say today that those shell casings were fired by this
4 rifle?

5 A Correct.

6 Q But you, also, can't say that they were not fired by
7 this rifle?

8 A Correct.

9 Q Regarding the projectile that you just observed, which
10 would have been SLED's number 1 and our State 137 from the
11 victim, LR [REDACTED] what conclusions were you able to draw
12 on that item?

13 A I don't know if y'all can see this or not, but this is
14 a really, really tiny fragment. So State's item 137, my
15 results were it was unsuitable. I can't tell you the
16 caliber. I can't determine the rifling characteristics. I
17 can't tell you anything other than at some point, that was
18 part of a fired bullet.

19 Q And was that the extent of your conclusions and
20 findings in your first report?

21 A No, sir, it was not.

22 Q I'm sorry, what else was on that first report?

23 A Even though the cartridge cases themselves, all ten of
24 the cartridge cases were inconclusive with the submitted
25 rifle, I was able to get two groups of cartridge cases based

1 on mechanism marks. So I was able to say that State's
2 Exhibits 105, 111, 112 and 114 were loaded into, extracted
3 and ejected from one firearm at some particular time. It
4 could have been the day of the incident, it could have been
5 three weeks before. I can just tell you they were in and
6 out of the same firearm at some prior time.

7 State's Exhibits 106, 107, 109 and 110 were in and out
8 of the same firearm at some prior time as well. But, again,
9 I couldn't tell you if these two groups were in and out of
10 the same gun or not. There were some similarities in the
11 markings, but the degree of agreement wasn't there to say
12 yes, they were all in the same firearm.

13 Q And you mentioned the language -- let me make sure I
14 have this. Loaded into, extracted and ejected from the same
15 firearm at some prior time. I think even in our
16 preparation, I accidentally said fired by. What is the
17 difference between loaded into, extracted from, ejected from
18 the same firearm at some time and fired by the same firearm?

19 A Okay. If we were all out at the range and I had that
20 rifle with me, I loaded the cartridge into the magazine,
21 pulled the charging handle back, let the bolt go forward, it
22 loaded the cartridge. And I would pull the charging handle
23 back and I would extract and eject the cartridge. Never
24 fired it, just loaded into, extracted and ejected from the
25 firearm.

1 That's what I'm saying with these two groups of
2 cartridge cases. At some time, those two groups were loaded
3 into -- this group right here was loaded into, extracted and
4 ejected from the firearm. This group right here was loaded
5 into, extracted and ejected from the firearm.

6 Now, if I were going to say they were fired by, then I
7 would be looking at the firing pin impressions and the
8 breach face markings to make a determination that we all
9 went to the range and, you know, the first row and like half
10 the second row, y'all all shot the gun one time. Those
11 would be fired by. You pull the trigger, you hear a bang,
12 cartridge case is extracted and ejected manually, the bullet
13 goes down the barrel. That's fired by. Load into, extract
14 and ejected is simply manually loading it, manually
15 extracting it and then automatically ejects.

16 Q Okay. And then regarding your second report, when was
17 that issued?

18 A The second report would have been issued on May 20th of
19 2020.

20 Q Okay. And then can you describe for the jury, what did
21 that analysis contain?

22 A For that submission, in addition to the rifle and the
23 ten cartridge cases I previously examined, they submitted a
24 -- they, being the North Charleston Police Department,
25 submitted a fired 40 Smith & Wesson caliber cartridge case

1 and then a fired bullet.

2 Q I'm going to show you what's been marked for ID
3 purposes only as State's Exhibit 116, which would, also, be
4 SLED 22. Do you recognize that item?

5 A Yep.

6 Q And what is that item?

7 A Well, the package is still sealed from when I sealed it
8 and I didn't open it, but it holds the SLED item 22 fired
9 bullet I examined.

10 Q And then showing you what's been marked for ID purposes
11 only as State's 115, which should be SLED 21. Do you
12 recognize this item?

13 A Yes, sir. This is the packaging that holds the SLED
14 item 21 or the fired S&W caliber cartridge case.

15 MR. COOPER: Your Honor, at this time, the State would
16 offer what's been marked for ID purposes only as State's 115
17 and 116 into evidence.

18 THE COURT: Any objection?

19 MR. SHELTON: No objection.

20 THE COURT: Marked and admitted, State's 115 and 116
21 without objection.

22 (WHEREUPON, State's Exhibit Nos. 115 and 116 were
23 admitted into evidence.)

24 THE COURT: You may proceed.

25 MR. COOPER: Thank you, Judge.

1 BY MR. COOPER:

2 Q And Mr. Green, I'm sorry, I may have missed it while I
3 was gathering some of those items, you were asked to compare
4 those two items again against SLED 8 and this rifle?

5 A Yes, sir.

6 Q Okay.

7 A I, also, went one step further, though. Since SLED
8 items 9 through 18, the fired cartridge cases, the 223s were
9 inconclusive with the gun, I went ahead and compared those
10 with State's Exhibit 113 or the 40 caliber cartridge case
11 just to cover all the bases.

12 Q And you did mention, I wanted to make sure I brought
13 that up, too, the cartridge cases that you examined were 223
14 caliber?

15 A Yes, sir.

16 Q And is that the same caliber that can be fired by this
17 rifle?

18 A Yes, sir, that's a 556 NATO caliber rifle, but 223 and
19 556 are interchangeable in a rifle that's marked 556 NATO.

20 Q And then regarding those two items, starting with SLED
21 21, which would be State's 115, which would have been the 40
22 caliber casing, could you describe for the jury what your
23 conclusion was at that time?

24 A Yes, sir. First, it was not fired by the rifle that
25 was submitted. It's the wrong caliber. It won't even fit.

1 Then it was not fired by the firearm or firearms that fired
2 the 223 caliber cartridge cases I examined.

3 And then I looked at it microscopically, saw that it
4 had individual characteristics on it and said, basically, if
5 you give me the gun, I might be able to determine if that
6 was the gun or not. So I gave a suitability statement.

7 Q And, generally, what kind of firearm can fire a 40
8 caliber? Would that be a handgun or a pistol?

9 A There's a lot of handguns, mostly, you'll see that
10 caliber, but there are a few rifles that fire those
11 calibers. I mean, I've seen two in 18 years, but it's
12 mostly a handgun.

13 Q And as you stated, that rifle, item 8, State's 124
14 couldn't fire 40 caliber?

15 A Correct.

16 Q Regarding the second item you examined in your second
17 analysis, that would be SLED 22, which is State's 116, which
18 is the fired projectile from Marson Street. What
19 conclusions, if any, could you draw on that one?

20 A Yes, sir. When we're looking at projectiles -- when
21 you're looking at a cartridge case, it's really easy to tell
22 what caliber it is because it usually tells you on the head
23 stamp. It will tell you 223 or 40. Sometimes they're not
24 marked, but you can tell by looking at them if you know what
25 you're looking at.

1 Bullets, we use what's called our OPCs, the observable
2 physical characteristics. That's the weight of the bullet,
3 the overall shape and design of the bullet as well as the
4 diameter at the base. So based on the OPCs, State's Exhibit
5 116 or SLED item 22 was most consistent with a bullet loaded
6 into some 223 Remington or 556 NATO caliber cartridges.

7 Q And did you draw a conclusion on whether that
8 projectile was fired by SLED 8, State's 124?

9 A Yes, sir. The results for this one were inconclusive
10 as well. The bullet was not too damaged, but it was fairly
11 well damaged. Some of the markings we looked for had damage
12 on them so they're kind of smeared, if that makes any sense.

13 There was some similarities I did find, so I took a few
14 photomicrographs or pictures through my microscope of the
15 similarities. So it could have been that rifle or it could
16 have been fired by another rifle with similar
17 characteristics.

18 Q And was that the extent of the analysis performed for
19 your second report?

20 A Yes, sir.

21 Q What was the analysis regarding your third report?

22 A The third report was issued on February 25th, 2021.
23 And that was the result of NIBIN activity, the National
24 Integrated Ballistic Information Network, or IBIS, the
25 Integrated Ballistic Identification Network.

1 Once I put State's 115 into IBIS, or it was already in
2 IBIS, we found a lead with a firearm out of Sumter.

3 Q And can you describe a little bit -- you talked about
4 that database, you talked about a lead. Can you kind of
5 elaborate and describe for the jury what that database is,
6 how that works, what a lead is, that kind of thing?

7 A Yes, sir. IBIS is a -- if you know anything about --
8 if you've ever watched crime shows, like NCIS or CSI show,
9 they always talk about AFIS, which is Automated Fingerprint
10 Identification System. IBIS is the same way, except for
11 cartridge cases. It takes digital images of cartridge cases
12 and it gives each pixel in that image a score. And then it
13 does some really complex mathematical algorithm that finds
14 like images based on the scores of those pixels.

15 Q And then you mentioned a lead, what does that mean in
16 the context of NIBIN or IBIS?

17 A A NIBIN lead is when you're doing correlations. You're
18 sitting down and you're looking at -- let's just say we're
19 looking at the image for State's Exhibit 115, the cartridge
20 case. And it will be on the left side of the screen. You
21 can set it up to look at three, four, seven at a time in
22 little small images or you can do a direct side-by-side
23 image of one.

24 And it's, basically, three microscopy where you can
25 take them and rotate them, look at the depth and change the

1 colors and see if you see any similarities. If a similarity
2 is noted, a lead is -- a potential lead is found. And then
3 someone behind you comes and does a secondary review to see
4 if they see the similarity. If they see the similarity, a
5 lead is then issued.

6 So let's say that SLED found this lead, we would send
7 it to the North Charleston Police Department and say hey, we
8 found this lead and the other agency would get a copy of it
9 as well.

10 Q And so you mentioned a lead in the context of this
11 analysis, was a lead on that 40 caliber shell casing
12 located, if that's the right terminology?

13 A A lead was found, yes, sir.

14 Q And then did you do an examination based on that lead?

15 A Yes, sir.

16 Q And what was the result of that?

17 A Well -- can I say the other agency?

18 Q Yes, sir.

19 A Okay. Sumter Police Department had a firearm -- excuse
20 me, it may have been Sumter County Sheriff's Office had a
21 firearm that they somehow got, they test fired it and they
22 put it into NIBIN or IBIS. The lead notification was sent
23 out. They sent the firearm to me for comparison with
24 State's Exhibit 115.

25 So just like with the rifle, I got the firearm, test

1 fired it, got cartridge cases fired from that gun because I
2 know they were fired by it because I fired them myself,
3 compared them with each other and then I compared them with
4 State's Exhibit 115.

5 Q And then you mentioned the Sumter County Sheriff's
6 Department, would you mind giving us that case number?

7 A Yes, sir.

8 Q What you're looking at, that's a copy of your third
9 report?

10 A Yes, sir. The Sumter County Sheriff's Department case
11 number is 20153057.

12 Q And, honestly, you know nothing about this case except
13 for this weapon was logged into that case number?

14 A Yes, sir. When any cases are submitted to SLED, we
15 know nothing about the case other than some evidence was
16 submitted that they would like us to analyze.

17 Q And then, finally, the fourth analysis, when was that
18 report issued?

19 A On January 12th, 2022.

20 Q And what items did you analyze for that report?

21 A I had the rifle back out of the test back, I had the
22 previous ten 223 caliber cartridge cases I looked at and two
23 more fired 223 Remington caliber cartridge cases were
24 submitted as SLED items 24 and SLED items 25.

25 Q I'm going to show you what's been marked for ID

1 purposes only as State's 117, which would be SLED 24, and
2 then State's 118, which would be SLED 25. Do you recognize
3 those two items?

4 A Yes, sir. State's Exhibit 117 and 118 are the two
5 cartridge cases, two additional cartridge cases I examined,
6 SLED items 24 and 25.

7 MR. COOPER: Your Honor, at this time, the State would
8 offer what's been marked for ID purposes only as State's 117
9 and 118 into evidence.

10 THE COURT: Any objection?

11 MR. SHELTON: No, Your Honor.

12 THE COURT: Marked and admitted without objection.

13 (WHEREUPON, State's Exhibit Nos. 117 and 118 were
14 admitted into evidence.)

15 BY MR. COOPER:

16 Q Regarding those two items, would you explain to the
17 jury what conclusions you were able to draw?

18 A They were inconclusive as to being fired by the firearm
19 that was submitted. They were, also, inconclusive with the
20 ten cartridge cases that were initially submitted. However,
21 I was able to determine that State's Exhibit 117 was loaded
22 into, extracted and ejected from the same firearm as one of
23 the groups of the other cartridge cases.

24 Q And, again, you mentioned inconclusive. If you would
25 just describe again, what does that mean?

1 A It means I don't know. There's enough similarities for
2 me to say it could have been, but there's not enough for me
3 to say yes, it was.

4 Q And then you mentioned initially, I think it was under
5 -- I want you to go back to your first report where you
6 talked about those two groups of casings. I want to make
7 sure I understand this completely. Those ten casings are
8 inconclusive as to whether they were fired by this rifle; is
9 that right?

10 A Yes, sir.

11 Q And how does the grouping of those casings affect that
12 analysis, if that makes sense?

13 A That does not.

14 Q I guess what I'm trying to say is the fact that you
15 have those in two different groups, that in no way precludes
16 they could have been fired from the same rifle or other
17 rifles?

18 A Yes, sir, that's correct. They could have been fired
19 by that rifle. The fact that I had two different groups
20 marked differently, but yet, similarly enough for me to say
21 inconclusive, if you're familiar with the AR platform, when
22 you get near the end of the barrel where the locking lugs
23 are, there's like ten of them. So it's very possible that
24 these two groups just hit different lugs when they were
25 coming out or going in to mark differently. It's, also,

1 possible there was another firearm that would have fired
2 them or they could have been extracted and ejected from.

3 Q And if I'm saying this incorrectly, please, correct me,
4 but your analysis is not just a black or white analysis,
5 you're doing the similarities as you see them if they are?

6 A Correct.

7 Q So what you're noting when you have those groups is
8 just those level of similarities, even though you can go so
9 far as to say what weapon they were fired from?

10 A Right. If there were no similarities, I would not have
11 an inconclusive result. It would be negative. But there
12 was similarities there to make me think it could have been
13 that firearm, but there weren't enough for me to say yes, it
14 was.

15 MR. COOPER: Beg the Court's indulgence.

16 THE COURT: Uh-huh.

17 (Pause.)

18 MR. COOPER: Mr. Green, thank you for your time for
19 explaining that. I have no further questions for you. If
20 you'll answer anything that Mr. Shelton may have for you.

21 THE WITNESS: Yes, sir.

22 THE COURT: You may proceed.

23 MR. SHELTON: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 CROSS-EXAMINATION

1 BY MR. SHELTON:

2 Q Could have, inconclusive is doubt. You have doubts?

3 A Yes, that's what inconclusive means, I don't know.

4 Q You don't know. Doubts. It's reasonable doubt,
5 correct?

6 A Yes, to me, doubt is reasonable, yes.

7 Q You know a little bit, I guess, a lot about firearms,
8 way more than I do, but PSA, 223, 556, would that, also, be
9 something that could shoot these cartridge cases?

10 A They're the right caliber, yes, sir.

11 Q This firearm, is it a common rifle? You can buy it at
12 almost any armory or gun store?

13 A Yes, sir.

14 Q The ammunition, the cartridge casings that you
15 analyzed, are those common?

16 A Norma wasn't at first, but it's starting to be so now,
17 yes, sir.

18 Q Something you could buy at Palmetto State Armory?

19 A Yes, sir, any place that sells ammunition is probably
20 going to carry Norma and I think Tulammo.

21 Q Okay. And I think you mentioned that there could be
22 other firearms that were out there?

23 A Yes, sir.

24 Q Other firearms that shot these cartridge casings,
25 correct?

1 A Yes.

2 Q And there's no time stamp or anything like that when
3 they were fired?

4 A No, sir.

5 Q You mentioned that you couldn't tell if -- and I may
6 have not been hearing right, but you mentioned that you
7 couldn't tell if it fired, but you could tell it was
8 extracted from the gun -- or couldn't tell if it was
9 extracted, but you can only analyze whether something has
10 been extracted from the gun?

11 A Well, I think I get what you're saying, so let me
12 answer it and if I'm not right, you can redirect me. All
13 ten of these cartridge cases were inconclusive with that
14 firearm, as being fired by that firearm. They were, also,
15 inconclusive as being extracted and ejected from that --
16 loaded into, extracted and ejected from that firearm. If it
17 wasn't, I wouldn't have put it in my report. Does that make
18 sense?

19 Q That makes sense.

20 MR. SHELTON: No other questions.

21 THE COURT: Any redirect of the witness?

22 MR. COOPER: Just briefly, Judge.

23 REDIRECT EXAMINATION

24 BY MR. COOPER:

25 Q I wanted to, Mr. Green, make sure I made one point

1 clear. It's going to be regarding State's 116, which should
2 be SLED number 22. You mentioned that was inconclusive as
3 it relates to this firearm, but what determination were you
4 able to make, if any, about the caliber of that projectile
5 or what's consistent?

6 A It was most consistent with a 223 Remington or a 556
7 NATO caliber.

8 Q And, again, while your results were inconclusive, that
9 type of rifle is the type that could have fired a 223
10 Remington?

11 A Yes, sir.

12 MR. COOPER: I have no further questions. Thank you
13 for your time.

14 THE COURT: Any objection to the witness being excused
15 from the State?

16 MR. COOPER: Not from the State, Judge.

17 THE COURT: From the Defense?

18 MR. SHELTON: No, Your Honor.

19 THE COURT: Sir, you're excused.

20 THE WITNESS: Thank you, ma'am.

21 THE COURT: You're welcome.

22 Madam Forelady, ladies and gentlemen, we're going to
23 take advantage of this break in testimony to take our lunch
24 recess. I was watching the weather yesterday, you know, the
25 weather is fluid. The weather was supposed to be bad and

1 still may be bad around lunchtime. So I took the liberty of
2 having the clerk's office order your lunch for today. It is
3 already here. It is in your jury room.

4 We will break for -- it's about 12:51, so you'll have
5 about an hour and ten minutes for lunch, give or take.
6 During the break, please, do not discuss the case in any
7 manner whatsoever. Please do not read, watch or listen to
8 any media accounts if they're any. Please don't do any
9 independent research on the internet and, please, don't post
10 about your jury service on any social networking sites.

11 If you will leave your notepads in your seats, we will
12 secure them during the break. We will resume promptly at
13 two o'clock, which, again, will give you about an hour, a
14 little less than an hour and ten minutes.

15 During the break, you can have access to your
16 telephones and you can walk around in the public areas,
17 just, please, make sure you don't have any inadvertent
18 contact with anyone and return promptly to your jury room by
19 2:00, at which time, we will resume testimony.

20 Enjoy your lunch.

21 (WHEREUPON, the jury exits the courtroom at 12:51 p.m.)

22 THE COURT: Anything before we break for lunch from the
23 State?

24 MR. COOPER: No, ma'am.

25 THE COURT: From the Defense?

1 MR. SHELTON: No, Your Honor.

2 THE COURT: Are there any matters of law you
3 contemplate coming up with any of your witnesses after
4 lunch, Mr. Cooper? Well, let me ask that question a
5 different way. Are you calling Audrey Tyrell?

6 MR. COOPER: Yes, Judge, I will be. She will either be
7 very late this afternoon or tomorrow morning. She is -- at
8 this point, I expect her to be --

9 THE COURT: Ms. Tyrell is coming from out of town?

10 MR. COOPER: She is coming from New Hampshire.

11 THE COURT: And what role did she play in the case?

12 MR. COOPER: She collected swabs from --

13 THE COURT: So she is crime scene?

14 MR. COOPER: Yes, ma'am.

15 THE COURT: So tell me who your witnesses are that you
16 have lined up for this afternoon?

17 MR. COOPER: The ones that I have lined up, Judge,
18 would be Jamaul Simmons, who would have been number three on
19 your initial list. He will probably be our first witness
20 once we get back.

21 THE COURT: And who is his lawyer?

22 MR. COOPER: His lawyer is Lisa Gay.

23 THE COURT: And is she --

24 MR. COOPER: Was here. I'm not sure if she's still
25 here, but I've been in contact with her, but she was here.

1 THE COURT: Let her know she needs to be here at two
2 o'clock.

3 MR. COOPER: I will, yes, ma'am.

4 THE COURT: The Court will not be interested in any
5 excuses.

6 MR. COOPER: After that witness --

7 THE COURT: I assume Pierre Nelson would be next or is
8 he not?

9 MR. COOPER: He should be here as well. His lawyer is
10 Adam Nargick (ph) who is present. It will either be him or
11 Mr. Johnson, who is incarcerated.

12 THE COURT: I would suggest that you deal with your
13 fact witnesses who are lawyers in practice so they can go on
14 about their life and then we'll deal with those that are
15 more problematic.

16 MR. COOPER: The only one that we've talked about --

17 THE COURT: Instead of having them wait around while we
18 deal with something that's problematic.

19 MR. COOPER: I understand. The only one that will be
20 problematic I expect at this point, and that may have
21 changed this morning, would be incarcerated co-defendant,
22 Mr. Johnson. Ms. Bickley, his attorney, was able to go and
23 speak to him while we were doing testimony, so I need to
24 confer with her. But I expect that Mr. Simmons --

25 THE COURT: I assume he's been transported?

1 MR. COOPER: He's here. He's been here.

2 THE COURT: Perfect.

3 I'm just suggesting that those who are in private
4 practice who may have other obligations to be in other
5 courts that we try and be respectful of their time and get
6 them in and out.

7 MR. COOPER: I expect those to be my very next two
8 witnesses, Judge.

9 THE COURT: Okay. And then who else after Mr. Simmons,
10 Mr. Nelson, Mr. Johnson? I had Kebreana Samuels, are you
11 still calling her?

12 MR. COOPER: Potentially, Judge. She may end up being
13 a rebuttal witness. I would imagine Ms. Reid will go this
14 afternoon as well.

15 THE COURT: Ms. Reid?

16 MR. COOPER: Alexandria Reid.

17 THE COURT: What number is that?

18 MR. COOPER: She would be --

19 THE COURT: Oh, number 19. And then I had Detective
20 David Pritchard, Ryan DeWane. Dr. Batalis, you said is
21 Wednesday?

22 MR. COOPER: Yes, ma'am. And Mr. DeWane is in route
23 from the west coast, so I expect her to testify tomorrow as
24 well.

25 THE COURT: Melissa High.

1 MR. COOPER: She will be our last witness. She's from
2 the jail, she will be for jail calls.

3 THE COURT: Have y'all given the jail calls to Mr.
4 Shelton?

5 MR. COOPER: Yes, ma'am, he's aware -- he and I have
6 had discussions about potentially having clips or he may
7 want the full calls played, but we can sort that out
8 tonight.

9 THE COURT: I thought you were calling her today?

10 MR. COOPER: Ma'am?

11 THE COURT: I thought you said you were calling her
12 today.

13 MR. COOPER: I did not, no, ma'am. She will be our
14 last witness tomorrow. As I expect this to play out, Judge,
15 and I realize I have not been necessarily correct so far,
16 but is Mr. Simmons this afternoon, Mr. Nelson this
17 afternoon, Mr. Johnson this afternoon, which very well could
18 take us to five o'clock --

19 THE COURT: Just make sure you have enough witnesses
20 for the day and that you estimate because I'm not breaking
21 early.

22 MR. COOPER: Yes, ma'am.

23 THE COURT: Y'all enjoy your lunch. I'll see you at
24 two o'clock. You can leave anything in the courtroom. It
25 will be secured during the break.

1 (WHEREUPON, a lunch break was taken.)

2 THE COURT: Anything before we bring in the jury from
3 the State?

4 MR. COOPER: No, Your Honor.

5 THE COURT: Who's your next witness?

6 MR. COOPER: It's going to be Jamaul Simmons.

7 THE COURT: Is he in the courtroom?

8 MR. COOPER: He's standing outside.

9 THE COURT: We need him in the courtroom, please.

10 Ms. Gay, you represent Mr. Cooper [sic]?

11 MS. GAY: I do.

12 THE COURT: Do you want to sit next to him while he's
13 testifying or do you want to sit in the gallery?

14 MS. GAY: I can sit in the gallery.

15 THE COURT: Okay.

16 MS. GAY: I've never been asked to sit next to anyone
17 before.

18 THE COURT: You can. It's an option.

19 MS. GAY: Sure, he might have something --

20 THE COURT: If he has anything, he can lean right over.
21 Can we put a chair right there for Ms. Gay next to her
22 client.

23 And you can just take your seat and he can remain
24 standing until he's sworn in the presence of the jury.

25 Is the State ready to proceed?

1 MR. COOPER: Yes, ma'am.

2 THE COURT: Is the Defense ready to proceed?

3 MR. SHELTON: Yes, Your Honor.

4 THE COURT: Please bring in the jury.

5 (WHEREUPON, the jury enters the courtroom at 2:09 p.m.)

6 THE BAILIFF: All jurors are present, Your Honor.

7 THE COURT: Ladies and gentlemen, I hope y'all had a
8 pleasant lunch. We are now going to resume testimony.

9 The State may call its next witness.

10 MR. COOPER: The State would call Jamaul Simmons.

11 THE COURT: If the clerk would swear the witness.

12 JAMAU SIMMONS,

13 after being duly sworn, testified as follows:

14 THE CLERK: Please sit down for me. If you will state
15 your full name for the record, spelling your last name.

16 THE WITNESS: Spell my name?

17 THE COURT: Yes, sir. Tell us your name and if you
18 would spell your first name and last name for me.

19 THE WITNESS: Jamaul Simmons.

20 THE COURT: And could you spell your first name?

21 THE WITNESS: J-A-M-A-U-L.

22 THE COURT: A-U-L, okay. And your last name?

23 THE WITNESS: Simmons, S-I-M-M-O-N-S.

24 THE COURT: You may proceed.

25 MR. COOPER: Thank you, Judge. May it please the

1 Court?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION

4 BY MR. COOPER:

5 Q Mr. Simmons, will you tell the jury how old you are,
6 please?

7 A 20.

8 Q And where do you currently live, where in town?

9 A North Charleston.

10 Q Where did you go to school?

11 A Fort Dorchester.

12 Q Did you graduate?

13 A No.

14 Q I want to ask you a couple of questions before we get
15 into why you're here today. Who is that lady beside you on
16 the stand?

17 A Lisa Gay.

18 Q Is she your attorney?

19 A Yes, sir.

20 Q Do you currently have pending charges in our office?

21 A I have pending charges.

22 Q And I just want to ask you what those charges are real
23 quick before we get into it. You have a PWID, possession
24 with intent to distribute, of crack cocaine, a failure to
25 stop for a blue light and a resisting arrest in 2021; is

1 that correct that's pending?

2 A Yes.

3 Q You, also, have a habitual traffic offender and a
4 possession with intent to distribute marijuana from this
5 year pending?

6 A Yes.

7 Q And we have met before to discuss this case; is that
8 right?

9 A Yes, sir.

10 Q Have we ever talked about your pending charges?

11 A No, sir.

12 Q Why are you here today?

13 A I don't know. My lawyer just called and told me I have
14 to show up.

15 Q But you've been served a subpoena?

16 A Yes, sir.

17 Q Do you want to be here today?

18 A No, sir.

19 Q Tell us who LR [REDACTED] was to you.

20 A My homeboy.

21 Q Does that mean he was a friend of yours?

22 A Yes, sir.

23 Q Y'all were friends?

24 A Yes, sir.

25 Q How long had you known LR [REDACTED]

1 A Like, eight to ten years, like, ten years.

2 Q So most of your life pretty much?

3 A Yeah.

4 Q Did you call him LR or did you call him a
5 different name?

6 A I called him LR and L.J.

7 Q Do you remember the night of April 18th, 2020?

8 A No.

9 Q Do you remember that L.J. was killed?

10 A Yeah.

11 Q Were you with him that night?

12 A Yeah.

13 Q Will you tell the jury what you and L.J. had been doing
14 earlier that day?

15 A We just been chilling.

16 Q Hanging out with friends?

17 A Yes.

18 Q Do you remember where y'all were hanging out?

19 A We was on Remount.

20 Q Were y'all in the Charleston Farms area?

21 A Uh-huh.

22 THE COURT: Sir, if you could tell us yes or no.

23 Q You have to just say yes or no?

24 A Oh, yes.

25 Q Is that right across the railroad tracks from L.J.'s

1 house?

2 A Yes.

3 Q I'm going to show you what's already in evidence as
4 State's Exhibit 2. Is this the map of the Ferndale area of
5 where L.J. lived?

6 A Yes.

7 Q Do you see there Charleston Farms or what side of the
8 screen that would be on? And you can touch it.

9 A What did you say again?

10 Q Where Charleston Farms is, where y'all were hanging out
11 earlier in the day.

12 A I can't see it.

13 Q Were y'all coming through a cut over the railroad
14 tracks?

15 A Yeah.

16 Q Can you show the jury where that is on this map? You
17 can touch it on the screen.

18 A Right there.

19 Q Right where that red dot is? And is that cut -- so you
20 go over the railroad tracks and you come through the woods
21 out to where that red dot is? Does that make sense?

22 A You just walk straight back to his house and that's it.

23 Q Okay. And it was just you and L.J.?

24 A Uh-huh.

25 Q Was it dark outside?

1 A Uh-huh.

2 Q Was it nightttime?

3 A Yeah.

4 Q Where were you and L.J. going?

5 A Back to his house.

6 Q Can you show on there about where his house was?

7 A Right there.

8 Q And if you'll kind of circle it a little bit bigger so
9 we can see it?

10 A (Witness complies.)

11 Q Okay. And once you come through the cut onto the road,
12 what do you see?

13 A What you say?

14 Q What do you see? Is there something that caught your
15 attention as you walked off the road?

16 A I didn't see nothing. Me and my home boy just walking
17 back to his house.

18 Q Did you see a car?

19 A Yeah.

20 Q Where was the car when you saw it? Can you point that
21 out on the map for us?

22 A Just driving, a couple of cars driving. And one right
23 there.

24 Q The one that specifically drew your attention, can you
25 tell us why you -- why that caught your attention, that car?

1 A I don't know. Just, they had stopped. I'm like, L.J.,
2 what going on? And he just be like, maybe about to see. I
3 be like, that car looked kind of -- something didn't seem
4 right.

5 Q You said what again? Something didn't seem right?

6 A Yeah, didn't seem right. And he be like, man, I going
7 to see, and we just kept on walking.

8 Q Did at some point after you saw that car and something
9 didn't feel right, did you at some point tell him maybe
10 y'all should just turn around?

11 A Yeah.

12 Q And go back across the railroad tracks to Charleston
13 Farms?

14 A Yeah, I tell my home body, I be like, Man, we should go
15 back across the tracks. And he be like, nah, nah, I trying
16 to see what this is.

17 Q Something just didn't feel right?

18 A Yeah. I mean, the car gave theirselves up --

19 Q I'm sorry?

20 A The car gave theirselves up because they just keep on
21 stopping. I was like, Man, come on, what's going on?

22 Q As if they were looking for something?

23 A Yeah.

24 Q Or someone?

25 A I don't know what they be doing, they just ain't

1 driving right.

2 Q They just kept stopping and that caught your attention.
3 So once you asked L.J. or told L.J. that y'all should head
4 back, what did he say?

5 A He said no --

6 MR. SHELTON: Objection, hearsay.

7 THE COURT: Sustained, hearsay.

8 MR. COOPER: I'll rephrase it.

9 BY MR. COOPER:

10 Q Once you mentioned that to L.J., did y'all keep going
11 towards the house on Lakewood?

12 A Yes.

13 Q L.J.'s house?

14 A Yeah.

15 Q Can you describe for the jury if you would what
16 happened as y'all got closer to L.J.'s trailer?

17 A Somebody just got out the car and they just start
18 shooting. I ain't see no face.

19 Q So you're walking up to L.J.'s trailer and then
20 somebody just starts shooting at you?

21 A They be like, Give me everything. My last word to my
22 homeboy was, like, run. I ain't seen no face, all I just
23 see was shooting and I just start running.

24 Q So as you got closer to the trailer, you heard somebody
25 yell, Give me everything?

1 A Yeah.

2 Q And then what do you tell L.J. at that point?

3 A I mean, the last thing I tell him was just run.

4 Q And did he start running?

5 A I mean, yeah. I guess he trying to run straight. I
6 cut behind his house.

7 Q Did you, ultimately, see L.J. get shot?

8 A No, I just heard it.

9 Q And where did you go?

10 A I was behind his trash can under his porch. When they
11 drive off, I just came next to my homeboy on the ground.

12 Q When you were walking to the house and you heard those
13 shots, what, if anything, did you see where those shots were
14 coming from? Did you see a car back there?

15 A I mean, it been a car just parked and I just seen
16 somebody get out the car and be, like, Give me everything.

17 Q Did it appear to you to be the same car that had been
18 stopping beforehand?

19 A Huh?

20 Q The one that you mentioned that made you feel uneasy
21 that you said kept stopping, was that the same car that then
22 backed in?

23 A I don't really know because it was dark time. I just
24 know there been a car driving crazy (unintelligible).

25 Q How many shots do you think you heard?

1 A Couple.

2 Q Do you remember what kind of gun, if any, you saw?

3 A Nah, but from the sound of it, it could have been a big
4 gun and then -- it was a couple -- it was two guns.

5 Q It sounded like to you there were two guns?

6 A It was. I mean, you could tell because I didn't see,
7 like, it seemed like guns just going off. I ain't trying to
8 run to the gun. I ain't trying to run. I mean, that's my
9 life, you know what I'm saying. And they didn't even know
10 what they be doing because they could have killed me, too.
11 But they shot my homeboy and he gone and he ain't really
12 (unintelligible).

13 Q You mentioned big gun, what do you mean by big gun?

14 A Like an AR pistol or something big.

15 Q Rifle?

16 A Something like that, yeah.

17 Q Bigger than a pistol?

18 A Yeah.

19 Q But you think you heard two guns?

20 A Yeah.

21 Q One was a pistol and one was a big gun, as you say?

22 A Yeah.

23 Q When you looked back, were you able to see faces at
24 all?

25 A I ain't see no face.

1 Q Why not?

2 A They had shirts on their face, I think.

3 Q Say it again.

4 A I think they had shirts or something over their face.

5 Q Do you remember telling the police they had something
6 covering their face?

7 A I don't know, but I know I couldn't see nobody.

8 Q And you weren't able -- you spoke to police a day or
9 two after this happened and you weren't able to identify who
10 the shooter was; is that right?

11 A Facts. Yeah.

12 Q And when you say facts, you mean you agree with me?

13 A Yeah.

14 Q And one of the things you remember telling Detective
15 Pritchard is because they had shirts or something covering
16 their face?

17 A (Inaudible response.)

18 THE COURT: Sir, if you could say yes or no.

19 THE WITNESS: Yes.

20 BY MR. COOPER:

21 Q The vehicle that was backed in, what, if anything, can
22 you say about which side of the vehicle the shooters got out
23 of? Did it appear they got out on the same side?

24 A Yeah, could have. I don't know, I mean, it could have
25 happened like that. I don't really -- all I see is someone

1 like give me everything. I can't see no face or nothing. I
2 wasn't running toward the bullets, you see what I'm saying.

3 Q And tell the jury if you would how quick all this
4 happened. I mean, was it like that? You heard shots and
5 then you ran?

6 A Yeah. I mean, it was quick.

7 Q I mean, what were you focused on at that point?

8 A I was focused on getting home.

9 Q Do you know someone by the name of Twan?

10 A Yeah, I know Twan.

11 Q Would that be Antwan Johnson?

12 A Yeah, I know Pierre.

13 Q You just know him as Twan?

14 A I know Antwan. I know of them my whole life.

15 Q Were you aware of anything that happened between L.J.
16 and Antwan earlier that day?

17 A Yeah.

18 Q What were you aware? What happened?

19 A They said something about L.J. robbed Twan or whatever.

20 Q And you heard that from L.J.?

21 A Heard it from, yeah, both of them.

22 Q When did you hear that from Twan?

23 A The same day. He called me and be like, You can't get
24 my money back from L.J.? I'm like, Nah. I ain't got
25 nothing to do with that.

1 Q What, if anything, did Twan say to you about that
2 incident?

3 A He ain't said nothing. He just asked me if I could get
4 his money back.

5 Q How would you describe his attitude. Was he upset?
6 Was he going to retaliate? How would you characterize that?

7 A He just, like, I ain't got my money back and this and
8 that. Like, they had changed words. Whatever Twan have,
9 like, aggressive-wise, he didn't tell me that, you know what
10 I'm saying, he ain't tell me nothing.

11 Q Did I hear you right when you said at the beginning of
12 that last answer that Twan mentioned he was going to get his
13 money back? Is that what you said?

14 A No, Twan said if you can get me my money back. He was
15 phrasing it to me, you see what I'm saying?

16 Q He wanted you to tell L.J.?

17 A Yeah.

18 Q Were you there when L.J. robbed Twan?

19 A No.

20 Q And when you were talking to Twan, L.J. wasn't with
21 you?

22 A No.

23 Q Do you remember mentioning, I think, to Detective
24 Pritchard that you heard bullets going past you as you were
25 running?

1 A Huh?

2 Q Do you remember hearing bullets going past you as you
3 ran?

4 A Yeah. I mean, yeah.

5 Q And do you remember how many shots you may have heard?

6 A It was a couple.

7 Q Did it sound like more from the big gun you described
8 or more from the handgun?

9 A I can't really say because -- you know what I'm saying.
10 I can't say.

11 Q Did they sound like they were being fired at the same
12 time?

13 A I can't -- I mean, I can't tell you that. I was on the
14 side of running for my life.

15 Q You were focused on running and getting away; is that
16 right?

17 A Uh-huh.

18 Q You remember describing to the police -- did one of the
19 individuals or the shooters run up to -- did one of the
20 individuals shooting run up to you or run up to L.J.?

21 A Huh?

22 Q One of the shooters, did they run up -- were they
23 running up to you or running up to L.J., do you remember
24 that?

25 A Yeah, because his pants was down.

1 Q Say that again, I'm sorry.

2 A I mean, when they went to him after they ride off or
3 whatever, his pants was down.

4 Q What did that mean to you?

5 A That mean somebody looked they went in his pockets.

6 Q Somebody had gone in his pockets potentially?

7 A I mean, his pants was -- his pockets was inside out.

8 Q Do you remember describing to Detective Pritchard that
9 one of the individuals, potentially, was a light-skinned
10 male?

11 A I can't really say because I ain't see that. I can't
12 say that. All I just seen was white -- like, smoke and no
13 face, shirts or whatever on their face.

14 MR. COOPER: Beg the Court's indulgence just one
15 second.

16 (Pause.)

17 BY MR. COOPER:

18 Q Just a few more questions for you, Mr. Simmons. I
19 think you mentioned at the beginning, but you knew L.J. most
20 of your life; isn't that right?

21 A I don't want to answer no more questions.

22 Q Say that again.

23 THE COURT: I'm sorry, sir, did you understand the
24 question? Do you need it repeated?

25 BY MR. COOPER:

1 Q You had known L.J. for most --

2 A Yes, sir.

3 Q And you had known Twan or Antwan Johnson most of your
4 life?

5 A Yes, sir.

6 Q When you went behind L.J.'s trailer, how long did you
7 hide?

8 A Not that long.

9 Q Did you wait until you heard that car drive off?

10 A Yeah.

11 Q I'm sorry, did you say yes?

12 A Yeah.

13 Q And then what did you notice again about L.J.'s body,
14 about his clothing?

15 A His pockets was inside out.

16 Q And once all this was over, once you knew and saw your
17 friend had been shot and killed, did you cry?

18 A (Inaudible response.)

19 Q Is that a yes?

20 A Yes.

21 MR. COOPER: Mr. Simmons, thank you for being here. I
22 don't have any further questions for you. If you'd answer
23 anything that Mr. Shelton may have for you.

24 THE COURT: You may proceed.

25 CROSS-EXAMINATION

1 BY MR. SHELTON:

2 Q You don't know Alonza, do you?

3 A No.

4 Q Antwan, how long have you known Antwan?

5 A Same amount of time I know L.J.

6 Q Pretty much your whole life. Do you know Pierre? I
7 heard you guys say hi to each other in the back. You know
8 Pierre and you know Antwan. Antwan called you after he got
9 robbed by L.J., correct?

10 A Yeah.

11 Q After L.J. was shot, you called Antwan, correct?

12 A Yeah.

13 Q When you were giving your statement to Detective
14 Pritchard, you said the person you saw was taller than you,
15 correct?

16 A Yeah.

17 Q And how tall are you?

18 A 6'4" now.

19 Q So you've grown, had a little growth spurt. How tall
20 were you a couple years ago?

21 A Don't know.

22 Q About 6'2" or 6'3"?

23 A I don't know.

24 Q Would it help to see the transcript from when you
25 talked to the police about how tall you were?

1 A What you say?

2 Q Were you taller than me? Stand up.

3 A (Witness complies.)

4 Q A little bit taller than me. Were you taller than me a
5 couple years ago?

6 A I don't know, probably. I don't know. I can't
7 remember.

8 Q But all you heard was, Give me everything you got and
9 then shots?

10 A Uh-huh.

11 Q Is that correct?

12 A Yeah.

13 Q When you were approaching L.J.'s house that night, were
14 you behind L.J. in the field or were you right next to him
15 or in front of him, do you remember?

16 A Huh?

17 Q When you guys were coming across that field to L.J.'s
18 home, you were behind him, correct?

19 A Beside him.

20 Q You were right beside him?

21 A Yes.

22 Q Okay. So you weren't behind him. So if the video
23 shows that, that's not what you remember. You remember
24 being right next to him?

25 A Uh-huh, beside, maybe like five behind him.

1 Q And it's dark out there, correct?

2 A Uh-huh.

3 Q You only really saw one person out there that night
4 shooting a gun?

5 A You asked me if I seen one person --

6 Q You only saw one person shooting a gun, correct?

7 A No.

8 Q You saw a second person?

9 A I mean, yeah, there was two guns shooting.

10 Q You heard two guns shooting?

11 A I heard two guns shooting. I can't say. I heard two
12 guns shooting.

13 Q You saw only one person?

14 A Yeah.

15 Q And you told the police that it wasn't Antwan?

16 A I don't know who it was.

17 Q That said, Give me everything you got. You told the
18 police that, correct?

19 A I can't -- I mean, I didn't know who it was. I
20 couldn't see no face.

21 Q Right.

22 MR. SHELTON: No further questions.

23 THE COURT: Anything further of this witness?

24 MR. COOPER: No, ma'am.

25 THE COURT: Any objection to the witness being excused

1 from the State?

2 MR. COOPER: Just subject to recall.

3 THE COURT: Sir, you're excused subject to being
4 recalled.

5 Call your next witness.

6 MR. COOPER: Thank you, Judge. The State would call --
7 beg the Court's indulgence second.

8 (Pause.)

9 MR. COOPER: The State would call Pierre Nelson.

10 THE COURT: Come around and be sworn.

11 PIERRE NELSON,

12 after being duly sworn, testified as follows:

13 THE CLERK: Please have a seat for me. If you will
14 state your full name for the record, spelling your last
15 name, please.

16 THE WITNESS: Pierre Nelson, N-E-L-S-O-N.

17 THE COURT: You may proceed.

18 MR. COOPER: Thank you, Judge.

19 THE COURT: You're welcome.

20 DIRECT EXAMINATION

21 BY MR. COOPER:

22 Q Mr. Nelson, will you tell the jury how old you are?

23 A 18 years old.

24 Q And what part of town do you live in?

25 A North Charleston.

1 Q And who is the gentleman that is sitting next to you?

2 A My lawyer, public defender.

3 Q That's your lawyer?

4 A Yeah.

5 Q You spoke to police about this incident with Antwan,
6 Alonza and L.J., you spoke to the police about that in 2020,
7 right?

8 A Yes, sir.

9 Q Were you ever charged in connection with that incident?

10 A No, sir.

11 Q You said no, sir?

12 A No, sir.

13 Q Since then -- last night, we signed a proffer
14 agreement; is that right?

15 A Yes, sir.

16 Q Will you describe in your words what a proffer
17 agreement means to you?

18 A Everything I say must be truthful.

19 Q You just have to be honest with us, honest with the
20 jury. And that protects you from being charged; is that
21 correct?

22 A (Inaudible response.)

23 THE COURT: You have to say yes or no, sir. The court
24 reporter can't take down a head nod.

25 THE WITNESS: Oh, yeah.

1 THE COURT: You need to audibly say yes or no.

2 THE WITNESS: Yes, ma'am.

3 MR. SHELTON: Your Honor, I'm going to object to
4 leading.

5 THE COURT: Sustain leading, rephrase the next series
6 of questions.

7 BY MR. COOPER:

8 Q You have to be honest when you're testifying today?

9 A Yes, sir.

10 MR. SHELTON: Objection, Your Honor.

11 THE COURT: Basis?

12 MR. SHELTON: Leading.

13 THE COURT: Sustained.

14 BY MR. COOPER:

15 Q Do you have to be honest when you testify today?

16 A Yes, sir.

17 Q In the times we've talked, have I asked you to be
18 honest?

19 A Yes, sir.

20 Q I want you to kind of give us a little bit of
21 background in this case. Do you know who Antwan Johnson is?

22 A Yes, sir.

23 Q And who is he to you?

24 A A friend.

25 Q How long have you known him?

- 1 A Say about first grade.
- 2 Q I'm sorry?
- 3 A First grade.
- 4 Q So most of your life. Did you know LR [REDACTED] or
- 5 known as L.J.?
- 6 A No, sir.
- 7 Q Do you know Mr. Marable?
- 8 A No, sir..
- 9 Q When is the first time you would have met Mr. Marable?
- 10 A Probably the night of the incident.
- 11 Q That's what you remember as the first time you met him
- 12 is that night?
- 13 A Yes, sir.
- 14 Q Will you tell the jury a little bit -- what had you
- 15 been doing earlier that day?
- 16 A Chilling out.
- 17 Q Did at some point you head down to Emden Street?
- 18 A Yes, sir.
- 19 Q Do you know where I'm talking about in Ferndale?
- 20 A Yes, sir.
- 21 Q Why did you go down to Emden Street?
- 22 A To get my belongings from a friend.
- 23 Q What belongings did he have?
- 24 A My bookbag.
- 25 Q How did you get down to Emden Street?

- 1 A My bike.
- 2 Q So it wasn't a far ride from home?
- 3 A It was.
- 4 Q Where were you living at the time?
- 5 A I'd say by Hanahan (ph).
- 6 Q That's still in the North Charleston area?
- 7 A Yes, sir.
- 8 Q Had you had conversation with Antwan earlier in the
- 9 day?
- 10 A No, sir.
- 11 Q You had not?
- 12 A No, sir.
- 13 Q Once you arrived down on Emden Street, did you see
- 14 Antwan?
- 15 A Yes, sir.
- 16 Q And where was he?
- 17 A Outside on his porch.
- 18 Q Would that be [REDACTED] Street?
- 19 A I believe so.
- 20 Q Showing you State's 52. Do you recognize that?
- 21 A Yes, sir.
- 22 Q Will you circle the porch which one was Antwan's house?
- 23 You can touch that screen and draw on it.
- 24 A (Witness complies.)
- 25 Q And that was Antwan's house on Emden Street?

1 A Yes, sir.

2 Q And just so I'm clear, that's where you saw him sitting
3 when you came down the street?

4 A Yes, sir.

5 Q Once you see him sitting on the porch, what do you do?

6 A Stop by and go to his porch.

7 Q And you go over and hang out with him?

8 A Yes, sir.

9 Q What happens at that time?

10 A I'm just chilling waiting on the guy to bring me my
11 belongings.

12 Q So the guy that had your belongings, he brought them by
13 while you were hanging out there?

14 A Yes, sir.

15 Q You and Antwan talk about anything particular?

16 A No, sir.

17 Q Did at some point you learn that Antwan had been
18 robbed?

19 A Yes, sir.

20 Q How did you learn that?

21 A Over the phone.

22 Q Say it again?

23 A Over the phone.

24 Q And that was with who?

25 A Antwan.

1 Q So you had talked to him earlier in the day?

2 A Yes, sir.

3 Q Was that before you came down to Emden Street?

4 A Yes, sir.

5 Q And what did you learn from him?

6 A He just told me he got robbed by one --

7 Q Did he say who?

8 A By one of his old friends.

9 Q I can't remember if I've already asked this. If I did,
10 I'm sorry. Do you know who L.J. was or who LR [REDACTED]
11 was?

12 A No, sir.

13 Q Had you ever heard Antwan talk about him?

14 A Yes, sir.

15 Q Who did you understand him to be to Antwan? What kind
16 of relationship did he have with Antwan?

17 A A friend.

18 Q They were friends, but you didn't know him.

19 A (No audible response.)

20 Q So you learned that he had been robbed. You're sitting
21 on the porch with Antwan at his house on Emden Street; is
22 that right?

23 A Yes, sir.

24 Q At some point, this car pulled up?

25 A Yes, sir.

1 Q Tell the jury about what you observed in that
2 interaction?

3 A I was just on the porch while he went up to the car.
4 You know, I was just observing. Next thing I know is we
5 about to go to one of their houses, his friend house. So
6 that's when I come off the porch, we hop inside the car and
7 the plan was to go to his house.

8 Q So couple things, how would you describe the car to us?

9 A I can't remember.

10 Q You can't remember, okay. This has been three years
11 ago; is that right?

12 A Yes, sir.

13 Q Do you remember who was driving the car?

14 A No, sir.

15 Q Do you remember seeing Alonza Marable in the car?

16 A I mean, I saw three other individuals, but I can't
17 actually tell you who they were.

18 Q Do you remember someone being named Lorenzo, Alonza
19 that was the driver of the car?

20 A Clueless on the name.

21 Q Did he go by Zo maybe?

22 A If I'm not mistaken.

23 Q Is that who the driver was?

24 A I have no clue. I didn't know anyone in the passenger
25 seat -- I mean, in the front of the car.

1 Q I'm going to show you -- do you remember when you spoke
2 with Detective Pritchard right after this incident, I think
3 he showed you several pictures and asked you to identify
4 people?

5 A Yes, sir.

6 Q If I were to show you those, would you remember it?
7 Would you recognize it?

8 A Possibly.

9 MR. COOPER: May I approach the witness, Judge?

10 THE COURT: You may.

11 BY MR. COOPER:

12 Q Showing you what's been marked for ID purposes only as
13 State's 162, do you recognize this document?

14 A Yeah.

15 Q How do you recognize it?

16 A My signature.

17 Q Your name and your signature.

18 MR. COOPER: Your Honor, at this time, the Court would
19 offer what's been marked for ID purposes only as State's 162
20 into evidence.

21 THE COURT: Any objection?

22 MR. SHELTON: No objection.

23 THE COURT: Marked and admitted State's 162 without
24 objection.

25 (WHEREUPON, State's Exhibit No. 162 was admitted into

1 evidence.)

2 BY MR. COOPER:

3 Q This is one of the pictures that Detective Pritchard
4 showed you at the police department; is that right?

5 A Yeah.

6 Q And who is that person? How did you know who that was?

7 A From my friend. I believe that was his friend, so
8 that's how I was aware of who that guy was.

9 Q Was that the driver of the car that night?

10 A I can't actually tell you that was him.

11 Q Do you remember telling Detective Pritchard that that
12 was the driver that night in your interview?

13 A No.

14 Q You don't remember telling him that?

15 A No, sir. I probably told him he was in the front seat.

16 Q You just don't remember whether or not he was the
17 driver?

18 A Right.

19 Q But you remember him being in the car?

20 A Right.

21 Q And you had never met him before that night; is that
22 correct?

23 A No, sir.

24 MR. COOPER: Beg the Court's indulgence.

25 (Pause.)

1 BY MR. COOPER:

2 Q Let me ask you this, Pierre, a day or two after the
3 incident, did you receive a Facetime call?

4 A Yeah.

5 Q Who was that Facetime call from?

6 A The guy in your hand.

7 Q I'm going to show you this one more time. That was the
8 individual that was on the Facetime call with you?

9 A It wasn't really a Facetime, you know, it was a phone
10 call, but --

11 Q It wasn't a Facetime call?

12 A No. We spoke, but I couldn't tell you if that was his
13 face.

14 Q How were you able to identify him to the police. You
15 wrote Alonza on that form. How did you know who that was?

16 A Like I said, my close friend, before I got in the car,
17 he let me know whose house we was going to and that's how I
18 got aware of his name.

19 Q That was one of the guys in the car and Antwan told you
20 his name?

21 A Right.

22 Q How many people were in the car once you and Antwan got
23 in the car -- I'm sorry, let me ask that a better way.

24 Before you and Antwan got in the car, how many other people
25 were in that vehicle?

1 A I want to say, like, two.

2 Q Would that be the driver and the front passenger?

3 A Yeah.

4 Q Where did you and Antwan get in the vehicle?

5 A The back seat.

6 Q Would you have been sitting behind the front passenger
7 on the passenger side?

8 A Yeah.

9 Q And where would Antwan have been sitting?

10 A The driver's side.

11 Q Beside you in the back?

12 A (No audible answer.)

13 Q And I think you may have said this, I just want to make
14 sure. When you go to get in the car, had Antwan mentioned
15 where y'all were going?

16 A To his friend house.

17 Q Would that have been the friend we saw or just one of
18 the friends in the car?

19 A One of them in the car. I know he was cool with both.

20 Q Do you know who the other person in the car was?

21 A I do not.

22 Q Even to this day, do you know who that was?

23 A No, sir.

24 Q So you know there was the person that was on that
25 picture we just looked at, State's 162, and some other guy,

1 those were the two in the car when you got in?

2 A Yeah.

3 Q And all you knew at that point was you were going to
4 one of their two houses?

5 A Right.

6 Q Did you know where either of them lived?

7 A No, sir.

8 Q What do y'all do after you get in the car?

9 A Just drive, you know, continuously driving.

10 Q And when you say continuously driving, did y'all stop
11 and get out anywhere or y'all were driving for a while?

12 A Yeah, just driving.

13 Q Did that seem unusual to you at all?

14 A No, because I didn't know -- you know, I didn't know
15 where the guy live at, so I'm thinking we going to his
16 house.

17 Q So if it took a long time, that wouldn't be suspicious
18 to you?

19 A No.

20 Q At some point, does the vehicle come to stop at a
21 house, at a residence?

22 A Yeah.

23 Q At some point, were you aware that people in the car
24 were looking for someone?

25 A No, sir.

1 Q Was anything said about that in the vehicle?

2 A No, sir.

3 Q Did it seem at some point y'all were circling around in
4 the same neighborhood?

5 A I mean, no.

6 Q Let me ask it a better way. Once you got in that car
7 and y'all started driving around, did y'all leave the
8 Ferndale area?

9 A Yeah.

10 Q Do you remember anything about where y'all were or what
11 road you were on, anything like that?

12 A I think we was in North Charleston, but I'm not too
13 familiar of where we were.

14 Q At some point, do y'all make your way back to Ferndale?

15 A Yes, sir.

16 Q At some point, did y'all make y'all's way out to the
17 mobile home park?

18 A Yes, sir.

19 Q Do you know those street names?

20 A No, sir.

21 Q Do you know what the area looks like?

22 A Yes, sir.

23 Q I want to show you State's 2. Is that the part of
24 Ferndale with the mobile homes? Do you recognize that?

25 A I mean, a little bit. It don't look the same from this

1 far up.

2 Q You haven't seen it from a bird's eye view?

3 A No.

4 Q But at some point, y'all returned to the mobile home
5 park in Ferndale?

6 A Yes, sir.

7 Q Can you tell the jury, if you would, what happened once
8 y'all got back to the mobile home park at Ferndale? What
9 stands out in your mind?

10 A I mean, only thing I remember is, you know, we see some
11 boys and somebody in the car pointed out that's them boys
12 right there. And we just continuously drive, we kept
13 driving. I'd say about a couple minutes later, we pull into
14 a driveway and --

15 Q Let me stop you right there real quick. So somebody
16 pointed out a couple boys. Do you know if it was one, two,
17 three?

18 A I think it been two.

19 Q Do you remember who in the car, whether Antwan, whether
20 the Defendant or whether that other person made that
21 comment, do you remember?

22 A No, sir.

23 Q What you remember them saying or the effect of it was
24 there are them boys or something like that?

25 A I think I remember, like, oh, that's them boys.

1 Q Somebody pointed them out?

2 A Yeah.

3 Q And then after they were pointed out, you mentioned
4 y'all stopped and backed into a driveway?

5 A Yeah.

6 Q Did y'all back into a driveway?

7 A Yeah.

8 Q Tell the jury what happened once y'all backed into that
9 driveway.

10 A I mean, as soon as we backed in, two people hop out.

11 Q Okay.

12 A No words were said, just two people hop out. I didn't
13 get out the car because, you know, I wasn't told to get out
14 the car. I didn't know if we was at our destination or not,
15 so I stayed put.

16 Q When they hopped out, did you know as they were getting
17 out why they were getting out?

18 A No.

19 Q Antwan was sitting beside you, did he get out?

20 A Yeah.

21 Q Did the person in the picture, did he get out?

22 A I don't -- I know the driver get out, but, like I said,
23 I know a man was in the front seat, but I can't tell you if
24 that was the guy that got out the car.

25 Q That's one thing I want to ask you about. You put

1 Alonza on here and you said you got that name from Antwan?

2 A Yeah.

3 Q Other than maybe seeing them as you were walking to the
4 car, where are you? Are you sitting behind those two
5 people?

6 A You said inside the car?

7 Q Yeah, were you sitting behind them?

8 A Yeah.

9 Q Did you have a good view of those two people, of their
10 faces?

11 A Uh-huh. It was completely black, like, nighttime, car
12 darked out, so I couldn't, you know, actually point them
13 out.

14 Q So Antwan gets out and he's sitting beside you behind
15 the driver?

16 A Right.

17 Q And then the driver, also, gets out?

18 A Right.

19 Q When Antwan gets out, do you at some point see him with
20 a firearm?

21 A No.

22 Q Did you see him with a firearm when he got back in?

23 A No, sir.

24 Q Did you see a firearm in the backseat when he got back
25 in?

1 A Yes, sir.

2 Q Where did you see that firearm?

3 A On the seat.

4 Q Which would have been -- you're on the passenger side,
5 Antwan was sitting on the driver's side, where would that
6 gun have been, between y'all?

7 A Yeah, in the middle.

8 Q And what kind of gun was it?

9 A I don't know, it was a pistol.

10 Q Did you bring a pistol that night?

11 A No, sir.

12 Q Were you armed that night?

13 A No, sir.

14 Q When Antwan got out of the car, what do you remember
15 hearing?

16 A Just gunshots.

17 Q And the same thing with the driver guy, do you remember
18 hearing gunshots then, too?

19 A I mean, it all happened at once, so it was -- you know,
20 as soon as he hop out, it just all happened at once.

21 Q And when you say all happened at once, they're both
22 getting out at the same time, you're hearing shots at the
23 same time?

24 A Shots at the same time, get out at the same time.

25 Q Do you remember if you could tell if it was one gun or

1 multiple guns going off at the same time?

2 A I just know it was multiple shots.

3 Q How many would you say you heard, do you think?

4 A I don't know. If I guess, I'd say, like, eight.

5 Q It was more than a few?

6 A Right.

7 Q Did it sound like it was happening rapid fire, like,
8 shot, shot, shot, kind of thing?

9 A I mean, it was repeatedly.

10 Q It was happening fast?

11 A I mean, shot after shot.

12 Q Did you see -- when the driver got out, did you see the
13 driver with a weapon as he got out?

14 A No, sir.

15 Q As they're getting out and these shots are happening,
16 what's going through your head?

17 A I'm scared. I'm just in the backseat ducking for my
18 life. I didn't know if we was getting shoot at, I didn't
19 know if they was shooting, I didn't know.

20 Q Tell the jury if you would, did you know what was going
21 to happen while you were in that car?

22 A I did not.

23 Q Did you know when you got in that car the plan was to
24 go and find someone to shoot?

25 A No, sir.

1 Q If that was the case, would you have gotten in the car?

2 A No, sir.

3 Q Did you want to be in a gunfight that night?

4 A No, sir.

5 Q And I think you just mentioned to the jury, but your
6 emotions in that car were what?

7 A Scared.

8 Q Did you know what was happening?

9 A I did not.

10 Q What happens when Antwan and the driver get back in the
11 vehicle?

12 A I mean, my head still was down. So I had put my head
13 out once I felt the car moving, so I guess the car got to
14 moving.

15 Q And was anything said once Antwan and the driver got
16 back in?

17 A No, sir.

18 Q Where did y'all go?

19 A Twan house.

20 Q Which is right down the street from where this
21 happened?

22 A Yes, sir.

23 Q And what happened at Twan's house?

24 A I don't know, we was just chilling. I end up going
25 home after the situation. I got me a taxi. You know, Twan

1 was a little emotional.

2 Q What do you mean by that?

3 A He just was acting a certain way, you know. He seemed
4 a little upset.

5 Q How would you describe that? Out of sorts? Out of his
6 mind? Frantic? What word would you use to describe that?

7 A You know, just constantly saying damn. Being around
8 him a lot, you know, it's suspicious when you keep saying
9 damn, so I asked him, you know, you good. I checked up on
10 him. He never had much to say.

11 Q Did he seem mad or upset or what did it seem like to
12 you?

13 A Frustrated.

14 Q Was it normal for him to act that way?

15 A Not really.

16 Q And once y'all got back to the house, did y'all get out
17 of the car -- I mean, I know y'all got out of the car, did
18 y'all get out of the car on the street or in the driveway?

19 A I believe the street, not too sure.

20 Q And you would have gotten out of the passenger side?

21 A Yes, sir.

22 Q And Antwan would have gotten out of the other side?

23 A Yes, sir.

24 Q Do you remember saying anything to the two guys in the
25 front seat?

1 A No, sir.

2 Q And then y'all went inside and they drove off?

3 A Yes, sir.

4 MR. COOPER: Beg the Court's indulgence one second.

5 (Pause.)

6 BY MR. COOPER:

7 Q I want to ask you a couple more things. Once Antwan
8 and the driver get back in the car right after the shooting,
9 did at some point, you see a weapon in the front seat?

10 A Yes, sir.

11 Q Describe that for us.

12 A I don't know, I just saw a long barrel.

13 Q And what was going on with that?

14 A It was just getting moved around in the front.

15 Q Would it be from driver, passenger or you just saw it
16 being moved around in the front?

17 A I just saw it being moved around.

18 Q And that was after you heard the shots and after they
19 got back in the car?

20 A Right.

21 Q And when you say -- I think you said long barrel. You
22 mean like a rifle, like a military-style weapon?

23 A Yeah.

24 Q Because it was longer than a pistol?

25 A Right.

1 Q So you told this jury that you saw -- once Antwan got
2 back in and he's sitting beside you, you saw a handgun in
3 between y'all?

4 A Yes, sir.

5 Q And you didn't bring one?

6 A No.

7 Q Did you get out and shoot?

8 A No, sir.

9 Q And then you saw that long barrel in the front seat?

10 A Yes, sir.

11 Q Did you see any other weapons?

12 A No, sir.

13 Q When y'all got back to Antwan's house, did you see what
14 happened with the handgun?

15 A No, sir.

16 Q Do you know if Antwan took it in or it stayed in the
17 car?

18 A No, sir.

19 Q Did you or Antwan take the rifle inside?

20 A No, sir.

21 Q Did you carry the rifle in the house?

22 A No.

23 Q Did you see Antwan carry a rifle in the house?

24 A No.

25 Q I'm going to show you what's in evidence as State's

1 Exhibit 160.

2 MR. COOPER: If you would play that clip for us.

3 (WHEREUPON a video was played.)

4 BY MR. COOPER:

5 Q Is this the view outside of Antwan's house?

6 A Yeah.

7 Q You mentioned at the beginning that you rode your bike
8 that day before all this?

9 A Yes, sir.

10 Q Is that your bike in the front yard?

11 A Yes, sir.

12 Q You see that car coming in?

13 A Yeah.

14 MR. COOPER: Mark, if you'll pause it for me there,
15 please.

16 BY MR. COOPER:

17 Q Who got out of the driver's side, the back seat
18 driver's side?

19 A Twan.

20 Q And who got out of the other side of the vehicle?

21 A Me.

22 MR. COOPER: If you'll keep playing that for me.

23 (WHEREUPON, video was continued.)

24 BY MR. COOPER:

25 Q And who is this first guy walk out to the porch?

1 A Twan.

2 Q And who's that guy?

3 A That's me.

4 Q Okay.

5 MR. COOPER: You can pause that for me.

6 BY MR. COOPER:

7 Q And in the video we saw, that was the car you were in
8 when the shooting happened?

9 A Yeah.

10 Q That's the car you were in when people were running
11 around beforehand?

12 A Yeah.

13 Q And that's the car you were in when you heard the
14 people say there are them boys?

15 A Yeah.

16 Q The car that Antwan was in in the backseat with you and
17 the car that this Defendant was in the front seat, driver or
18 passenger, but in the front seat?

19 A Right.

20 Q Tell the jury if you would, did you talk to Antwan
21 again after this incident?

22 A Yeah.

23 Q What was that conversation like?

24 A He just want to come home.

25 Q He what?

1 A He just want to come home.

2 Q Where was he?

3 A In jail.

4 Q He had been arrested for this incident?

5 A Yeah.

6 Q Did you not speak to him before he had been arrested?

7 A Oh, yeah, yeah. He just, basically, about to go back
8 home and get some money. That been the last time I talked
9 to him.

10 Q Did he say anything to you or did y'all have a
11 conversation about what had happened that night?

12 A No.

13 Q Did he say anything -- do you remember saying that he
14 mentioned he wished he would have handled that situation
15 differently?

16 A Right.

17 Q When was that conversation?

18 A I think when he been in jail. The main thing I
19 remember is him going back home to get his money.

20 Q And that was afterwards?

21 A Afterwards.

22 Q And like you said, you've spoken to him since he's been
23 in jail?

24 A Right.

25 Q And then I want to ask you again about that call. I

1 think I said Facetime. Do you remember it was a video call
2 where you could see the other person or was it an audio
3 call?

4 A An audio call.

5 Q And did you know who it was on the call?

6 A No.

7 Q What, if anything, were they saying to you?

8 A Antwan is in jail. Just be careful --

9 MR. SHELTON: Objection, hearsay.

10 THE COURT: Sustained, hearsay.

11 MR. COOPER: Judge, my --

12 THE COURT: I didn't ask for argument. It's hearsay.

13 It's an out-of-court statement offered for --

14 MR. COOPER: Yes, ma'am. Can we approach?

15 THE COURT: Uh-huh.

16 (WHEREUPON, a bench conference was held in the presence
17 of the jury, but outside the hearing of the jury.)

18 THE COURT: Rephrase the question. The objection is
19 sustained.

20 BY MR. COOPER:

21 Q In a day or two after the incident, did you have a
22 phone call with Zo or Lonza or Alonza, this person you
23 identified?

24 A I don't know who it was. I know a number. Only thing
25 I knew it was somebody inside the car because --

1 Q How did you know that?

2 A They told me Antwan got locked up and just be safe.

3 Q Did they make any statement about concerns for
4 themselves?

5 A No.

6 Q That they thought they may --

7 MR. SHELTON: Objection, Your Honor.

8 THE COURT: Sustained, lack of foundation to establish
9 that it is, in fact, within the exception of the statement
10 against interest. He's indicated he does not know who it
11 was from. It was from an unknown number. He just knows it
12 was someone in the car who told him to be safe.

13 Move on.

14 MR. COOPER: And I worded it, Judge, that either one in
15 the car --

16 THE COURT: There's no argument to be had. The Court
17 has ruled. It's hearsay.

18 MR. COOPER: Yes, ma'am.

19 Beg the Court's indulgence just one second.

20 (Pause.)

21 MR. COOPER: Beg the Court's indulgence just one more
22 second.

23 THE COURT: Yes, sir.

24 (Pause.)

25 MR. COOPER: Mr. Nelson, at this point, I don't have

1 any further questions for you. If you'd answer anything Mr.
2 Shelton may have for you.

3 THE WITNESS: Yes, sir.

4 THE COURT: Proceed with cross-examination.

5 CROSS-EXAMINATION

6 BY MR. SHELTON:

7 Q How long have you known Antwan?

8 A About first grade.

9 Q Seven years old, something like that?

10 A I guess so, not too sure. No, about third grade, third
11 grade.

12 Q Nine years old?

13 A Yeah.

14 Q Are you 20?

15 A Am I 20? 18.

16 Q 18, I'm sorry. On April 21st, do you remember that
17 date?

18 A Yeah.

19 Q That's when you talked with Detective Pritchard,
20 correct?

21 A Yeah.

22 Q You remember that?

23 A Yes, sir.

24 Q That's when you signed your name?

25 A Right.

1 Q Did you put Lonza in there?

2 A Right.

3 Q That's your handwriting?

4 A Yeah.

5 Q Do you remember -- that was after you had already
6 talked with Detective Pritchard, correct?

7 A What was after?

8 Q You went -- did you meet with him at North Charleston
9 Police Station?

10 A Yeah, yeah. They came to my house and took me and my
11 mom to city hall.

12 Q City hall. And you were with your mom?

13 A Right.

14 Q So they let your mom be in there with you, correct?

15 A Right.

16 Q So you're sitting there and you talk with Detective
17 Pritchard, correct?

18 A Yes, sir.

19 Q So you're talking with him and he's asking you
20 questions?

21 A Yes, sir.

22 Q You're giving him things that are going on. And then
23 at the end of it, close to the end of it, that's when he
24 presents you with this page?

25 A Right. Right.

1 Q Did he give you what we call in legal terms a six-pack
2 lineup, like, six pictures individually and you pick out
3 one?

4 A I can't remember.

5 Q But you would remember that, correct, if it was here?
6 You do see that, correct?

7 A Yes, sir.

8 Q He just handed you one picture -- he just handed you
9 this piece of paper, correct?

10 A Yeah.

11 Q It just had this one picture on it?

12 A Yeah.

13 Q So he didn't hand you a piece of paper with six
14 different pictures and ask you to circle one?

15 A No.

16 Q No, he handed you this one that already had a picture
17 on it, correct?

18 A Yes, sir.

19 Q That's because he already told you that he already
20 talked to Alonza, correct?

21 A Right.

22 Q He told you that he had already talked to Antwan,
23 correct?

24 A Right.

25 Q That's the first thing he told you, wasn't it?

1 A Yep.

2 Q So when he told you that, he then said you better not
3 lie, correct? You remember him telling you that?

4 A I do not.

5 Q You remember him telling you it's an obstruction of
6 justice if you lie?

7 MR. COOPER: Objection, Your Honor.

8 THE COURT: Basis?

9 MR. COOPER: Any statement by the detective is hearsay.

10 THE COURT: Please approach.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 THE COURT: Rephrase.

14 BY MR. SHELTON:

15 Q Were you led to believe that you could be charged with
16 a crime if you didn't tell the truth?

17 A Yes, sir.

18 Q And it was made known that Alonza and Antwan are two
19 people that have already given statements?

20 A Right.

21 Q And so the police threaten to charge you if you don't
22 tell the truth, correct?

23 A I can't remember if they threatened me or not. They
24 wanted me to tell the truth.

25 Q Okay. But they gave you Alonza's name, correct?

1 A Yeah.

2 Q Because you didn't know Alonza?

3 A No.

4 Q They gave you Alonza's picture, correct?

5 A Uh-huh.

6 Q You didn't know Alonza?

7 A No.

8 Q You watched that video of Antwan and you getting out of
9 the car?

10 A Right.

11 Q Look at State's 150 and 151. So do you see Antwan has
12 something in his hand when he was coming from that car?

13 A No.

14 Q Do you see the black object in Antwan's hand?

15 A No.

16 Q So you don't know what that was in his hand?

17 A No.

18 Q You see a black object right here?

19 MR. COOPER: Your Honor, approach?

20 THE COURT: Yes.

21 (WHEREUPON, a bench conference was held in the presence
22 of the jury, but outside the hearing of the jury.)

23 BY MR. SHELTON:

24 Q You see a black object right here in his hand?

25 A No.

1 Q Would it be helpful to see that video replayed again?

2 A (No audible response.)

3 (WHEREUPON, a video was played.)

4 BY MR. SHELTON:

5 Q See a black object right there in his hand?

6 A Yep.

7 Q See a black object?

8 A Yeah.

9 Q Is that a gun?

10 A It don't look like it.

11 Q Did you see Antwan with a gun later that night?

12 A No.

13 Q You got picked up by a taxi. Was that Antwan's dad
14 that got a taxi for you?

15 A Somebody got me a taxi. I don't know who it was. I
16 know somebody in his family got me a taxi.

17 Q Someone in his family did?

18 A Right.

19 Q And so, this was Antwan's house, this Emden Street,
20 right here where this picture is?

21 A Uh-huh.

22 Q There's a lot of people out there. Is that typical?

23 A Yeah.

24 Q A lot of people at Antwan's house?

25 A Yeah.

1 Q Parked out front?

2 A Yeah.

3 Q Have you ever seen guns at Antwan's house?

4 A Nope.

5 Q Had you been to his house before?

6 A Yeah.

7 Q Quite a bit?

8 A Yes, sir.

9 Q At Emden?

10 A Yes, sir.

11 Q Okay. Do you recall not knowing what an AR was, an
12 assault rifle was, do you recall that in your talks with the
13 officer?

14 A Yes, sir.

15 Q So he had to tell you what an AR meant; is that
16 correct?

17 A Yes, sir.

18 Q Because you said pistol to begin with?

19 A Yeah.

20 Q You saw two pistols, correct?

21 A Yes, sir.

22 Q He had to tell you about an AR, correct?

23 A Yes, sir.

24 Q So then that's when you changed it to oh, yeah, there
25 was an AR in there, correct?

1 A Right.

2 Q But, at first, you said two pistols, remember that?

3 A I didn't say two pistols. I said I didn't know if it
4 was an AR or not. I knew it was one pistol, but I told him
5 I didn't know if the other gun was an AR or a pistol.

6 Q But on April 21st, you didn't know what an AR was,
7 correct?

8 A Right. Right.

9 Q So you had to be told what an AR was?

10 A Right.

11 Q Because you said pistol, that the driver got out with
12 his pistol; is that correct?

13 A (No response.)

14 Q You recall that?

15 A I don't.

16 Q It's okay. You weren't with Antwan when he was robbed
17 by L.J., correct?

18 A No, sir.

19 Q Antwan was calling his dad at one point in time; is
20 that correct?

21 A I can't remember.

22 Q You don't remember that?

23 A I don't.

24 Q When his phone went out, you remember talking about
25 that? His phone died?

1 A You said his phone died?

2 Q Yes.

3 A That's what I said?

4 Q Is that what you said?

5 A That is not -- no.

6 Q So you don't know if he was talking to his dad or his
7 stepdad that night?

8 A It may have been his stepdad, but I can't remember when
9 he been talking to him. He talked to him some time that
10 night.

11 Q Okay. So he was talking to him that night, his
12 stepdad?

13 A At one point in time that night, yeah.

14 Q Okay.

15 MR. SHELTON: No further questions.

16 THE COURT: Any redirect of the witness?

17 MR. COOPER: Yes, ma'am.

18 REDIRECT EXAMINATION

19 BY MR. COOPER:

20 Q You remember when Detective Pritchard showed you this
21 picture?

22 A I remember he showed me that, but I don't remember
23 when.

24 Q Do you remember it was at the end of the interview?
25 That was one of the last things he showed you?

1 A Not too sure.

2 Q Do you remember at the beginning telling Detective
3 Pritchard multiple times that Alonza drove, that Alonza
4 pulled up on us? You remember that?

5 A Yeah.

6 Q And let me ask you this, this incident was over three
7 years ago, right?

8 A Right.

9 Q And as Mr. Shelton asked you, all Mr. Pritchard asked
10 of you was the truth?

11 A Right.

12 Q Is that what you tried to give him?

13 A Right.

14 Q Was your memory then, a day or two after this incident,
15 better than it is today?

16 A Was my memory on the incident better than what it was
17 three years ago?

18 Q Yes. Was your memory two days after the incident
19 better than your memory is today three years later?

20 A No.

21 Q The closer you are to an event, you remember it better,
22 right?

23 A Yeah, yeah.

24 Q That's what I'm trying to ask. So what you said two
25 days after this incident, that's a better version of what

1 you remembered than three years later; is that right?

2 A Right.

3 Q Like, if I asked you what you had for lunch three years
4 ago today, could you answer that?

5 A No.

6 Q If I asked you what you had yesterday, you probably
7 would be more likely to answer that, right?

8 A Right.

9 Q Does that make sense? At the end of the day, you were
10 trying to be truthful with Detective Pritchard?

11 A Yeah.

12 Q He told you, and Mr. Shelton asked you about this, that
13 he had already talked to Antwan and Antwan told him
14 everything; is that right?

15 MR. SHELTON: Objection, hearsay.

16 MR. COOPER: I can rephrase.

17 THE COURT: Please rephrase.

18 BY MR. COOPER:

19 Q Did he tell you that Antwan had already spoken to him?

20 A Yeah.

21 Q Did he tell you that Alonza had spoken to him?

22 A Yeah.

23 Q Did he tell you what they told him?

24 A He was, like, they already told me you was in the
25 backseat. That's all I remember him saying.

1 Q He didn't say anything else about what they told him?

2 A No.

3 Q So what you were telling him was the truth, it was your
4 recollection?

5 A Yeah.

6 Q So when you told Detective Pritchard in 2020 that
7 Alonza pulled up on us while we were talking, would that
8 have been the truth?

9 A I can't necessarily say that because --

10 Q Because you don't remember now?

11 A Sir?

12 Q Because you don't remember now?

13 A Right. And -- yeah.

14 Q But you told Detective Pritchard that in 2020?

15 A Right.

16 Q That Alonza pulled up on us?

17 A Right.

18 Q And Alonza was the driver?

19 A Right.

20 Q That Alonza got out with a weapon?

21 A I saw no one get out with a weapon.

22 Q Let me ask you this, Mr. Shelton was talking about the
23 AR. Describe for the jury again what you saw in the front
24 seat of that car with regards to a weapon?

25 A The only thing I saw was a barrel.

1 Q A long barrel?

2 A Yeah.

3 Q Are you an expert in guns?

4 A No.

5 Q Were you around guns for a long time or do you collect
6 a bunch of guns?

7 A No, sir.

8 Q So you're not necessarily sure what model a gun is?

9 A I mean, popular guns, yeah, but the majority of the
10 guns, no.

11 Q But you remember seeing a long barrel in the front seat
12 after the shooting?

13 A Yeah.

14 Q And Mr. Shelton showed you that video of Antwan walking
15 to the house with something black in his hand. You don't
16 remember what that was, do you?

17 A No.

18 Q Did it look like a long-barrel gun?

19 A I don't know what that look like.

20 Q It didn't look like this with a long barrel, did it?

21 A No.

22 Q Whatever it was was a lot smaller than this, right? I
23 mean, this has got a long barrel. This is a long gun?

24 A Right.

25 Q This wasn't what we saw on video?

1 A No.

2 Q Did Antwan appear to know Alonza? Did he seem friendly
3 with him?

4 A I don't know their relationship. I didn't know who no
5 one was, but Antwan.

6 MR. COOPER: Beg the Court's indulgence one second.

7 (Pause.)

8 MR. COOPER: Mr. Nelson, I have no further questions.
9 Thank you.

10 THE COURT: Any objection to the witness being excused
11 from the State?

12 MR. COOPER: Subject to recall, Judge.

13 THE COURT: From the Defense?

14 MR. SHELTON: No, Your Honor.

15 THE COURT: Sir, you're excused, subject to be
16 recalled.

17 Call your next witness.

18 MR. COOPER: Judge, we have a matter of law to take up
19 outside the presence of the jury.

20 THE COURT: Madam Forelady, ladies and gentlemen, I
21 have a matter of law to take up with counsel. We'll, also,
22 allow this to serve as a brief comfort break. During the
23 break, please, do not discuss the case among yourselves.
24 Please leave your notepads in your seats. We appreciate
25 your patience.

1 (WHEREUPON, the jury exits the courtroom at 3:29 p.m.)

2 THE COURT: Yes, sir.

3 MR. COOPER: Judge, our next witness is going to be
4 Antwan Johnson. Several things, I think, before he takes
5 the stand. We're making sure his attorney, she was in
6 court, is present. I know -- he's, also, incarcerated --

7 THE COURT: I've already dealt with the sheriff's
8 office and I already have that name.

9 MR. COOPER: Ma'am?

10 THE COURT: I need to know what of this that involves
11 you that I need to address. I've already taken care of Mr.
12 Johnson early this morning when I came in. I already know
13 what I need to do with that.

14 MR. COOPER: Well, the State would plan to call him. I
15 think we need to do that initially outside the presence --

16 THE COURT: I think you need to find out where his
17 lawyer is. Is she present?

18 MR. COOPER: I have texted her. She's coming.

19 THE COURT: Is this Ms. Bickley?

20 MS. BICKLEY: Yes, it is.

21 THE COURT: Ms. Bickley, if you would come up here.
22 You can be seated next to your client in this chair right
23 next to the witness stand. They'll bring him in in just a
24 moment.

25 What do you need to do? Remind me.

1 MR. COOPER: I've got that working on that now.

2 THE COURT: Do what you need to do.

3 Ms. Bickley, you can come on up. And if you could tell
4 me how to spell your last name. You can sit in the chair
5 right next to the witness stand. And tell us your name for
6 the record.

7 MS. BICKLEY: Yes, Your Honor. It's Caroline,
8 C-A-R-O-L-I-N-E, and my last name is Bickley, B, as in boy,
9 I-C-K-L-E-Y.

10 THE COURT: Thank you.

11 Who are you calling after Mr. Johnson?

12 MR. COOPER: Judge, we have Officer Alexandria Reid,
13 who will be a quick witness, and we have Ms. Tyrell, who is
14 coming here from the airport. So I plan on calling those
15 two.

16 THE COURT: Okay. Is the State ready to proceed?

17 MR. COOPER: Yes, ma'am.

18 THE COURT: Is the Defense ready to proceed?

19 MR. SHELTON: Yes, Your Honor.

20 THE COURT: Please bring in the jury.

21 MR. COOPER: Judge, I think we need to take the matter
22 of Mr. Johnson's testimony before the jury comes in.

23 THE COURT: For what purpose?

24 MR. COOPER: Ma'am?

25 THE COURT: Have you not discussed your witness's

1 testimony with them?

2 MR. COOPER: Judge --

3 THE COURT: I won't use an in-camera hearing as
4 discovery. You should know what you want to elicit from him
5 and you should know how he's going to respond.

6 MR. COOPER: And, Judge, that would be perfect in an
7 ideal world, but in this situation, he has indicated to his
8 attorney that he does not want to be cooperative. There is
9 case law --

10 THE COURT: Then you should have discussed with Ms.
11 Bickley. And I told you and gave you and indicated to you
12 before lunch that you should discuss with her what her
13 client's posture is.

14 MR. COOPER: And I understand that, Judge. Ms. Bickley
15 admitted she was unsure, so I think we need --

16 THE COURT: Then maybe the two of you need to talk
17 again. I told you, I'm not doing this. In-camera
18 proceedings are not designed for discovery. You need to
19 know what he's going to do or not going to do before we get
20 started.

21 MR. COOPER: Well, if we could have --

22 THE COURT: And decide whether you want to call him or
23 not. And y'all should have already discussed this.

24 Ms. Bickley, could you, please, have a brief
25 consultation with Mr. Cooper to see exactly what your client

1 intends to do.

2 MS. BICKLEY: Yes, Your Honor. Thank you.

3 THE COURT: You're welcome.

4 He has counsel and I don't know what he may or may not
5 inculcate himself. It is your presumption that he can no
6 longer inculcate himself, but we don't know everything that
7 happened. If he wants to take the Fifth, that's his
8 prerogative. And he can take the Fifth in the presence of
9 the jury if he wants to.

10 MR. COOPER: Judge, we'll find that case law
11 specifically that says I can't do that. I cannot put
12 someone on the stand just to the take the Fifth.

13 THE COURT: That's a different factual scenario. It's
14 not analogous to the situation we find ourselves in now.

15 MR. COOPER: Yes, ma'am.

16 (Pause.)

17 MR. COOPER: Judge, the issue is, since we're not in
18 the presence of the jury, we've consistently been informed
19 he's not wanting to testify.

20 THE COURT: That's his prerogative.

21 MR. COOPER: Well, I understand that, Judge, but
22 there's a difference between him getting up in front of the
23 jury and refusing to answer a question and asserting his
24 Fifth Amendment right of self-incrimination. The case law
25 is clear that I can't put a witness up just to do that, but

1 there is, also, case law that discusses when someone cannot
2 invoke that right.

3 THE COURT: I don't know the full scope of what
4 happened or didn't happen. I don't know whether there's
5 something he's confided in his attorney which is privileged
6 that may inculcate him. He does not have any agreement in
7 place that protects him from further prosecution. And
8 before he would inculcate himself, I would advise him he
9 doesn't have to.

10 I don't know. I don't know what he's going to say. I
11 don't know what he's been involved in. And I'm not
12 instructing him to inculcate himself. And only he and his
13 lawyer know that and I'm not going to require them to
14 divulge that because what he's told her is privileged.

15 MR. COOPER: Then how, Your Honor, would you like me --

16 THE COURT: I don't know. I have no idea. And you
17 should have known that before you called him.

18 MR. COOPER: How can I --

19 THE COURT: He does not have to cooperate with you.

20 MR. COOPER: I understand that.

21 THE COURT: And he can simply refuse to answer any of
22 your questions and that's his prerogative. And that doesn't
23 mean he's taking the Fifth, it just means he doesn't want to
24 cooperate and he's not going to answer your question.

25 MR. COOPER: So, Your Honor, then how would you like me

1 to proceed?

2 THE COURT: I don't know. I can't give you legal
3 advice. You should have a sufficient grasp of the rules to
4 know how you want to proceed.

5 MR. COOPER: How can I do that if he won't --

6 THE COURT: What has your client indicated his
7 preference is?

8 MS. BICKLEY: Your Honor --

9 THE COURT: Without divulging anything that's
10 privileged because I would never require that of you.

11 MS. BICKLEY: Yes, Your Honor. I represent Antwan in
12 Family Court and he's indicated he does not want to testify.

13 THE COURT: Mr. Cooper.

14 MR. COOPER: Judge, the State's position would be a
15 witness cannot just decline to testify. If they do, they
16 would potentially put themselves in jeopardy of the Court's
17 contempt power. We have a witness here who is set to
18 testify. He is not asserting any Fifth Amendment privilege,
19 again, which the State would assert he does not have, but a
20 witness cannot just refuse to take the stand. If they do,
21 they're subject to the Court's contempt powers.

22 THE COURT: Contempt is a subjective thing and I don't
23 have to exercise it. It's not one of those circumstances
24 where I would. He has the prerogative to not testify. He
25 does not have to cooperate with you.

1 MR. COOPER: Judge, I'm not --

2 THE COURT: I'm not aware of anything that says I have
3 to compel him to cooperate with you. If you have a case
4 that says that, I'll be glad to review it. He can get on
5 the witness stand -- listen, I've been in this situation
6 before, with (unintelligible) matter of fact. He got on the
7 stand and said I don't know why you brought me here because
8 I don't plan to testify. And I'm not aware of any case law
9 that says I could make him testify.

10 You take a witness as you find them and they can either
11 cooperate or not cooperate. Now, if you have case law that
12 says I can require him to answer your questions, I'll be
13 glad to review it. If you have something -- the only way
14 you can use his extraneous statements from Family Court is
15 if you ask him the direct question and he answers
16 inconsistently, which is the only way you can use his
17 extraneous sworn testimony to impeach him. I'm not aware of
18 any cases that say because he says I refuse to answer that
19 that's an inconsistent answer. You have to take witnesses
20 as you find them. Just like certain victims that say
21 they're not going to cooperate, you can't make them
22 cooperate.

23 I mean, I don't know what else took place. I don't
24 know whether there's some circumstances where he feels that
25 taking the Fifth would be in his best interest because he

1 feels that he will be inculcating himself in some other
2 activity that is not covered by what he was adjudicated
3 delinquent of in the Family Court. But if you've got some
4 case law for me, I'll be glad to review it.

5 Ms. Bickley, are you aware of anything that will
6 require your client to cooperate or testify?

7 MS. BICKLEY: No, Your Honor.

8 THE COURT: And I assume you have advised him fully
9 regarding this matter?

10 MS. BICKLEY: Yes, Your Honor, I have.

11 THE COURT: And the other problem you have is he's a
12 codefendant and that opens up another whole Pandora's Box of
13 issues.

14 MR. COOPER: What passage are you referring to, Judge?

15 THE COURT: Because if you bring in statements that are
16 not subject to cross-examination, you create a problem.

17 MR. COOPER: He would be subject to cross-examination.

18 THE COURT: No, he wouldn't, not if he's saying I'm not
19 going to answer. So the only way you can use his extraneous
20 statements under the Rules of Evidence is if he answers
21 inconsistently for the purpose of it being an admission
22 against him just to impeach him. Or an inconsistent
23 statement that is -- a statement that is now inconsistent
24 with what he's testifying to and you can use it to impeach
25 him. But him simply saying I'm not going to answer is not

1 an inconsistent answer within the rules.

2 MR. COOPER: Judge, if you'd give me a few moments.
3 I've got some case law I can get for you.

4 THE COURT: While we're waiting on Mr. Cooper, is there
5 anything you'd like to add to the dialogue, Mr. Shelton?

6 MR. SHELTON: Your Honor, I was just playing it out in
7 my mind and you just hit on what -- if he answers it and
8 refuses to answer and they bring in extraneous statements, I
9 have no way to cross-examine that. I'll try to do some
10 quick research.

11 THE COURT: Who's the next witness after Mr. Johnson?

12 MR. COOPER: Ma'am?

13 THE COURT: Who's your next witness after Mr. Johnson?

14 MR. COOPER: Judge, that will depend on how this goes
15 with Mr. Johnson.

16 THE COURT: I think you need to presume skipping over
17 him for the moment because I'm not going to have the jury
18 sitting while we're trying to hash this out.

19 Who is your next witness?

20 MR. COOPER: It would potentially be Ms. Tyrrell and
21 then Ms. Reid.

22 THE COURT: Is she here?

23 MR. COOPER: Ma'am?

24 THE COURT: Is Ms. Tyrrell here?

25 MR. COOPER: Yes, ma'am.

1 THE COURT: And who is the other person?

2 MR. COOPER: Ms. Reid.

3 THE COURT: And they're both here?

4 MR. COOPER: Yes, ma'am.

5 THE COURT: I assume they're both short?

6 MR. COOPER: They are.

7 THE COURT: So why don't we do them and then we'll
8 resume him once we get some answers from precedent to tell
9 us and give us some guidance.

10 MR. COOPER: Judge, I would ask if we do do those two,
11 it may be the State would be in a position to ask to break
12 for the evening because --

13 THE COURT: I'm going to research this now while we're
14 sitting here and doing these other two witnesses and then
15 we'll see what we're going to do with Mr. Johnson. No time
16 like the present. He's been transported. We used State
17 resources. He needs to be transported back.

18 Sir, if you would go with the deputies for us.

19 Ms. Bickley, if you could hang tight with us, I
20 appreciate it. And I appreciate your time. And Ms.
21 Bickley, let me ask another quick question for the record
22 and just so I'm able to refine our research. You're saying
23 that your client has indicated to you that he has no desire
24 to take the stand at all, is that what you're saying?

25 MS. BICKLEY: Yes, Your Honor.

1 THE COURT: Does Mr. Cooper need to go get his other
2 witness?

3 MR. COOPER: Yes, ma'am. Court's indulgence one
4 second.

5 THE COURT: While we're waiting, can I ask a quick
6 question, Mr. Shelton? Do you plan to call any witnesses?
7 You did not provide us a list of any. Are there any
8 duplicates on this list that you're intending to call?

9 MR. SHELTON: No, Your Honor.

10 THE COURT: So you don't plan to -- I'll, of course,
11 advise your client of his rights, but I just needed to know
12 for planning purposes if you're planning to call any
13 witnesses.

14 MR. SHELTON: The only possibility prior to the trial
15 starting was my client and I know that --

16 THE COURT: And maybe his sister, correct, or was that
17 the State?

18 MR. SHELTON: I said girlfriend, but I'm not planning
19 on that, Your Honor.

20 THE COURT: So only your client would be a potential
21 witness?

22 MR. SHELTON: Yes, ma'am.

23 THE COURT: And, also, while we're in this break
24 outside the jury's presence, if y'all have any requests for
25 instruction, I need those.

1 MR. SHELTON: Yes, Your Honor. I would make a request

2 --

3 THE COURT: I'm not telling you to go to any extra work
4 because I'll probably use my standard instructions, but if
5 there's something you want me to consider, I would ask that
6 you pass it up.

7 MR. SHELTON: Yes, Your Honor. I would make a request
8 that my client be able to meet with me and his family --

9 THE COURT: Oh, of course. I'm probably going to
10 instruct him about that before the close of business today
11 so that he can have time overnight to have an intelligent
12 conversation about it.

13 MR. SHELTON: And if there's a chance to meet with the
14 family, also, maybe in one of the rooms.

15 THE COURT: You have to consult with the deputies about
16 that. It's about security. I let them do what they do best
17 and they let me do what I do best.

18 MR. SHELTON: Yes, Your Honor.

19 THE COURT: I would suggest you talk with them about
20 how they could coordinate that and if they're amenable to
21 that.

22 MR. SHELTON: Okay.

23 THE COURT: And whatever they tell you, I'm fine with.

24 MR. SHELTON: Thank you.

25 THE COURT: You're welcome.

1 Are you ready?

2 MR. COOPER: I believe so, Judge.

3 THE COURT: Who's your next witness? Tell me again.

4 MR. COOPER: It's going to be Alexandria Reid.

5 THE COURT: Is she present?

6 MR. COOPER: I think she's in the hallway.

7 THE COURT: Could we, please, get her?

8 (Pause.)

9 THE COURT: I assume y'all are ready to proceed?

10 MR. COOPER: Yes, ma'am.

11 THE COURT: Please get the jury.

12 (WHEREUPON, the jury enters the courtroom at 3:51 p.m.)

13 THE BAILIFF: All jurors present, Your Honor.

14 THE COURT: You may be seated.

15 State may call it's next witness.

16 MR. COOPER: The State would call Alexandria Reid.

17 THE COURT: Madam Clerk, if you would swear our
18 witness.

19 ALEXANDRIA REID,

20 after being duly sworn, testifies as follows:

21 THE CLERK: Please have a seat for me. If you will
22 state your full name for the record, spelling your last name
23 for the record.

24 THE WITNESS: Alexandria Rachel Reid, last name,
25 R-E-I-D.

1 THE COURT: You may proceed.

2 MR. COOPER: Thank you, Judge.

3 THE COURT: You're welcome.

4 DIRECT EXAMINATION

5 BY MR. COOPER:

6 Q Will you tell the jury where you're currently employed?

7 A North Charleston Police Department.

8 Q And how long have you been with the North Charleston
9 Police Department?

10 A This year will be eight years.

11 Q Okay. And what is your current role?

12 A I'm a patrol officer.

13 Q How long have you been in that role?

14 A About two years.

15 Q Back in April of 2020, what was your role with the
16 Department?

17 A Special victims unit detective.

18 Q Okay. I'm going to show you what's been marked for ID
19 purposes only as State's 134. I'm going to ask you if you
20 recognize what this item is?

21 A It's a buccal swab.

22 Q And how do you know that?

23 THE COURT: I'm sorry, could you speak directly into
24 the microphone?

25 THE WITNESS: I apologize, ma'am.

1 THE COURT: Thank you.

2 THE WITNESS: It's a buccal swab.

3 BY MR. COOPER:

4 Q And how do you know that?

5 A Because I've worked with these items before.

6 Q Does it have your name on it?

7 A It does.

8 Q Did you collect it?

9 A I did.

10 Q Who was it collected from?

11 A It says that it's collected from Pierre Nelson.

12 Q And you know that because your name is on that item?

13 A Yes, sir.

14 MR. COOPER: Beg the Court's indulgence briefly.

15 THE COURT: Yes, sir.

16 (Pause.)

17 MR. COOPER: Ms. Reid, I only had those few questions
18 for you. Please answer any Mr. Shelton may have.

19 THE COURT: Mr. Shelton.

20 MR. SHELTON: No questions.

21 THE COURT: Is State's 134 for ID only?

22 MR. COOPER: Yes, ma'am.

23 THE COURT: I just wanted to make sure I was accurate.

24 MR. COOPER: Yes, ma'am.

25 THE COURT: Any objection to the witness being excused

1 from the State?

2 MR. COOPER: None from the State.

3 THE COURT: From the Defense?

4 MR. SHELTON: No, Your Honor.

5 THE COURT: Ma'am, you're excused.

6 THE WITNESS: Thank you, ma'am.

7 THE COURT: You're welcome.

8 Call your next witness.

9 MR. COOPER: Beg the Court's indulgence.

10 THE COURT: Yes, sir.

11 (Pause.)

12 THE COURT: Who's your next witness, Mr. Cooper?

13 MR. COOPER: Yes, ma'am, beg the Court's indulgence.

14 (Pause.)

15 MR. COOPER: The State calls Audrey Tyrrell.

16 THE COURT: Please swear the witness.

17 AUDREY TYRRELL,

18 after being duly sworn, testifies as follows:

19 THE CLERK: Please have a seat. If you will state your
20 full name for the record, spelling your last name.

21 THE WITNESS: Audrey Tyrrell, T-Y-R-R-E-L-L.

22 THE COURT: You may proceed.

23 MR. COOPER: Thank you, Judge.

24 THE COURT: You're welcome.

25 DIRECT EXAMINATION

1 BY MR. COOPER:

2 Q Is it pronounced Tyrrell?

3 A Tyrrell.

4 Q Tyrrell?

5 A Yes.

6 Q Ms. Tyrrell, will you tell the jury where you currently
7 live?

8 A In Boston, Massachusetts.

9 Q And did you just get off a plane a little bit ago?

10 A Yes.

11 Q Where do you currently work?

12 A The Massachusetts State Crime Lab.

13 Q How long have you been there?

14 A A little over two years.

15 Q And prior to working at the Massachusetts State Crime
16 Lab, where were you employed?

17 A The City of North Charleston.

18 Q And how long were you with the City of North
19 Charleston?

20 A About 20 months.

21 Q And you were in that capacity -- or you were with the
22 City of North Charleston in April of 2020?

23 A Yes.

24 Q And what was your role there?

25 A I was a crime scene technician.

1 Q And would you describe for the jury what that entails?

2 A I would respond to crime scenes and help document and
3 collect any evidence.

4 Q And then I've got a copy of your report if you need it.
5 In April of 2020, did you have the occasion to do a search
6 warrant on a Ford Focus?

7 A Yes.

8 Q I'm going to show you what I think has not been entered
9 into evidence --

10 THE COURT: What are those numbers again?

11 MR. COOPER: 61 and 62. Do you have those already in
12 evidence, Judge?

13 THE COURT: Let me look. 62 is without objection and
14 for some reason -- tell me what 61 is again.

15 Madam Court Reporter, do you have 61 as admitted or ID?

16 COURT REPORTER: 61 is ID.

17 THE COURT: That's what my notes reflect.

18 61 is ID only and 62 came in without objection.

19 MR. SHELTON: No objection to 61.

20 THE COURT: Then 61 comes in without objection.

21 (WHEREUPON, State's Exhibit No. 61 was admitted into
22 evidence.)

23 BY MR. COOPER:

24 Q I'm showing you State's 61, 62 -- and this is out of
25 order, I'm sorry -- 58, 59, 60, 63, 64, 65, 66 and 67. If

1 you would just take a minute and look through those and see
2 if you recognize those?

3 A Yes, I do.

4 Q And you recognize them because why?

5 A Because I was the one taking the pictures.

6 MR. COOPER: Judge, at this time, 61 and 62 are in
7 evidence. The State would offer State's 58, 59, 60, 63, 64,
8 65, 66 and 67 into evidence.

9 THE COURT: Any objection?

10 MR. SHELTON: No objection, Your Honor.

11 THE COURT: State's 58, 59, 60, 63, 64, 65, 66 and 67
12 come in without objection.

13 MR. COOPER: Thank you, Judge.

14 THE COURT: You're welcome.

15 (WHEREUPON, State's Exhibit Nos. 58, 59, 60, 63, 64,
16 65, 66 and 67 were admitted into evidence.)

17 MR. COOPER: If you would show us State's 58, please.

18 BY MR. COOPER:

19 Q And while he's pulling that up, Ms. Tyrrell, would you
20 explain to the jury, when you do a search warrant on a
21 vehicle, what is that process like?

22 A So we wait for the search warrant to be signed and then
23 we document the exterior of the vehicle by taking any
24 photographs. And then we usually swab for any DNA on the
25 exterior of the vehicle and dust for fingerprints and lift

1 anything that we find.

2 Then you go to the interior of the vehicle and repeat
3 the process and document anything you find and go through
4 the contents of the vehicle.

5 Q Showing you State's 58, is that the vehicle that you
6 performed a search warrant on?

7 A Yes.

8 Q And what kind of vehicle is that?

9 A I believe it was a Ford Focus.

10 Q And this would be the front of the car?

11 A Yes.

12 Q And when you document, you are just documenting the
13 entire vehicle inside and out; is that correct?

14 A Yes.

15 Q Showing you State's 59. Just another view of this
16 vehicle?

17 A Yes.

18 Q State's 60, just the rear of the vehicle?

19 A Yes.

20 Q And what is the tag? Can you make out the tag for us?

21 A It's RWS 238.

22 Q Just a different angle of the vehicle?

23 A Yes.

24 Q And then State's 61, is that a picture of the vehicle?

25 A Yes.

1 Q And then, also, State's 62?

2 A Yes.

3 Q Did you have the occasion to collect any ammunition
4 from that vehicle during your search?

5 A Yes.

6 Q I want to show you what's been marked for ID purposes
7 only State's 128 and 129. Do you recognize these two items?

8 A Yes.

9 Q How do you recognize them?

10 A As two live rounds that were sealed and initialed by
11 me.

12 MR. COOPER: Your Honor, at this time, the State would
13 offer what has been marked for ID purposes only as State's
14 128 and 129 into evidence.

15 THE COURT: Any objection?

16 MR. SHELTON: No objection.

17 THE COURT: Marked and admitted without objection, 128
18 and 129.

19 MR. COOPER: Thank you, Judge.

20 THE COURT: You're welcome.

21 (WHEREUPON, State's Exhibit Nos. 128 and 129 were
22 admitted into evidence.)

23 BY MR. COOPER:

24 Q I'm going to show you, Ms. Tyrrell, State's Exhibit 64.
25 Can you tell the jury what this shows?

1 A That shows the two live rounds that were located in the
2 trunk of the vehicle that we did the search warrant on.

3 Q And if you would on that screen, would you circle the
4 two rounds for us.

5 A (Witness complies.)

6 Q Perfect. And then showing you State's 65. What does
7 this picture show us?

8 A That's one of the live rounds.

9 Q And then State's 66?

10 A Is the other live round.

11 Q And then State's 67?

12 A That's the head stamp of the live round.

13 Q And are you able to make out the brand and caliber on
14 that head stamp?

15 A It's a Norma 223 REM.

16 Q And would both of those rounds been that same type and
17 caliber?

18 A Yes, I believe so.

19 Q And you mentioned initially when I was asking you about
20 the search warrant, you mentioned DNA samples. Did you swab
21 this vehicle for DNA?

22 A Yes.

23 Q Will you describe for the jury what that process
24 entails, please?

25 A Yes. So you would take two cotton swabs, then add

1 distilled water to one of them and then rub it against the
2 surface that you're trying to get DNA from and then you
3 would package it in a carton box and seal it in an envelope
4 to preserve it.

5 Q I'm going to show you what is going to be marked as
6 State's 130, 131, 132 and 133. I'm going to give you this.
7 Is that still in a SLED-sealed bag?

8 A Yes.

9 Q And what is SLED?

10 A The State lab for South Carolina.

11 Q Would that have been the agency that test for DNA?

12 A Yes.

13 Q I'm going to let you open that. I'm going to ask you
14 if you recognize the items in that bag?

15 A Yes.

16 Q And how do you recognize them?

17 A They are DNA swabs that I took from the vehicle with my
18 initials on the seal.

19 Q And what I'm going to do -- if I can see those back
20 from you real quick.

21 MR. COOPER: Beg the Court's indulgence to mark these
22 real quick.

23 (WHEREUPON, State's Exhibit Nos. 130 through 133 were
24 marked for identification only.)

25 BY MR. COOPER:

1 Q Showing you what's now been marked as State's 130
2 through 133. You said you recognized those because you
3 collected them?

4 A Yes.

5 MR. COOPER: Your Honor, at this time --

6 Q And they are still packaged and sealed.

7 A Yes.

8 Q Other than being opened by SLED for examination, they
9 appear to be the same items that you collected?

10 A Correct.

11 MR. COOPER: Your Honor, at this time, the State would
12 offer what's been marked for ID purposes only as State's
13 130, 131, 132 and 133 in evidence.

14 THE COURT: Any objection?

15 MR. SHELTON: No objection.

16 THE COURT: Marked and admitted 130 through 133 without
17 objection.

18 (WHEREUPON, State's Exhibit Nos. 130 through 133 were
19 admitted into evidence.)

20 BY MR. COOPER:

21 Q And if you would, Ms. Tyrrell, would you tell us what
22 is marked State's 130, where did you collect that swab from?

23 A That was a DNA swab from the front passenger door of
24 the interior of the Ford Focus.

25 Q And then State's 131?

1 A DNA swab from the front passenger door exterior of the
2 Ford Focus.

3 Q And then State's 132?

4 A A DNA swab from the back passenger door interior Ford
5 Focus.

6 Q And then State's 133?

7 A A DNA swab from the back passenger door exterior of the
8 Ford Focus.

9 Q And just so we're clear, the pictures of the vehicle
10 that we saw a minute ago, that's the same Ford Focus that
11 you collected those swabs from?

12 A Yes.

13 Q At the same time you took the pictures and collected
14 those rounds of ammunition?

15 A Yes.

16 MR. COOPER: Beg the Court's indulgence.

17 (Pause.)

18 MR. COOPER: Ms. Tyrrell, thank you so much. I have no
19 further questions for you. If you'd answer any the Defense
20 may have.

21 THE WITNESS: Thank you.

22 THE COURT: You may proceed.

23 MR. SHELTON: Thank you, Your Honor.

24 THE COURT: You're welcome.

25 CROSS-EXAMINATION

1 BY MR. SHELTON:

2 Q Do you have your list of everything that you found with
3 you?

4 A Yes, I do.

5 Q The live rounds is the unspent, unfired?

6 A Yes.

7 Q And they were found in the trunk?

8 A Yes.

9 Q Not in the front seat?

10 A Correct.

11 Q Not the back seat?

12 A Right.

13 Q Those were in the trunk?

14 A Yes.

15 Q And you dusted those for fingerprints and there were no
16 fingerprints?

17 A Correct.

18 Q Also, in the center console, there's a receipt. Do you
19 remember mentioning that in your report?

20 A Can I look at my report?

21 Q Yes.

22 A Yes.

23 Q So what was that receipt?

24 A It was a receipt made out to Alonza Marable for the
25 amount of \$60 for senior pictures.

1 MR. SHELTON: No further questions.

2 THE COURT: Any redirect?

3 MR. COOPER: No, Your Honor.

4 THE COURT: Any objection to the witness being excused?

5 MR. COOPER: No, ma'am, not from the State.

6 THE COURT: From the Defense?

7 MR. SHELTON: No, Your Honor.

8 THE COURT: Ma'am, you're excused.

9 THE WITNESS: Thank you.

10 THE COURT: Counsel, approach for a minute, please.

11 (WHEREUPON, a bench conference was held in the presence
12 of the jury, but outside the hearing of the jury.)

13 THE COURT: Madam Forelady, ladies and gentlemen, I
14 have a brief matter of law to take up with counsel. During
15 the break, please, do not discuss the case and, please,
16 leave your notepads in your seats. Thank you for your
17 patience.

18 (WHEREUPON, the jury exits the courtroom at 4:11 p.m.)

19 THE COURT: Have y'all found any case law on point?

20 MR. COOPER: Say it again, Judge, I'm sorry.

21 THE COURT: I said have y'all been able to find any
22 case law on point?

23 MR. COOPER: Judge, certainly, we have found some that
24 contemplates if you were trying to plead the Fifth --

25 THE COURT: That's not --

1 MR. COOPER: -- that's not what he intends to do.

2 THE COURT: Yeah, that's not what he intends to do. He
3 just says he doesn't want to cooperate.

4 MR. COOPER: I would ask that --

5 THE COURT: The only case I found says a criminal
6 defendant cannot be required to testify. And that's from
7 the U.S. Supreme Court.

8 MR. COOPER: I would change my initial request that I
9 be allowed since there's not a danger, apparently, of him
10 claiming the Fifth that we put him on the stand in front of
11 the jury and I be allowed to query him, did you ever speak
12 to law enforcement, do you deny to speak today and just see
13 where that goes. I think, certainly, under 611, I be
14 allowed to lead him given that he's --

15 THE COURT: But you don't get to publish his statement.

16 MR. COOPER: I understand I have to live with the
17 results unless he does enough that would allow me -- I
18 understand that. But I would ask him -- initially, I would
19 first ask him if he's declining to speak today. Then
20 depending on if he answers or not, I could ask him if he
21 remembers speaking to law enforcement.

22 But since there isn't a danger of him asserting the
23 Fifth, I would ask to do that in the presence of the jury.
24 That way, the jury, at least, would be able to see that he
25 is uncooperative. I would ask him if he remembers pleading

1 guilty to murder, possession of a weapon and things of that
2 nature and just see how that goes.

3 THE COURT: He did plead guilty, he was not -- he
4 didn't have a trial?

5 MR. COOPER: Again, I don't want to get the language
6 wrong --

7 THE COURT: Well, it's an adjudication of delinquency,
8 but you still can plead guilty or have a trial.

9 MR. COOPER: He pled.

10 MR. SHELTON: And I don't know all the procedures
11 because I wasn't there, but I know it was a waiver hearing.
12 So there was probably some testimony concerning some things,
13 but I'm not sure.

14 THE COURT: I'm just trying to figure out how that
15 would be relevant. That's a matter of law for the Court,
16 that's not something to be considered by a jury. That goes
17 to punishment and that's never a matter for a jury to
18 consider.

19 MR. SHELTON: Yes, Your Honor. The only case law I can
20 find is not being able to cross-examine, you know, as far as
21 --

22 THE COURT: Well, that's only if he makes a statement.

23 MR. SHELTON: Right. Yes, Judge. And if they try to
24 elicit that there was even a statement made --

25 THE COURT: It's an interesting issue. Well, they're

1 not asking what was said, so you can cross-examine him about
2 whether he made a statement. So that's not a Bruton issue.
3 Bruton goes when you make specific details that could
4 inculcate your client that he can't cross-examine made by a
5 codefendant, which may or may not be inculpatory to that
6 defendant as well.

7 MR. SHELTON: Yes, Your Honor. I just think it's a
8 slippery slope, though.

9 THE COURT: It is.

10 MR. SHELTON: As far as being able to cross-examine,
11 too.

12 THE COURT: I think he can ask him -- I mean, it's up
13 to you about whether you go down that rabbit hole about what
14 was said.

15 MR. SHELTON: I understand.

16 THE COURT: You would be the person that would open
17 that door, not the State. And I would be very cautious if I
18 were you in opening it because once you open it, you can't
19 restrict them.

20 MR. SHELTON: I agree, Judge.

21 THE COURT: So Ms. Bickley, if you would indulge us and
22 retake your seat for me.

23 Then y'all do whatever you need to do for security.

24 We've had a limited amount of time to research it, but
25 I'm just not aware of any case law that says the Court can

1 compel him to be cooperative.

2 MR. COOPER: That way if he does, the jury can see how
3 he responds.

4 THE COURT: You can go ahead and get the jury.

5 MR. COOPER: Judge, may I have 60 seconds to make a
6 quick phone call?

7 THE COURT: Sure.

8 (Pause.)

9 THE COURT: I'm going to give them a little additional
10 time to research the issue and then we'll resume your
11 client's testimony in the morning. Ms. Bickley, I apologize
12 for any inconvenience to you. What do you have scheduled in
13 the morning?

14 MS. BICKLEY: I have a meeting scheduled, but I can
15 adjust.

16 THE COURT: Do you think you could be here at 9:00 in
17 the morning? I want to get you in and out so that you can
18 attend to the rest of your day.

19 MS. BICKLEY: Yes, ma'am.

20 THE COURT: So when we resume at 9:00, if you could
21 accommodate the Court, I would appreciate it. Thank you. I
22 appreciate your patience.

23 You all need to have Mr. Johnson back here at 9:00 in
24 the morning.

25 THE DEPUTY: Copy that.

1 THE COURT: Thank you. I appreciate it.

2 Who did you say you were going to call, Mr. Cooper?

3 MR. COOPER: That would be Jennifer Butler, Judge.

4 THE COURT: And she's present?

5 MR. COOPER: She is right outside. Once Mr. Johnson
6 gets off the stand, we can have --

7 THE COURT: I got you.

8 And just for your planning purposes, right now, the
9 weather says it's going to be storming tomorrow. If it
10 is -- I'm going to double check with the clerk in the
11 morning and see what the outlook is and if it is, I'm going
12 to order lunch for the jury. I'm not going to send them out
13 in the rain looking for lunch. I'll let you know definitely
14 once we -- you know, the weather changes every minute. It
15 wasn't supposed to rain yesterday and it stormed all
16 afternoon.

17 MR. COOPER: Yes, ma'am.

18 THE COURT: Is the State and Defense ready to proceed?

19 MS. BARBER: The State is ready, Your Honor.

20 MR. SHELTON: The Defense is ready.

21 THE COURT: Bring in the jury.

22 (WHEREUPON, the jury enters the courtroom at 4:33 p.m.)

23 THE BAILIFF: All jurors are present, Your Honor.

24 THE COURT: You may be seated.

25 Ladies and gentlemen, we appreciate your patience.

1 The State may call their next witness.

2 MR. COOPER: Thank you, Judge. The State would call
3 Detective Jennifer Butler.

4 THE COURT: If the witness would come forward to be
5 sworn.

6 JENNIFER BUTLER,

7 after being duly sworn, testifies as follows:

8 THE CLERK: Please be seated. If you will, please,
9 state your full name for the record, spelling your last.

10 THE WITNESS: Detective Jennifer Butler, B-U-T-L-E-R.

11 THE COURT: You may proceed.

12 MR. COOPER: Thank you, Judge.

13 THE COURT: You're welcome.

14 DIRECT EXAMINATION

15 BY MR. COOPER:

16 Q Detective Butler, would you tell the jury where you're
17 currently employed?

18 A Yes, currently employed at the North Charleston Police
19 Department.

20 Q How long have you been with North Charleston?

21 A I started with North Charleston in 2008 where I was
22 dispatcher and transitioned to police in 2010. I've been a
23 detective in the persons crime unit since 2015.

24 Q And then focusing your attention to April of 2020, did
25 you have the occasion to become involved in this case?

1 A Yes, sir.

2 Q Initially, did you collect two buccal swabs?

3 A Yes, sir.

4 Q From the Defendant?

5 A Yes, sir.

6 MR. COOPER: Your Honor, may I approach the witness.

7 THE COURT: You may.

8 BY MR. COOPER:

9 Q I'm showing you what has been marked for ID purposes
10 only as State's 135 and State's 136. Do you recognize those
11 items?

12 A Yes, sir.

13 Q How do you recognize them?

14 A The evidence sticker is on here with my name and badge
15 number. In addition, my signature is on the envelope
16 sealing it.

17 Q Okay.

18 MR. COOPER: Your Honor, at this time, the State would
19 offer what has been marked for ID purposes only as 135 and
20 136 into evidence.

21 THE COURT: Any objection?

22 MR. SHELTON: No objection.

23 THE COURT: 135 and 136 marked and admitted without
24 objection.

25 (WHEREUPON, State's Exhibit Nos. 135 and 136 were

1 admitted into evidence.)

2 BY MR. COOPER:

3 Q Detective Butler, will you tell us what these two items
4 are?

5 A Yes. State's Exhibit 136 is a buccal from Antwan
6 Johnson, which is a black male, date of birth of [REDACTED],
7 and State's Exhibit 135 is a buccal from Alonza Marable,
8 black male, [REDACTED] is the date of birth.

9 Q And what is a buccal swab?

10 A It's a Q-tip that is swabbed on the inside of your
11 mouth. We explain the process to anyone we collect one
12 before we perform it. We put gloves on. We have sterile
13 buccal swab in a box and then an envelope like this. We put
14 gloves on. We take the Q-tip out of the wrapper. We swab
15 each side of the cheek several times. Immediately, put it
16 in a paper box, which is then put into this envelope. The
17 envelope and the box is labeled with the person's first
18 name, last name, sex, race and date of birth and then it is
19 immediately sealed with our signature and that date that it
20 is sealed.

21 Q And what's the purpose of collecting the buccal swab?

22 A To compare to any DNA collected on any case that we
23 work.

24 Q And those two samples of Antwan Johnson and Alonza
25 Marable, those are both the Defendants in this case; is that

1 right?

2 A Correct.

3 Q Did you, also, have the occasion at some point to be
4 involved in a search warrant at Railroad Avenue?

5 A Yes, sir.

6 Q Mr. Marable's address?

7 A Yes, sir.

8 Q Will you tell the jury, when you arrived to do the
9 search warrant, who was present at that residence?

10 A Marable's girlfriend, Ms., forgive my pronunciation,
11 Kebreana Samuels.

12 Q And who was the second person?

13 A Shanicea Pease.

14 Q Okay. You found out that to be Mr. Marable's sister?

15 A Yes, sir.

16 Q And were you, also, present when they collected the
17 ammunition and the rifle from Mr. Marable's residence?

18 A Yes, sir.

19 MR. COOPER: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 MR. COOPER: Detective Butler, I appreciate your time.

23 I don't have any further questions for you. If you'd answer
24 anything the Defense may have for you.

25 THE COURT: Any questions for the witness?

1 MR. SHELTON: No questions.

2 THE COURT: Any objection to the witness being excused
3 from the State?

4 MR. COOPER: None from the State.

5 THE COURT: From the Defense?

6 MR. SHELTON: No, Your Honor.

7 THE COURT: Ma'am, you're excused.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: You're welcome.

10 MR. COOPER: Judge, I do have two stipulations that Mr.
11 Shelton and I [REDACTED] to that I could read to the jury at
12 this point.

13 THE COURT: You may proceed.

14 MR. COOPER: Thank you.

15 THE COURT: You're welcome.

16 And I assume that's without objection.

17 MR. SHELTON: No objection, Your Honor.

18 MR. COOPER: Judge, regarding Court's Exhibit 1, the
19 stipulation reads: The State and the Defense entered into a
20 stipulation that the swab collected from the grip and
21 trigger, State's Exhibit No. 127, of the Ruger AR 556 8500
22 rifle, State's Exhibit No. 124 by Anita Moore and the four
23 swabs collected from the 2015 Ford Focus, South Carolina tag
24 RWS 238, which is State's Exhibits 130 and 133, by Audrey
25 Tyrrell, they remain in the same sealed condition under the

1 case, custody and control of the North Charleston Police
2 Department from the time they were collected until the time
3 they were tested at South Carolina Law Enforcement Division
4 known as SLED. Each link in the chain of evidence was
5 recorded and documented by the North Charleston Police
6 Department and by SLED from the time of collection until it
7 reached DNA Analyst Ryan DeWane at SLED. There were no
8 missing links in the chain.

9 Additionally, the buccal swabs collected from Pierre
10 Nelson, State's Exhibit 116, collected by Alexandria Reid,
11 and the buccal swabs collected from Alonza Marable and
12 Antwan Johnson, State's Exhibits 135 and 136, collected by
13 Jennifer Butler remained in the same sealed condition under
14 the care, custody and control of the North Charleston Police
15 Department from the time they were collected until the time
16 they were tested at the South Carolina Law Enforcement
17 Division. Each link in the chain of evidence was recorded
18 and documented by North Charleston Police Department and by
19 SLED from the time of collection until it reached DNA
20 Analyst Ryan DeWane of SLED. There were no missing links in
21 the chain.

22 Regarding Court's Exhibit 2, the State and the Defense
23 entered into a stipulation that the 13 shell casings,
24 State's Exhibits 105 through 115 and 117 and 118 collected
25 from the crime scene at [REDACTED] Street by Kendra

1 Howell, now Moseley, and Anita Moore, along with a
2 projectile from [REDACTED] Street, State's Exhibit 116,
3 collected by Kendra Howell, now Moseley, and the projectile
4 from the autopsy of LR [REDACTED] State's Exhibit 137,
5 collected by Audrey Tyrrell, remained in the same sealed
6 condition under the care, custody and control of the North
7 Charleston Police Department from the time they were
8 collected until the time they were tested at the South
9 Carolina Law Enforcement Division.

10 Each link in the chain of evidence was recorded and
11 documented by the North Charleston Police Department and by
12 SLED from the time of collection until it reached Firearms
13 Analyst Jamie Green with SLED. There were no missing links
14 in the chain.

15 Those are the two stipulations, Judge. Thank you.

16 THE COURT: You're welcome.

17 Ladies and gentlemen, a stipulation is an agreement
18 that has been reached between counsel and it requires no
19 further proof.

20 The State may proceed.

21 MR. COOPER: Your Honor, at this time -- may we
22 approach real quick?

23 THE COURT: Sure.

24 (WHEREUPON, a bench conference as held in the presence
25 of the jury, but outside the hearing of the jury.)

1 THE COURT: Madam Forelady, ladies and gentlemen, we're
2 going to take advantage of this break in testimony to take
3 our evening recess. During the break, please, do not
4 discuss the case among yourselves or with anyone else.
5 Please do not read, watch or listen to any media accounts
6 about this case or do any independent research of any type
7 on the internet. Please don't have any contact with anyone
8 in or about the courthouse as you return in the morning.

9 I'm going to make a decision in the morning about
10 ordering lunch. You know, the weather changes so quickly
11 around here. I need to make sure it's not going to be
12 storming tomorrow. And if it is, I'm going to order lunch
13 for you. If not, I'm going to let you all go out and have
14 lunch. But I'm going to make that decision in the morning
15 once the weather forecast firms up.

16 If you would leave your notepads in your seats, we will
17 secure them during the break. If anybody feels they need
18 any assistance getting to the garage, please, let us know
19 and we'll accommodate your request.

20 Have a great afternoon. See you in the morning at nine
21 o'clock.

22 (WHEREUPON, the jury exits the courtroom at 4:43 p.m.)

23 THE COURT: Did you all intend for those stipulations
24 to go back to the jury? Normally, lawyers don't and I made
25 an assumption based on that. But after I heard them, were

1 y'all intending for them just to be published or did you
2 intend for them to go back to the jury?

3 MR. COOPER: I think they can go back along with every
4 other exhibit. I don't see why they wouldn't be able to.

5 THE COURT: Well, you don't generally send testimony.
6 That's why I'm asking that question.

7 MR. COOPER: I would prefer they go back.

8 THE COURT: Mr. Shelton, what is your preference?

9 MR. SHELTON: Your Honor, I don't know that it matters
10 either way. I think if they had a question about it, it
11 could be brought back to them.

12 THE COURT: Well, if they ask a question about it,
13 testimony would have to be replayed. We can't answer that
14 question because it's testimony. A stipulation is the same
15 as testimony. It's almost like a deposition, but a little
16 different. I mean, depositions don't go back. Normally,
17 you publish them. I'm just asking to see if y'all some
18 consensus about it.

19 MR. COOPER: I guess given that question, while we
20 break tonight, I might, also, look into that. I'll look
21 into that tonight and see if I find anything that's
22 instructing, but, otherwise, I would ask they go back.

23 THE COURT: If y'all don't agree, I'm not going to let
24 it go back because, really, it's kind of like testimony.
25 And you can always argue that the parties have stipulated to

1 the chain and there's no issue about it. I think that
2 probably serves the same purpose.

3 MR. COOPER: And if it is like testimony, again, I
4 haven't had this issue, but if for some reason there was a
5 question, we would be permitted to reread it, I guess?

6 THE COURT: I'd have to replay it.

7 MR. COOPER: Oh, replay it.

8 THE COURT: I'd have to replay it.

9 MR. SHELTON: Is there an instruction?

10 THE COURT: I'm going to tell them the same thing I
11 just told them, a stipulation is an agreement and it
12 requires no further proof.

13 MR. SHELTON: I think if we put that in the jury charge
14 --

15 THE COURT: It's already a standard part of my
16 instructions.

17 MR. SHELTON: I think that would accomplish it.

18 THE COURT: Y'all can talk about it. Let me know.

19 Is there anything else we need to take up before we
20 adjourn for the evening from the State?

21 MR. COOPER: No, Your Honor.

22 THE COURT: From the Defense?

23 MR. SHELTON: No, Your Honor.

24 THE COURT: You know what, while we've got this moment,
25 I'm going to take advantage of it.

1 Sir, if you would stand for me, please, and raise your
2 right hand to be sworn.

3 THE DEFENDANT: Yes, ma'am.

4 ALONZA DONTA MARABLE, JR.,

5 after being duly sworn, testifies as follows:

6 THE COURT: You can put your right hand down. Tell me
7 your full name for the record.

8 THE DEFENDANT: Alonza Donta Marable, Jr.

9 THE COURT: Mr. Marable, we have not yet -- we're soon
10 to approach the stage of the trial where you will be able to
11 present your own defense, so I'm going to advise you of
12 certain of your rights so that you can have a meaningful
13 conversation with your attorney and whomever else you'd like
14 to discuss it with, okay?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: If you'd bear with me just one moment.

17 (Pause.)

18 THE COURT: Sir, if there's something that you don't
19 understand, please, let me know. If you need me to explain
20 something in more detail, let me know.

21 As I've already explained, we will soon reach the stage
22 of the trial where you have the right to present your own
23 defense. You have a right to claim the protections given to
24 you by the Fifth Amendment to the Constitution of the United
25 States. And that amendment reads in part that no person

1 shall be compelled in any criminal case to be a witness
2 against himself. This means that you cannot be required to
3 testify in this case. You have the right to testify on your
4 behalf, however, no one can make you testify. This is a
5 personal right and no one can waive this right except you.

6 If you decide to testify you will be subject to the
7 same rules that govern other witnesses and you may be
8 examined and cross-examined on any relevant issue in this
9 case.

10 In addition, if you have any convictions involving
11 dishonesty or false statement or for crimes punishable by
12 imprisonment for more than one year and the Court determines
13 that the probative value of admitting this evidence
14 outweighs its prejudicial effect to you, the solicitor will
15 be able to cross-examine you regarding your record and
16 attack your credibility.

17 If you decide to testify, this decision on your part
18 must be made freely, voluntarily and intelligently with
19 knowledge of the protections given to you by the Fifth
20 Amendment and the consequences of your decision to testify.

21 If you decide not to testify, I will instruct the jury
22 that they cannot give this fact any consideration
23 whatsoever, that there's to be no prejudice to you and, in
24 fact, they're not to discuss it in any manner whatsoever. I
25 will instruct them that you have the Constitutional right to

1 remain silent, that you have no burden of proof in this case
2 and the State has the burden of proving your guilt beyond a
3 reasonable doubt. And, again, it is not to be discussed in
4 any manner whatsoever in their deliberative process.

5 It is left entirely up to you whether or not you
6 testify. You make speak with your attorney, your family
7 members, your friends or others, but the final decision is
8 left entirely up to you.

9 Does Mr. Marable have any criminal history that the
10 State would be seeking to use to impeach his credibility?

11 MR. COOPER: Your Honor, no, not unless he makes it an
12 issue on the stand should he testify, but nothing that the
13 State would bring out on cross-examination initially.

14 THE COURT: What record does he have, if any?

15 MR. COOPER: He has juvenile convictions out of the
16 State of Florida for burglary and grand larceny, I believe.
17 Then he has a 2021 unlawful carrying of a pistol from South
18 Carolina.

19 THE COURT: Now, the gun would not be admissible to
20 impeach his credibility. The burglary and the grand larceny
21 would, actually, have to involve a theft and you'd have to
22 be able to prove that to the Court.

23 MR. COOPER: I understand. I just --

24 THE COURT: I'm saying this for his benefit for the
25 analysis to be complete.

1 Sir, do you understand your rights as I've explained
2 them to you?

3 THE DEFENDANT: I do, Your Honor.

4 THE COURT: Do you have any questions about your right
5 as I've explained them to you?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Okay. If you will take your seat, we will
8 recess this part of the colloquy. I will ask you the last
9 two questions again when we resume at the appropriate time.
10 And at that time, I will, also, ask whether you wish to
11 testify or not, okay?

12 THE DEFENDANT: Okay, Your Honor.

13 THE COURT: Is there anything else we need to take up
14 before we break for the evening from the State?

15 MR. COOPER: Not from the State, Judge.

16 THE COURT: From the Defense?

17 MR. SHELTON: No, Your Honor.

18 THE COURT: All right, guys, have a good evening. See
19 you in the morning, nine o'clock.

20 (WHEREUPON, Court was adjourned for the day to
21 reconvene on Wednesday, June 14, 2023.)

22 WEDNESDAY, JUNE 14, 2023

23 THE COURT: Good morning. Who's the Court's first
24 witness?

25 MR. COOPER: It would be Antwan Johnson.

1 THE COURT: We're not dealing with Mr. Johnson right
2 now.

3 Ms. Bickley, what you got to do this morning?

4 MS. BICKLEY: I just have a couple of appointments.

5 THE COURT: What time are they?

6 MS. BICKLEY: Well, I moved it back to 11:00 is my
7 first appointment.

8 THE COURT: Okay. And then what time is your next one?

9 MS. BICKLEY: I can adjust to the Court --

10 THE COURT: What I'm thinking, what other witnesses do
11 you have that you need to call today?

12 MR. COOPER: Judge, the witness the State will call
13 next will be Mr. Johnson --

14 THE COURT: I understand that, but I don't know how
15 that's going to go and I'm not going to use valuable time if
16 we have witnesses and available --

17 MR. COOPER: Depending on what he testifies to or how
18 that goes --

19 THE COURT: He's already told you he ain't going to
20 testify and I've already researched it and I pretty much
21 know where I'm going and what I'm going to do. So we need
22 to go forward with the witnesses who are here willing and
23 ready to testify.

24 MR. COOPER: I have one for DNA, Judge, and then the
25 State would need to call Mr. Johnson. I'm sorry to insist

1 on that, but --

2 THE COURT: You can't insist. The Court has told you
3 how it's going to proceed. Mr. Johnson will be last because
4 I anticipate he's not going to cooperate. He's not going to
5 testify.

6 MR. COOPER: And I --

7 THE COURT: There's no case law to support your
8 position.

9 MR. COOPER: That prohibits the State from presenting
10 the case --

11 THE COURT: It does not prohibit you from anything.
12 You call witnesses out of order all the time. And since I
13 doubt he's going to cooperate, there's really nothing for
14 him to add to your timeline as you would contend.

15 MR. COOPER: With all due respect, Judge, we have
16 placed other witnesses who are not going to be here until
17 the morning --

18 THE COURT: I told you to have your witnesses here and
19 I told you to be ready to proceed. And I've told you that
20 since Friday.

21 MR. COOPER: Yes, ma'am. And we are ready to proceed
22 with those witnesses. The State needs --

23 THE COURT: Then you need to call whomever you need to
24 call and make them available.

25 MR. COOPER: Well, Judge, the State will have the DNA

1 expert, other than that, we won't have anybody to call --

2 THE COURT: You need to call somebody else and let them
3 know to be here and be on their way. And I need to know the
4 list of witnesses you have. You indicated that you still
5 have Officer Cook, who is your case agent, that you still
6 need -- I'm sorry, Pritchard, who is your case agent. You
7 indicated that you, also, have --

8 MR. COOPER: Can I beg the Court's indulgence --

9 THE COURT: -- Ryan DeWane from the Washington State
10 Patrol, who was supposed to fly in. You, also, indicated
11 that you had the medical examiner, who is Dr. Nicholas
12 Batalis. You, also, said you have Melissa High, who is, I
13 assume, the person that deals with his recorded phone calls.
14 So you have other witnesses.

15 And I anticipate that dealing with Mr. Johnson is going
16 to take a considerable amount of time that the Court is not
17 willing to expend at this moment. I'm not aware of any
18 precedent that is really going to allow you to have him
19 testify or even to call him to refuse to testify. So I need
20 to have enough time to deal with that, take appropriate
21 argument and make the detailed rulings that I need to make
22 and I am not going to do that right now when we have other
23 witnesses who you have available and ready to testify. And
24 I advised you previously to have them available and ready to
25 go on more than one occasion.

1 So who do you have present this morning ready to go
2 forward?

3 MR. COOPER: I have Ryan DeWane, but I beg the Court's
4 indulgence one second, please. I need to see if there are
5 other witnesses. The State intended to call Mr. Johnson, so
6 if the Court is not going to allow that --

7 THE COURT: I did not say I was not going to allow it,
8 I said that I am going to allocate the Court's time
9 differently to deal with the legal issue that we need to
10 deal with with him. And how the Court runs is within the
11 Court's prerogative.

12 MR. COOPER: Yes, ma'am, beg the Court's indulgence.

13 THE COURT: Yes, sir. I don't see us using up time
14 having the jury sitting while I have to do in-camera
15 testimony and hear arguments when you have other witnesses
16 that are available and ready to testify.

17 Ms. Bickley, if you need to go attend to some other
18 things, do we have your cell number or a number where we can
19 reach you? I am anticipating that there will be -- I would
20 imagine -- they said Detective Pritchard's testimony would
21 be lengthy. Also, the medical examiner should not be
22 particularly lengthy. That Mr. DeWane was supposed to be
23 here from Washington State as well as the individual from
24 the detention center. And so I'm thinking maybe an hour and
25 a half.

1 MS. BICKLEY: Yes, Your Honor.

2 THE COURT: But if you can hold tight with me for just
3 a few more minutes, then I'll let you go about your business
4 and then we'll maybe just agree on a time for you to come
5 back so I can deal with what I need to deal with with your
6 client.

7 MS. BICKLEY: Yes, ma'am.

8 THE COURT: And I appreciate your patience and your
9 indulgence.

10 Who do you have present that's ready to go forward?

11 MR. COOPER: Ryan DeWane from the Washington State
12 Patrol and Dr. Nick Batalis from the Medical University.

13 THE COURT: Let's proceed with those witnesses. We'll
14 see where we are.

15 Give us about an hour, I'm thinking. Do we have your
16 number? Would you give your number to the clerk so we can
17 call you? We'll give you maybe a 20-minute heads up. I say
18 20 minutes, but don't hold me to it if it's shorter than
19 that, but you're right in the building, aren't you?

20 MS. BICKLEY: Yes, Your Honor.

21 THE COURT: Thank you again for your patience.

22 Is the State ready to proceed?

23 MR. COOPER: Yes, ma'am, we are.

24 THE COURT: Defense ready to proceed?

25 MR. SHELTON: Yes, Your Honor.

1 THE COURT: Please bring in the jury.

2 (WHEREUPON, the jury enters the courtroom at 9:37 a.m.)

3 THE BAILIFF: All jurors present, Your Honor.

4 THE COURT: You may be seated.

5 Good morning, ladies and gentlemen. I hope everybody
6 had a pleasant evening. Again, erring on the side of
7 caution as the weather changes very quickly. As I was
8 coming in this morning, they said low chance of rain, but
9 the sky is very dark, so you know on a dime, it might
10 change. So I'd rather be safe than sorry, so we're going to
11 order lunch for you again today so that you aren't trying to
12 navigate both the rain and the tourists. So I appreciate
13 you all indulging us in that regard.

14 We are now going to resume with the State's case.

15 The State may call it's next witness.

16 MR. COOPER: Thank you, Your Honor. May it please the
17 Court?

18 THE COURT: Yes, sir.

19 MR. COOPER: The State calls Ryan DeWane.

20 RYAN DEWANE,

21 after being duly sworn, testifies as follows:

22 THE CLERK: Please have a seat for me. Please state
23 your full name for the record, spelling your last name.

24 THE WITNESS: Ryan DeWane, D-E-W-A-N-E.

25 THE COURT: You may proceed.

1 MR. COOPER: Thank you, Judge.

2 THE COURT: You're welcome.

3 DIRECT EXAMINATION

4 BY MR. COOPER:

5 Q Good morning, Ms. DeWane.

6 A Good morning.

7 Q Will you tell the jury where you are currently
8 employed?

9 A I work for the DNA department at the Vancouver Crime
10 Laboratory in Washington for the Washington State Patrol.

11 Q And how long have you been with the Washington State
12 Patrol?

13 A Approximately a year and a half.

14 Q And I think you mentioned that you worked as a DNA
15 analyst in that office?

16 A I did.

17 Q And then prior to working for the Washington State
18 Patrol, who did you work for?

19 A Prior to the Washington State Patrol, I was employed by
20 the South Carolina Law Enforcement Division in the DNA case
21 work department.

22 Q And is the South Carolina Law Enforcement Division,
23 also, sometimes referred to as SLED?

24 A That is correct.

25 Q And describe for the jury, if you would, what your role

1 at SLED in the DNA lab entailed?

2 A I was a DNA analyst, which meant that I received
3 evidence from agencies across the state. I then would
4 attempt to develop DNA profiles from the evidence and
5 compare it to the DNA profiles of known individuals
6 associated with the case. I then wrote a report of my
7 findings and testified in court when needed.

8 Q And would you tell the jury about your educational
9 background?

10 A I have a Bachelor of Science Degree in biology
11 preprofessional from Appalachian State University in Boone,
12 North Carolina. I, also, have two minors in chemistry and
13 English. I, also, have a Master's of Science Degree in
14 biological sciences from Clemson University in Clemson,
15 South Carolina. During my education, I've completed
16 multiple courses in molecular biology, genetics, statistics
17 and biochemistry. These four courses are considered the
18 foundations of forensic biology. In addition to my formal
19 education, I have, also, received approximately three years
20 of specialized DNA training through my employers.

21 Q And would you talk a little bit about that training and
22 any certifications you may hold as it relates to DNA
23 analysis?

24 A Upon being hired at SLED, I underwent an extensive
25 training program. This program included practice samples,

1 training samples, mock cases, written exams for DNA and
2 serology, report writing exam, technical review exam, a mock
3 court exam as well as a competency test.

4 Q And just generally, would you describe for us about how
5 many DNA analyses you've performed in your career?

6 A I have completed close to 600 cases, which would entail
7 thousands of analyses.

8 Q And have you testified in court before regarding DNA
9 analysis?

10 A I have.

11 Q Approximately how many times would you say you've
12 testified?

13 A 14.

14 Q And in those 14 times, how many times were you
15 qualified as an expert in DNA analysis?

16 A All 14.

17 MR. COOPER: Your Honor, at this time, the State would
18 offer Ms. DeWane as an expert in the field of DNA analysis.

19 THE COURT: Any objections or questions?

20 MR. SHELTON: No objection.

21 THE COURT: Without objection, you may proceed.

22 MR. COOPER: Thank you, Judge.

23 THE COURT: You're welcome.

24 BY MR. COOPER:

25 Q Ms. DeWane, did you have the opportunity to analyze

1 items in this case where the SLED lab number would have been
2 L-2003718?

3 A Yes, I did.

4 Q And what items did you analyze?

5 A I analyzed five evidence items and three known
6 standards. These included SLED item 7, which were buccal
7 swabs from Pierre Nelson, SLED item 19, buccal swabs from
8 Alonza Marable, SLED item 20, which were buccal swabs from
9 Antwan Johnson. And for evidence, SLED item 2, swabs from
10 the grip and trigger of a Ruger AR 556, SLED item 3, which
11 were swabs from the back passenger door of the interior of a
12 Ford Focus, SLED item 4, which were swabs from the back
13 passenger door of the exterior of a Ford Focus, SLED item
14 five, swabs from the front passenger door of the interior of
15 a Ford Focus and, lastly, SLED item 6, swabs from the front
16 passenger door of the exterior of a Ford Focus.

17 Q Let me show you what's been marked for ID purposes only
18 as State's 127, 130, 131, 132 and 133. If you'll tell us
19 whether you recognize those items, please.

20 A Yes, I do.

21 Q How do you recognize them?

22 A I have the case number written as well as my initials
23 and the date that I inventoried it.

24 Q And they appear to be packaged in SLED packaging?

25 A That is correct.

1 Q And that is how you would have sealed it once you were
2 done examining the items?

3 A Yes.

4 MR. COOPER: Your Honor, at this time, the State would
5 move what has been marked, I believe for ID purposes only
6 127, 130, 131, 132 and 133 into evidence at this time.

7 THE COURT: Tell me those numbers one more time.

8 MR. COOPER: It would be 127, 130, 131, 132 and 133.

9 THE COURT: Any objection?

10 MR. SHELTON: No objection.

11 THE COURT: Marked and admitted without objection.

12 You may proceed.

13 (WHEREUPON, State's Exhibit Nos. 128, 130 through 133
14 were previously marked and admitted into evidence.)

15 BY MR. COOPER:

16 Q And then I'm going to show you what's been marked for
17 ID purposes only as State's 134, 135 and 136. If you'll
18 tell us whether you recognize those items?

19 A Yes, I do.

20 Q And how do you recognize those?

21 A I have the case number written as well as my initials
22 and the date that I opened them.

23 Q And those are still in SLED packaging that you would
24 have put them in?

25 A That is correct.

1 MR. COOPER: Your Honor, at this time, the State would
2 then offer what has been marked for ID purposes only as
3 State's 134, 135 and 136.

4 THE COURT: All right. 135 and 136 already came in
5 yesterday without objection. 134 is the only one that
6 remains outstanding.

7 Any objection?

8 MR. SHELTON: No objection, Your Honor.

9 THE COURT: Marked and admitted without objection, 134.

10 (WHEREUPON, State's Exhibit No. 134 was admitted into
11 evidence.)

12 MR. COOPER: Thank you so much.

13 THE COURT: You're welcome.

14 BY MR. COOPER:

15 Q Ms. DeWane, you mentioned a minute or so ago about a
16 known standard buccal swab. What is a buccal swab? Would
17 you describe that for us?

18 A A buccal swab is a known standard meaning it's DNA
19 taken directly from an individual. This is most commonly in
20 the form of buccal swabs, which are swabs from the inside of
21 an individual's cheek. We take this for identification
22 purposes.

23 Q And what is your purpose as far as your analysis is
24 concerned?

25 A We use these standards to compare it to the DNA

1 profiles developed from any evidence.

2 Q And would you describe for the jury how you go about
3 forming your analysis?

4 A DNA is a process that involves four essential steps.
5 The first step is extraction where we extract the DNA or
6 separate it from the physical evidence and then purify it.
7 The second step is quantification where we quantify or
8 measure how much DNA we are working with going forward. The
9 third step is amplification where we're amplifying it or
10 multiplying it into millions of copies so that our
11 instruments can detect it. And the final step is separation
12 where we're creating a visual representation of the
13 biological DNA. And this visual representation is what we
14 call the DNA profile.

15 Q And once you get to the point of forming conclusions,
16 will you describe for the jury in what way you draw and
17 state your conclusions?

18 A Yes. One we have DNA profiles developed from the
19 evidence and DNA profiles developed from known individuals,
20 I will then compare those two. This is done by calculating
21 a statistic known as a likelihood ratio.

22 A likelihood ratio is a mathematical comparison of two
23 possible scenarios that could have explained the DNA
24 profile. Once scenario is always going to be that the
25 person we're comparing to the profile is included as a

1 contributor to that profile versus the opposing scenario
2 that it is an unidentified, unrelated individual, meaning
3 not that person.

4 So if an individual is -- if their DNA is not lining up
5 with the evidence profile, the report will simply say that
6 person A is excluded as a contributor to the profile. If
7 their DNA is lining up with the evidence, the statement will
8 have a number and it will sound like the DNA profile is,
9 let's say, one million times more likely if person A
10 contributed to the profile than if an unidentified,
11 unrelated individual contributed to the profile. That
12 number, the larger it is is reflecting how much support or
13 confidence is behind that conclusion statement. If the
14 individual's profile is still lining up with evidence, but
15 it's very limited, then that number will be much smaller.

16 Q And you mentioned the likelihood ratio, so I want to
17 make sure the jury understands, unlike what we may see on
18 TV, you can't sit here today and say this is a match?

19 A That is correct. We would just say they're included as
20 a possible contributor.

21 Q And the higher that number goes, from a million to
22 higher indicates the higher level of support that you're
23 giving that it may be that person involved or that person is
24 even included?

25 A That is correct. Any number that is one million or

1 above is considered very strong support, which is our
2 highest level of confidence or support for that conclusion.

3 Q And then if you would, referring to -- and you issued a
4 report in this case?

5 A I did.

6 Q Referring to the first item, which would be, I believe,
7 SLED number two, which is our 127, State's 127, which is
8 swab from the grip and trigger of the Ruger rifle. Can you,
9 please, describe the results of your analysis on that item?

10 A A DNA profile suitable for comparison was developed.
11 The DNA profile was interpreted as a mixture originating
12 from three individuals. This first statement is just
13 comparing Alonza Marable to the profile.

14 So scenario one is Alonza Marable and two unidentified,
15 unrelated individuals contributed to the mixture versus the
16 opposing scenario that it's three unidentified, unrelated
17 individuals that contributed to the mixture, which would not
18 include Alonza Marable.

19 When comparing those two possibilities, the results of
20 that is the DNA profile is approximately 1.6 septillion
21 times more likely if Alonza Marable and two unidentified,
22 unrelated individuals contributed to the mixture than if
23 three unidentified, unrelated individuals contributed to the
24 mixture.

25 Q I'm going to ask you real quick, you mentioned that the

1 number one million is your highest level of support when it
2 comes to DNA analysis; is that correct?

3 A That is correct.

4 Q How many zeros are in one million?

5 A There are six.

6 Q And then regarding the number that you gave, the 1.6
7 septillion, how many zeros are in that number?

8 A 24.

9 Q So it's very, very high support that Mr. Marable's DNA
10 was one of the ones included on that grip and trigger swab?

11 A That means it's very strong support that this profile
12 is possible if the scenario including Alonza Marable as one
13 of the individuals occurred versus if it was three
14 unidentified people.

15 Q And then you mentioned and we went through some
16 evidence that you were given three buccal swabs. Were you
17 able to make any conclusion or statement about the DNA
18 buccal swab of Pierre Nelson or Antwan Johnson as it relates
19 to that swab?

20 A Yes. When comparing these two individuals using the
21 same scenarios I previously stated, the result of that would
22 be Pierre Nelson and Antwan Johnson are excluded as
23 contributors to the mixture under the listed propositions.

24 Q Okay. And now, we're moving to the next swab, which I
25 believe is SLED number three, State's 132, which is the swab

1 from the interior of the back passenger door of the Ford
2 Focus. Would you go through your analysis and conclusion on
3 that?

4 A A DNA profile suitable of comparison was developed.
5 The DNA profile was interpreted as a mixture originating
6 from four individuals. This comparison is just to Pierre
7 Nelson.

8 The first scenario is Pierre Nelson and three
9 unidentified, unrelated individuals contributed to the
10 mixture versus the opposition that it's four unidentified,
11 unrelated individuals that contributed to the mixture. The
12 result of that comparison is the DNA profile is
13 approximately 71 septillion times more likely if Pierre
14 Nelson and three unidentified, unrelated individuals
15 contributed to the mixture than if four unidentified,
16 unrelated individuals contributed to the mixture.

17 Q And 71 septillion, how many zeros are in that number?

18 A 25.

19 Q So that's, actually, a higher level of support than the
20 item we just looked at?

21 A That is correct.

22 Q Were you able to make any conclusions about the DNA of
23 Alonza Marable and Antwan Johnson as it relates to this
24 item?

25 A Yes. Using the same scenario that I just stated, but

1 comparing these two individuals, Alonza Marable and Antwan
2 Johnson are excluded as contributors to the mixture under
3 the listed propositions.

4 Q And, again, this item we're talking about is SLED 36,
5 132, which is a swab of the interior of the back passenger
6 door of that Ford Focus?

7 A That is correct.

8 Q And then you mentioned and the one we just talked about
9 the mixture of four individuals and in the one we just
10 talked about, SLED item two, a mixture of three individuals,
11 can you explain why you may not be able to identify the
12 other people that may have been involved in that mixture?

13 A There are multiple reasons. If I was not -- if a known
14 standard was not submitted by another individual associated
15 with the case, I can't tell if they are or are not included
16 in the mixture or it could be any person who's ever touched
17 that door or anything of that nature.

18 Q In this case, you were only provided those three known
19 standards?

20 A That is correct.

21 Q And now, regarding the next item, which is going to be,
22 I believe, SLED item four, which is State's 133, which is a
23 swab from the exterior of the back passenger door of the
24 Ford Focus. Will you describe what results or conclusions,
25 if any, you were able to draw about that item?

1 A The partial DNA profile developed is insufficient for
2 interpretation.

3 Q Describe for the jury what that means.

4 A That just means that there was so little DNA present
5 from where the swab was collected from that even after
6 multiplying into millions of copies, there just wasn't
7 enough for our instrument to detect a profile.

8 Q And what reasons might there be for not being able to
9 find enough DNA to do a proper analysis?

10 A There are many reasons. For instance, this is an
11 exterior car door. If the car was outside, there could be
12 UV light, heat, moisture, rain or if someone were to rub up
13 against that area with clothing, it could wipe off the DNA.
14 If it was stored inside, it could, also, be humidity or
15 anything. And those factors can, actually, degrade or
16 destroy DNA that is present.

17 Q Now, I know we see a lot on TV about shows where DNA is
18 everywhere. Is it uncommon in your line of work to not find
19 DNA on certain items?

20 A That is not uncommon. It just depends on the item and
21 the nature of storage or a million different reasons.

22 Q I'm going to direct you now to SLED item five, which is
23 State's 130, which was the swab from the interior front
24 passenger door of that Ford Focus. Would you describe for
25 the jury what, if any, conclusions you were able to draw?

1 A A DNA profile suitable for comparison was developed.
2 The DNA profile was interpreted as a mixture originating
3 from two individuals. This is just a comparison to Alonza
4 Marable.

5 The first scenario is Alonza Marable and an
6 unidentified, unrelated individual contributed to the
7 mixture versus the opposite scenario where it's two
8 unidentified, unrelated individuals that contributed to the
9 mixture. The result of that comparison is the DNA profile
10 is approximately 12 times more likely if Alonza Marable and
11 an unidentified, unrelated individual contributed to the
12 mixture than if two unidentified, unrelated individuals
13 contributed to the mixture.

14 Q In this case, you mentioned 12 times more likely. What
15 kind of support is that?

16 A The statistic of 12 would fall into our weak or limited
17 support range.

18 Q Where it's still supporting the proposition that Mr.
19 Marable's DNA could be included in that, it's just not
20 nearly as strong as the last examples we have?

21 A Yes. So if an individual's DNA is still lining up with
22 evidence, if it's just a little bit or there's just not
23 enough to conclusively say, it will still be a low number,
24 that just means there's weak support.

25 Q And then what conclusion were you able to drawn about

1 Pierre Nelson or Antwan Johnson's known standards as it
2 relates to that item?

3 A Using the same scenario, Pierre Nelson and Antwan
4 Johnson are excluded as contributors to the mixture under
5 the listed propositions.

6 Q And then the final swab you examined was SLED's item
7 six, which is State's 131, which is the swab from the
8 exterior of the front passenger door of that Ford Focus.
9 What, if any, conclusion were you able to draw about that
10 swab?

11 A A personal DNA profile was developed. Due to the
12 limited information obtained and the inability to determine
13 the number of contributors, no further interpretation will
14 be offered.

15 Q And so I just want to ask, it's a little bit of a
16 different answer under SLED item four where it was
17 insufficient for interpretation. Can you elaborate on what
18 your conclusion on number six means?

19 A Yes. This means that there was a little bit more DNA
20 than the other item mentioned, but it was still so limited
21 that it wasn't a reliable profile to do any comparisons to
22 because there wasn't enough DNA there.

23 Q Okay. And I just want to go back to the swab from SLED
24 item two, that makes it State's 127, the swab from the grip
25 and trigger of that Ruger rifle. You, again, advised what

1 conclusions you were able to draw off of Mr. Marable's DNA
2 as it involved that swab?

3 A The DNA profile is approximately 1.6 septillion times
4 more likely if Alonza Marable and two unidentified,
5 unrelated individuals contributed to the mixture than if
6 three unidentified, unrelated individuals contributed to the
7 mixture.

8 Q Then, again, for SLED number three, State's item 32,
9 swab of interior back passenger door of the Ford Focus --

10 THE COURT: Mr. Cooper, I don't mean to interrupt you.
11 You said 32, I think you meant 132.

12 MR. COOPER: Yes, ma'am, sorry about that.

13 THE COURT: That's okay. I just want the record to be
14 clear.

15 MR. COOPER: Thank you. Trying to keep all the numbers
16 straight.

17 THE COURT: That's all right.

18 BY MR. COOPER:

19 Q Referring you to SLED item three, State's 132, the swab
20 from interior back passenger door of the Ford Focus, if
21 you'd again read our conclusion to the jury?

22 A The DNA profile is approximately 71 septillion times
23 more likely if Pierre Nelson and three unidentified,
24 unrelated individuals contributed to the mixture than if
25 four unidentified, unrelated individuals contributed to the

1 mixture.

2 Q And, again, I asked you out of order, regarding SLED
3 item two, the swab from the rifle, who were you able to
4 exclude as contributors from that swab?

5 A Pierre Nelson and Antwan Johnson.

6 MR. COOPER: Your Honor, at this time, the State has no
7 further questions.

8 Thank you, Ms. DeWane. Please answer anything Mr.
9 Shelton may have for you.

10 THE COURT: You may proceed.

11 MR. SHELTON: Thank you, Your Honor.

12 THE COURT: You're welcome.

13 CROSS-EXAMINATION

14 BY MR. SHELTON:

15 Q How long have you been with SLED and DNA?

16 A I was with SLED for approximately six years and I have
17 been with the Washington State Patrol for approximately a
18 year and a half.

19 Q So in your, I guess, experience with SLED, what we're
20 talking about here is StarMix; is that correct? You used
21 the StarMix program?

22 A The program we use to calculate statistics is called
23 StarMix.

24 Q Were you at SLED prior to using StarMix?

25 A Yes, I was.

1 Q Prior to using StarMix, if there was a contribution of
2 two or more DNA, you couldn't make any analysis or match --
3 not a match, but contributors, correct?

4 A No, actually, it would depend completely on the
5 profile. For the previous type of statistic we had, we had
6 to, typically, have a major person, meaning they've
7 contributed most of the DNA, versus the minor person and we
8 could maybe do a statistic on that major person.

9 Q But, usually, when you get about three or more
10 contributors, it was not very reliable; is that correct?

11 A It was always reliable, it was just a different type of
12 statistic. For a mixture of three or four, if there was a
13 lot of DNA present, we could still perform a statistic. If
14 it was a lower amount of DNA and still a mixture, it was
15 more likely that we could not perform a statistic.

16 Q And so what we're talking about, StarMix, it's a
17 computer program; is that correct?

18 A Yes, it's a software program.

19 Q So you're inputting certain data to look at as far as
20 the locis and different parts of the DNA strand to look at
21 -- you set the parameters; is that correct?

22 A Yes. The DNA profile information is exploited directly
23 from the instrument, that final instrument and it's
24 imported, just submitted electronically to this software
25 program.

1 Q And based off how you determine certain parameters, it
2 could change certain numbers as far as contributors and
3 whether somebody is a contributor or not, correct?

4 A Yes, all of that is considered when running a profile.

5 Q So here, we have Alonza Marable's, I guess, DNA as a
6 contributor to the swab from the assault rifle; is that
7 correct?

8 A Yes, his DNA profile is lining up with the evidence DNA
9 profile.

10 Q If you own an item, would you expect to see DNA on that
11 item?

12 A Yes.

13 Q And I think it was SLED number 20 is, I guess, that
14 Antwan Johnson, that's the last number sequentially that you
15 analyzed, correct?

16 A That's correct.

17 Q Do you know how many swabs were submitted of DNA?

18 A Not off the top of my head, no.

19 Q But there was -- do you know if there was a swab from
20 the front driver's side of the Ford Focus?

21 A Can I refer to the chain of custody?

22 Q Sure.

23 A No, I'm not seeing an item like that.

24 Q What about a swab of the DTI rifle?

25 A I'm not seeing anything from a DTI rifle.

1 Q And so DNA swab of the steering wheel, do you see a DNA
2 swab of the steering wheel?

3 A I do not see any other swabs.

4 Q No other swabs?

5 A For DNA, I did not see anymore swabs.

6 Q So was that just that you didn't analyze those -- or
7 you weren't asked to analyze those other DNA swabs? Do you
8 know how that works?

9 A If a rifle or gun is submitted to the laboratory, the
10 submitting agency must request for DNA to be collected from
11 that rifle prior to them doing any of their analysis, so I
12 would just be following that direction.

13 Q What if DNA swabs are submitted to SLED, do you analyze
14 all those swabs that are submitted?

15 A We, typically, start with five significant swabs and
16 then afterward, if the agency would like to request more, we
17 will perform more analysis.

18 Q So those are the five that you analyzed, correct?

19 A That is correct.

20 Q So if there were more swabs, you only analyze that if
21 the agency ask you to?

22 A Well, we could analyze it, but, typically, that's how
23 we do it.

24 Q So were you asked to analyze anything else in this
25 case?

1 A No.

2 Q So just for purposes of the record, you did not analyze
3 the swab from the front driver door, correct, interior?

4 A That is correct.

5 Q You did not analyze the swab from the driver door
6 exterior, correct?

7 A That is correct.

8 Q You did not analyze the swab from the back driver door
9 interior, correct?

10 A That's correct. I just have the front passenger and
11 the back passenger.

12 Q And you did not analyze a swab from the back driver
13 door exterior, correct?

14 A That is correct.

15 Q You did not do a DNA swab from the steering wheel,
16 correct?

17 A Correct.

18 Q You did not do the DNA swab from the gearshift,
19 correct?

20 A That is correct.

21 Q You didn't do any DNA swabs from shell casings or
22 cartridges, correct?

23 A That is correct.

24 Q And I think we talked briefly about DNA being on an
25 item and may not be on an item, may be on an item -- or may

1 not be on an item, correct?

2 A That is correct.

3 Q But there is multiple ways that DNA could be on an
4 item?

5 A Yes.

6 Q That includes transfer, correct?

7 A Yes. Transfer is referring to if you were to touch a
8 -- if you were to handle a door handle and then someone
9 behind you were to come up and handle it for a long time,
10 it's possible that your DNA would transfer to their hand and
11 they could touch something else that you never touched and
12 it's possible that your DNA could be developed there.

13 Q And so if somebody is sweating or, I guess, perspiring,
14 sweating and shake hands and then that person touches --
15 another person touches a door handle, that first person's
16 DNA could be on that door handle?

17 A That is possible.

18 Q And DNA on an item, that doesn't necessarily -- that,
19 also, doesn't tell you when it got placed on that, correct?

20 A That is correct.

21 Q Because DNA could last for a while under certain
22 circumstances?

23 A Yes, that is correct.

24 Q So it could be that DNA was on the door handle weeks
25 before that swab?

1 A Under ideal conditions, if no one else touched that
2 door handle, it is possible that that DNA would still be
3 remaining -- or, I apologize, someone could still touch it.
4 There's a million different factors that would affect if it
5 was transferred or remained or was taken away.

6 Q Right. That could be the reason for a mixture?

7 A Yes, exactly.

8 Q If somebody else did touch it after another person
9 touched it?

10 A That is correct.

11 MR. SHELTON: No further questions.

12 THE COURT: Any redirect of the witness?

13 MR. COOPER: No, ma'am.

14 THE COURT: Any objection to this witness being excused
15 from the State?

16 MR. COOPER: No, ma'am, not from the State.

17 THE COURT: From the Defense?

18 MR. SHELTON: No, Your Honor.

19 THE COURT: Ma'am, you're excused.

20 THE WITNESS: Thank you.

21 THE COURT: You're welcome.

22 The State may call its next witness.

23 MS. BARBER: Yes, ma'am. The State calls Dr. Nick
24 Batalis.

25 NICHOLAS BATALIS, M.D.,

1 after being duly sworn, testified as follows:

2 THE CLERK: Please have a seat for me. If you would
3 state your full name for the record, spelling your last
4 name.

5 THE WITNESS: My name is Nicholas Ike Batalis,
6 B-A-T-A-L-I-S.

7 THE COURT: You may proceed.

8 MS. BARBER: Thank you, Judge.

9 THE COURT: You're welcome.

10 DIRECT EXAMINATION

11 BY MS. BARBER:

12 Q Good morning, Dr. Batalis.

13 A Good morning.

14 Q Would you explain for the jury where you currently
15 work?

16 A I work at the Medical University of South Carolina here
17 in Charleston.

18 Q Is that MUSC?

19 A Yes, it is.

20 Q How long have you been employed there?

21 A I've been employed there in my current position for
22 approximately 15 years.

23 Q And what's your current position?

24 A I'm employed as a professor in the Department of
25 Pathology and Laboratory Medicine. Specifically, my main

1 job is a forensic pathologist.

2 Q And can you kind of describe for the jury what that
3 role entails?

4 A Sure. So in my role at MUSC, again, different roles.
5 I have teaching roles, I have direct training programs, but
6 as a forensic pathologist, in particular, it's a field of
7 medicine that involves the legal aspects of medicine,
8 typically, performing autopsies to determine a cause and
9 manner of death.

10 Q And how long have you been practicing medicine in
11 general?

12 A I obtained my medical license 20 years ago and I've
13 been practicing as a faculty or attending physician for 15
14 years.

15 Q What specific medical training have you received?

16 A After graduating college, I went on to the Indiana
17 University School of Medicine in Indianapolis, Indiana.
18 After graduating medical school, I then came down to
19 Charleston to MUSC for a four-year residency training
20 program in general pathology. After completing that
21 four-year training program in general pathology, I passed a
22 national examination to become Board certified and then went
23 on to a one-year fellowship training program specifically
24 regarding forensic pathology in Dallas, Texas at the Dallas
25 County Medical Examiner's Office. Again, at the end of that

1 year, I passed an examination and became Board certified.
2 At that point, I took my current position.

3 Q And as a part of your duties that you listed, do you
4 perform autopsies?

5 A Yes, I do.

6 Q Approximately how many autopsies would you say you
7 perform a year?

8 A On a yearly basis, it will vary, but I'd say over the
9 years, it probably averages about 250 autopsies.

10 Q Can you describe to the jury what forensic pathology
11 includes in detail?

12 A Sure. So forensic pathology, again, predominantly is
13 going to involve the performance of autopsies. The goal of
14 the autopsy is, again, to determine a cause and manner of
15 death. Sometimes it may be something that's completely
16 unknown where somebody is found and there's no evidence of
17 trauma and we're trying to figure it out. Other times, it
18 could cause where there's an obvious cause of death where
19 it's a car accident or a shooting where we're there to not
20 only prove why the person died, but, possibly, collect
21 evidence and other things that could help provide more
22 information about the case.

23 Q And you're Board certified in forensic pathologist; is
24 that right?

25 A I'm Board certified by the American Board of Pathology

1 in anatomic pathology, clinical pathology and forensic
2 pathology.

3 Q And are there requirements for those certifications?

4 A Yes. In addition to completing the initial training
5 programs that I mentioned previously, we have to on a yearly
6 basis maintain -- continue to obtain educational credits, so
7 continuing medical education to prove that we're keeping up
8 with our knowledge. And then we have -- essentially, it's
9 an ongoing or continuing certification where every three
10 months, we will go online to answer test questions to prove
11 that we're maintaining our competence.

12 Q And is that a national certification?

13 A Yes. The American Board of Pathology is the only
14 really truly recognized organization that certifies
15 pathologist and it is national.

16 Q Have you previously been qualified as an expert witness
17 in the area of forensic pathology?

18 A I have probably over a hundred times here in South
19 Carolina and, I believe, twice in Texas and twice in North
20 Carolina.

21 MS. BARBER: Your Honor, at this time, the State would
22 offer Dr. Batalis as an expert in the field of forensic
23 pathology.

24 THE COURT: Any objection or questions?

25 MR. SHELTON: No objection, Your Honor.

1 THE COURT: Admitted without objection.

2 You may proceed.

3 MS. BARBER: Thank you.

4 THE COURT: You're welcome.

5 BY MS. BARBER:

6 Q Dr. Batalis, can you explain to the jury in detail
7 exactly what an autopsy consist of?

8 A Sure. For autopsies -- and, again, we treat them all,
9 essentially, the same for the most part, going through the
10 same procedures. The first thing we would do is bring the
11 body into our autopsy suite. We'd take photographs of the
12 body before we touched it, cleaned it, anything. We call
13 those our as-in photographs, so it's as we receive the body.

14 We would then document any clothing, any evidence that
15 is on the body, note that down, remove that and secure that
16 appropriately. Then get the body cleaned up, take another
17 set of photographs before we do an examination. Then we do
18 what's called an external examination.

19 So it's kind of like going to your doctor for a history
20 and physical. We're going to examine the body from head to
21 toe for basic stuff like height and weight and skin color,
22 tattoos, basic stuff like that. But then, also, looking for
23 any evidence of natural disease or trauma that could explain
24 the death.

25 Sometimes, depending on the autopsy, if we believe it's

1 a shooting or stabbing, we may, also, obtain x-rays during
2 this part of the examination to see if there's any retained
3 bullets or other items in the body.

4 After we've completed that external examination, we
5 then move on to the internal examination where we use
6 surgical-type incisions to open the body and examine the
7 internal organs, again, for any evidence of natural disease
8 or trauma that could explain why the person died.

9 Usually, during the course of autopsy, we'll collect
10 tissue samples, possibly, to look under the microscope. We
11 can, also, collect samples that we can send off for
12 toxicology testing.

13 Then at the end of that, we will compile our findings
14 into a report that will detail our findings.

15 Q So Dr. Batalis, shifting your attention, specifically,
16 to April 20th of 2020, did you have the occasion to perform
17 an autopsy on LR [REDACTED] Jr. on that date?

18 A Yes, I did.

19 Q And what were your findings?

20 A The major finding in the autopsy of Mr. Reid was a
21 single gunshot wound to the head.

22 Q And how would you expect someone who has suffered from
23 a wound like that to behave thereafter?

24 A So not all gunshot wounds to the head are created
25 equally, depending on what part of the brain it strikes, but

1 in Mr. Reid's case, it struck the bottom part of the brain,
2 what we call the cerebellum, or the brain stem, which is a
3 super critical part of the brain. So with an injury like
4 that, you would expect him to be incapacitated very quickly,
5 if not immediately.

6 Q And in assessing the victim, did you find there were
7 any underlying conditions that could have attributed to his
8 death?

9 A Not at all. He was, otherwise, an, essentially,
10 perfectly healthy 16-year-old.

11 Q Dr. Batalis, when performing an autopsy, do you take
12 pictures?

13 A Yes, I do.

14 Q And if I were to show you some of those pictures here
15 today, would you recognize them?

16 A I believe so.

17 MS. BARBER: Your Honor, may I approach the witness?

18 THE COURT: You may.

19 BY MS. BARBER:

20 Q Dr. Batalis, I'm showing you what has been marked for
21 identification purposes only as State's Exhibits 81, 82, 84,
22 86 and 88.

23 THE COURT: Can you repeat those numbers for me?

24 MS. BARBER: I can, yes, ma'am. That's 81, 82, 84, 86
25 and 88.

1 THE COURT: Thank you.

2 MS. BARBER: Yes, ma'am.

3 THE COURT: 88 already came in without objection.

4 MS. BARBER: Thank you.

5 THE COURT: You're welcome.

6 BY MS. BARBER:

7 Q Dr. Batalis, what have I just handed you?

8 A These are copies of some of the photographs and x-rays
9 that were taken during the course of the autopsy.

10 MS. BARBER: Your Honor, at this time, the State moves
11 to admit Exhibits 81, 82, 84, 86 and 88.

12 THE COURT: 88 has already been admitted without
13 objection.

14 Any exception, Mr. Shelton?

15 MR. SHELTON: No objection to 81, the others, I do,
16 Your Honor.

17 THE COURT: Please approach.

18 81 is admitted without objection.

19 (WHEREUPON, a bench conference was held in the presence
20 of the jury, but outside the hearing of the jury.)

21 (WHEREUPON, State's Exhibit No. 81 was admitted into
22 evidence.)

23 THE COURT: 83, 85 and 87 come in without objection.
24 82, 84 and 86 are ID only.

25 (WHEREUPON, State's Exhibit Nos. 83, 85 and 87 were

1 admitted into evidence.)

2 MS. BARBER: Thank you, Judge.

3 THE COURT: You're welcome.

4 BY MS. BARBER:

5 Q Dr. Batalis, showing you now what has been entered as
6 Exhibit 83 --

7 MS. BARBER: Your Honor, permission to publish?

8 THE COURT: Yes, ma'am.

9 MS. BARBER: Thank you.

10 THE COURT: You're welcome.

11 BY MS. BARBER:

12 Q Can you explain what this picture depicts for the jury?

13 A Sure. This picture was taken during the course of that
14 external examination, that initial examination of the body.
15 We're looking at the decedent's back left side of his head.
16 What we can see here, there's a tag with a case number, so
17 it's a unique identifier that identifies this particular
18 case. And then just above or to the right of that label,
19 there's a circular defect in the skin here that is a gunshot
20 entrance wound. So the gunshot entered the back left side
21 of the scalp, so behind the left ear towards the back of the
22 head. So this is a gunshot entrance wound.

23 Q Just for the jury's knowledge as it relates to the
24 shaving in that area, is that something that was there or is
25 that something that you do?

1 A No, when we initially received the body, the hair was
2 across the wound. I shaved the hair during the course of
3 the autopsy so we could better identify the features of the
4 wound to identify it as a gunshot wound and then see the
5 features to determine whether it's an entrance or exit
6 wound.

7 Q Showing you now what's been entered as Exhibit 87. Can
8 you explain that photograph for the jury?

9 A Sure. We are now looking at the decedent's right side
10 of the head, so the right side of the face. That's his
11 right ear there. Again, we have the FA2346, the unique case
12 identifier for this particular autopsy.

13 Then right here just in front of the ear, we have a
14 small irregular defect that represents what I call a partial
15 exit wound. So in this case, as you'll see, there was a
16 single entrance wound. The bullet then was sheared, part of
17 it remained within the body, part of it then continued
18 through the brain and skull and exited. So this represents
19 that partial exit wound.

20 Q Showing you now Exhibit 85. Dr. Batalis, is that a
21 zoomed out picture of the wound you just explained?

22 A Yes, exactly. So we're still looking at the right side
23 of the head and just below the tag or to the right, the way
24 we're doing it now, we have that irregular exit wound
25 defect.

1 Q And Exhibit 81. Can you explain to the jury what that
2 white dot is to the back of the skull?

3 A Sure. So this is an x-ray of the head that we took,
4 again, prior to beginning the autopsy. Obviously, the
5 decedent's face is facing toward the right-hand side. And
6 what we can see here towards the back of the head. And,
7 again, this is just a two-dimensional version, so we're
8 looking across within the body. This would be in the right
9 side of the neck, but the largest piece here is going to be
10 the largest fragment of the bullet. Then the other small
11 little flex along there are very, very small fragments of
12 bullet jacketing. So this was the -- as I mentioned, part
13 of the bullet exited right in front of the right ear. This
14 is showing the retained bullet that, again, was in the right
15 side of the neck just behind the spine.

16 Q And, Dr. Batalis, about how many autopsies would you
17 say you've performed that involved gun bullets?

18 A I'd roughly estimate somewhere between 500 autopsies
19 and a thousand autopsies involving gunfire.

20 Q And when looking at those gunshot wounds, can you,
21 typically, determine what potential weapon may have been
22 used?

23 A Certainly, part of that could be based on the bullet or
24 fragments of bullets that we recover, can help tell us
25 whether there's a handgun, a shotgun or rifle, but then

1 there's, also, the ballistic injury to the body. So certain
2 types of ammunition and weapons will cause greater damage to
3 the body than others.

4 Q In this particular case, what type of weapon would you
5 say caused this injury?

6 A Taking together everything, given the recovered bullet,
7 given the particular injuries and the wounding we saw in the
8 body, this would be most consistent with a bullet that was
9 fired from a handgun.

10 Q And can you describe for the jury what a wound would
11 have looked like had it not been fired by a handgun, but
12 with, let's say, a rifle?

13 A Sure. Rifle wounds tend to be much more dramatic. So
14 the entrance wounds could look very similar, but the bullets
15 traveling from a rifle are a much, much greater rate of
16 speed. And when you talk about how much damage a bullet
17 causes to the body, part of it is how big the bullet is, so
18 a bigger bullet will cause a little bit more damage, but the
19 faster it is, it's exponential, so it's going to be a much
20 greater factor. So since bullets traveling out of a rifle
21 travel at much greater speed, they cause much more gross
22 damage to the body.

23 So had this been a rifle wound, sometimes the bullets
24 will, actually, disintegrate so there, actually, is not even
25 a single retained fragment because it traveled so fast, it,

1 essentially, explodes. Other times, the damage to the body,
2 instead of having a small defect here, you'll have a gaping
3 defect with the skull, essentially, almost shattered like an
4 eggshell.

5 Q Showing you now Exhibit 88. Dr. Batalis, you mentioned
6 that you removed the bullet from the victim?

7 A Yes, this is the bullet fragment that we retained at
8 autopsy. Again, it was in the right side of the neck just
9 below the skull.

10 MS. BARBER: Beg the Court's indulgence.

11 (Pause.)

12 MS. BARBER: Permission to approach the witness?

13 THE COURT: Yes, ma'am, you may approach.

14 MS. BARBER: Thank you.

15 THE COURT: You're welcome.

16 BY MS. BARBER:

17 Q Dr. Batalis, I'm showing you what has been entered as
18 Exhibit 137. Is that the bullet that you recognize
19 collecting?

20 A Yes, this is the bullet fragment that was recovered at
21 the time of autopsy.

22 Q And the bullet that you're looking at, it's depicted as
23 it is, it shows as it is on the screen?

24 A Yes.

25 MS. BARBER: I have nothing further for you at this

1 time, Dr. Batalis. Please answer any questions that Mr.
2 Shelton may have for you.

3 MR. SHELTON: No questions.

4 THE COURT: Any exceptions to the witness being excused
5 from the State?

6 MR. BARBER: No exceptions from the State, Your Honor.

7 THE COURT: From the Defense?

8 MR. SHELTON: No, Your Honor.

9 THE COURT: Doctor, you're excused.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 State may call its next witness.

13 MR. COOPER: May we approach?

14 THE COURT: Sure.

15 (WHEREUPON, a bench conference was held in the presence
16 of the jury, but outside the hearing of the jury.)

17 THE COURT: Madam Forelady, ladies and gentlemen, we're
18 going to take a brief comfort break. During the break,
19 please, do not discuss the case and, please, leave your
20 notepads in your seats.

21 (WHEREUPON, the jury exits the courtroom at 10:35 a.m.)

22 THE COURT: We'll be at ease for ten minutes.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: Is Detective Pritchard the next witness?

25 MR. COOPER: He is. And then, Judge, after that --

1 THE COURT: Is he in the courtroom?

2 MR. COOPER: He is. After that, Mr. Shelton and I
3 discussed the jail calls. Mr. Shelton has some objections,
4 so it may be some legal issues with that to take up because
5 there's going to be Detective Pritchard and then Ms. High
6 from the jail and then maybe Mr. Johnson will be our last
7 witness.

8 MR. SHELTON: There will be legal issues. I don't know
9 if you want to do that while she's on the stand or if we
10 want to do that --

11 THE COURT: What are the legal issues?

12 MR. SHELTON: Judge, just a -- I believe they shouldn't
13 be allowed in as far as a violation of the first amendment,
14 fourth amendment, sixth amendment --

15 THE COURT: Unfortunately, the Supreme Court, U.S. and
16 South Carolina, does not agree with you. They clearly tell
17 you you're being recorded, anything you say is an admission
18 against interest. The only thing left for me to decide is
19 if it's probative versus prejudicial.

20 MR. SHELTON: Judge, on this one, it does say --

21 THE COURT: You have to right to expectation of
22 privacy.

23 MR. SHELTON: It says it may be recorded --

24 THE COURT: No, it says you are being recorded. I've
25 listened to enough of them. They interrupt you every few

1 seconds while you're talking and say you are being recorded.
2 It tells you clearly you're being recorded. There's no
3 misapprehension by somebody that's on the phone at the
4 detention center that they're not being recorded. They're
5 recorded to the extent that if you try to bring somebody
6 else into the phone call, it severs the phone all.

7 So believe me, I've been listening to phone calls for a
8 long time and I know what that recording says at the
9 detention center. I'm, also, totally aware of the agreement
10 they sign when they agree to use that system. And they give
11 it to them in writing.

12 MR. SHELTON: Yes, Your Honor, and I'm not trying to.--

13 THE COURT: I'm going to hear argument, but I don't
14 want -- yeah, I have to hear what they say. I mean, just
15 general conversations that cast the person in a bad light
16 don't come in, but if he's making admissions against
17 interest --

18 MR. SHELTON: And there are things in there that if
19 they are allowed in, I would ask that they be redacted.

20 THE COURT: I'd have to hear it to know exactly what
21 they're seeking to introduce.

22 MR. SHELTON: I agree, Judge.

23 THE COURT: So we'll take it up when it comes.

24 MR. SHELTON: Yes, Your Honor.

25 THE COURT: Please bring in the jury. They're right

1 behind you. They're standing in the hallway.

2 (WHEREUPON, the jury enters the courtroom at 11:00
3 a.m.)

4 THE BAILIFF: The jurors are all present, Your Honor.

5 THE COURT: You may be seated.

6 We'll proceed with the State's case. Call your next
7 witness.

8 MR. COOPER: Thank you, Judge. The State will call
9 Detective David Pritchard.

10 DAVID PRITCHARD,

11 after being duly sworn, testified as follows:

12 THE CLERK: Please have a seat for me. State your full
13 name for the record, spelling your last name.

14 THE WITNESS: It's David Pritchard, P-R-I-T-C-H-A-R-D.

15 THE COURT: You may proceed.

16 MR. COOPER: Thank you, Judge.

17 THE COURT: You're welcome.

18 DIRECT EXAMINATION

19 BY MR. COOPER:

20 Q Detective Pritchard, will you tell the jury where
21 you're currently employed, please?

22 A I currently work for North Charleston Police
23 Department.

24 Q And what is your role for North Charleston Police
25 Department?

1 A I'm assigned to the detective division assigned to the
2 persons crime unit.

3 Q Describe, if you would, what that job entails.

4 A We work violent crime, anything from a serious felony
5 assault all the way up to any kind of murder, suspicious
6 suicides. We work armed robberies, strong arm robberies,
7 pretty much any violent crime against persons.

8 Q How long have you been an investigator in the persons
9 crime unit?

10 A Began in 2017.

11 Q And prior to that, what role were you with North
12 Charleston?

13 A I was a property crime detective from 2016 to 2017. I
14 started North Charleston in 2012. In 2012 to 2016, I was a
15 patrol officer.

16 Q And back in April of 2020, you were still in your
17 current role; is that right?

18 A Correct.

19 Q Focusing your attention to this case, how did you
20 become involved?

21 A It was April 18th just shortly before midnight, I
22 received a call from my sergeant at the time, which was
23 Sergeant John Glenn. He had called me and advised me that
24 there was a homicide at [REDACTED] Street.

25 Q And why were called and made aware of that?

1 A I was the persons crime detective that was on call that
2 night.

3 Q And what does on call mean?

4 A There's several detectives from each unit that are
5 assigned to a team. So once a month, that team will be on
6 call for an entire week. So anything that happens on the
7 weekends or after business hours, we come out?

8 Q And what was your role in this case?

9 A I was assigned as the case agent.

10 Q And describe for the jury what that means to be the
11 case agent.

12 A Case agent means you're the lead investigator. It
13 means you're kind of overseeing the investigation.

14 Q And so when you got a call from Sergeant Glenn about
15 the incident, what was the nature of the incident?

16 A We knew there was, at least, two people shot, one on
17 Marson Street and then one on Lakewood Street. The deceased
18 on Lakewood Street was a juvenile and he was still on scene.

19 Q And then once you were notified, what did you then do?

20 A I was directed to go directly to the scene.

21 Q I want to show you what's been marked and, I believe,
22 in evidence as State's Exhibit 2. What does this picture
23 show?

24 A This is the Ferndale Mobile Home Park.

25 Q And where was the deceased victim, LR [REDACTED] Jr.,

1 where was his body located?

2 A It would have been right there.

3 Q And then I'm going to show you --

4 MR. COOPER: Madam Court Reporter, do you have Exhibit
5 4 in evidence?

6 THE COURT: No. 4 has not been admitted.

7 BY MR. COOPER:

8 Q I'm going to show you, Detective Pritchard, what's been
9 marked for ID purposes only as State's Exhibit 4. Do you
10 recognize that photo?

11 A Yes, it's another image of the Ferndale Mobile Home
12 Park.

13 MR. COOPER: Your Honor, at this time, the State would
14 offer what's been marked for ID purposes only as State's 4
15 into evidence.

16 THE COURT: Any objection?

17 MR. SHELTON: No objection.

18 THE COURT: Without objection, State's 4.

19 (WHEREUPON, State's Exhibit No. 4 was admitted into
20 evidence.)

21 BY MR. COOPER:

22 Q I'm showing you what's been entered into evidence as
23 State's 4. What is this picture?

24 A This is more zoomed in of the mobile home park.

25 Q If you would, would you indicate to the jury where Mr.

1 Reid's body was located?

2 A It would have been right about there.

3 Q And were you aware of where his residence was?

4 A Yeah, he lives at 1904, which is right here.

5 Q And describe if you would that neighborhood?

6 A There's several families. There's kids that live in
7 there. When I responded that night, I remember seeing a
8 bunch of, like, kids' toys in the yard. Just a normal
9 neighborhood.

10 Q Now, describe if you would for the jury what you did
11 first once you arrived on scene?

12 A Whenever I first arrived on scene, I met with my
13 sergeant. He had arrived prior to me. I met with him so he
14 could brief me on what we had so far.

15 Q And what did you learn once you arrived on scene?

16 MR. SHELTON: Objection, Your Honor.

17 THE COURT: Basis?

18 MR. SHELTON: Hearsay.

19 THE COURT: I don't know that he's going to elicit
20 hearsay from his response. To the extent it's not offered
21 for its truth, he is allowed to discuss what he investigated
22 and what he did as a result of that investigation.

23 Is he going to be saying what someone said to him?

24 MR. COOPER: No, ma'am, just describing what he learned
25 from his investigation.

1 THE COURT: Objection overruled.

2 MR. COOPER: Thank you, Judge.

3 THE COURT: You're welcome.

4 BY MR. COOPER:

5 Q Detective Pritchard, again, if you would, would you
6 tell the jury what you learned once you arrived on scene?

7 A Yes, sir. At approximately 11:18 p.m., patrol began
8 receiving calls in reference to calls for shots fired in
9 that area. As they were in route, they received another
10 call at approximately 11:20 in reference to a victim being
11 shot at [REDACTED] Street. Whenever they arrived, they
12 located the deceased juvenile victim where I previously
13 pointed out. As they were working that scene, they were
14 alerted to another victim at [REDACTED] Street, the house
15 had been shot.

16 Q And the victim that had been shot on Marson Street, was
17 it your understanding that it happened contemporaneously
18 with the shooting of Mr. Reid?

19 A That's correct.

20 Q Would you indicate to the jury where [REDACTED] Street
21 is?

22 A This is [REDACTED] right here.

23 Q And the location of Mr. Reid's body was where?

24 A About right there.

25 Q And then if you would describe for the jury when you

1 arrived on scene, what did you first observe?

2 A When I first arrived, I arrived in on Lakewood Street.
3 The whole street was marked off with patrol and crime scene
4 tape. As I walked up to the scene where I indicated the
5 body was, there was, actually, a white tent that crime scene
6 had previously set up prior to me getting there covering up
7 his body. Around the porch area, I noticed a bunch of
8 markings that crime scene had already began setting out
9 locating where shell casings were at.

10 Q And then you mentioned a white tent that was covering
11 Mr. Reid's body, I'm showing you State's Exhibit 6. Does
12 this picture show that tent?

13 A It does.

14 Q What is, also, important about the main point of this
15 picture?

16 A Directly behind this tent is [REDACTED] Street.

17 Q And would it be your understanding that this would be
18 the vantage point of the shooters?

19 A That's correct. The shell casings would have been just
20 to the right of where this picture was taken near the porch.

21 Q Also, on the right, would that have been Mr. Reid's
22 trailer at [REDACTED] Street?

23 A Yes, sir.

24 Q I'm, also, going to show you State's Exhibit 44.
25 Describe this picture for us if you will.

1 A So this is the driveway of 1904. Where the people are
2 on the porch, that's the porch of 1904, that's the trailer.
3 Just on the other side of that fence, you can see a shed
4 backed up towards Marson Street. To the left of that is
5 [REDACTED] as well.

6 Q And if you will circle for us [REDACTED], where do we see
7 that trailer?

8 A That's this trailer right here.

9 Q And that's the trailer where Mr. Jimenez, the gunshot
10 victim, was found?

11 A Yes, sir.

12 Q And then, ultimately, did you find video from [REDACTED]
13 [REDACTED] Street that showed the shooting?

14 A I did.

15 Q Will you circle where that trailer was?

16 A That's this trailer right here and, I believe, that's
17 the video camera just below that dot.

18 Q And then approximately where would the victim's body
19 have been on this picture?

20 A It would have been in this area right here.

21 Q And, generally, are we in the same vicinity as where we
22 were in the last picture, State's Exhibit 6?

23 A Yeah, just a little bit further back.

24 Q Once you were on scene, did you observe any physical
25 evidence, things you can touch?

1 A Yep, on the porch about where the female is standing
2 with the yellow shirt on, there was a single 40 caliber
3 pistol cartridge found there. And then scattered all around
4 here were several 223 caliber shell casings.

5 Q And I'm going to show you State's Exhibit 9. Is that
6 the area you're talking about with the casings?

7 A Yes, sir.

8 Q Showing you State's Exhibit 10, is that just a zoomed
9 in of the same?

10 A It is.

11 Q And then showing you State's Exhibit 21, is this
12 another one of the rifle casings that was located?

13 A Yes, sir.

14 Q And where is that in relation to the porch with the
15 steps we were just looking at?

16 A The steps we were just looking at, if I'm the person
17 taking this picture, it's right behind me.

18 Q And then showing you State's Exhibit 19?

19 A Those are the steps.

20 Q And do we see shell casings or rifle casings in this
21 picture?

22 A Yeah, placard 10 is a shell casing on the steps.

23 Q And is there something under that first step?

24 A Yeah, I can't read the placard, but there's another
25 shell casing.

1 Q Showing you State's 20, is that that placard we
2 couldn't see a minute ago?

3 A Yes, sir, placard number 8.

4 Q And then you mentioned briefly a shell casing located
5 on the porch. Showing you State's 25, is this the porch you
6 were talking about?

7 A Yes, sir.

8 Q And showing you State's 27, can you see the area where
9 you located that shell casing?

10 A Yes, placard number 11 is sitting underneath the dog
11 cage.

12 Q Showing you State's 28?

13 A That's a close-up shot.

14 Q And then State's 29?

15 A That's a picture after the removal of the dog cage.

16 Q And that -- which casing was that one?

17 A That's the Cor-Bon 40 caliber shell casing.

18 Q Showing you State's 30, is that the head stamp for that
19 casing?

20 A Yes, sir.

21 Q If you would, would you read that head stamp for us?

22 A That's Cor-Bon 40 S&W.

23 Q And then going back to your response to the scene,
24 describe for the jury if you would what you as a detective
25 do when you first arrive at a scene like this.

1 A When I first arrive as a case agent, the scene, I -- I
2 don't want to say manage because people know what they're
3 doing whenever they get there, but I view what's going on.
4 I shadow the crime scene just to see what they're
5 collecting. Any witnesses that are nearby, I'll take care
6 of them. Assisting detectives, they'll go out and they'll
7 start looking for any witnesses that are nearby, any video
8 that may be close by, anything that would assist.

9 Q And then when you are first trying to ascertain what
10 happened at the scene, do you often know at that point what
11 will, ultimately, become important in the case?

12 A No, we have no idea initially.

13 Q With regards to witnesses and video, what are you
14 trying to do?

15 A With video, we're trying to get any and everything that
16 we could that could potentially be important in the future.
17 When we're initially going to a scene, we may not have
18 spoken to any witnesses, may not know any information. So
19 we're going to collect video one, to try to develop a lead,
20 but, also, try to preserve any evidence that may develop
21 from any witnesses in the future.

22 Q And I know I've jumped around a little bit, so I want
23 to make sure I know where we are chronologically. At the
24 point in time you arrived on scene that night, did you know
25 that video exist of the shooting?

1 A I did not.

2 Q While you were on scene, did you, ultimately, get a
3 lead on potentially the type of vehicle the suspects may
4 have been in?

5 A Yeah, I received information from another detective
6 that the victim may have been with another male by the name
7 of Jamaul.

8 Q Did you learn anything about a potential suspect
9 vehicle that night as well?

10 A Yeah, again, that same detective, I learned that a
11 suspect vehicle may have been parked in the driveway where
12 those shell casings were located. That vehicle was
13 described as a dark in color Ford Focus.

14 Q Okay. And then you mentioned a potential lead on
15 someone that the victim may have been with?

16 A Yeah, a Jamaul.

17 Q At that point in time, you were unaware of the last
18 name?

19 A Yeah, I had no clue.

20 Q What else was done that night?

21 A Detectives canvassed for video, but at the time of
22 night, it was hard to obtain anything. The one video that
23 we were able to obtain came from [REDACTED] Street, which
24 is on the same street, just further down the street, the
25 Piedmont side, which is the opposite side of the road of

1 where this happened at.

2 Q Okay. I'm going to show you State's Exhibit 3. Does
3 this picture show the trailer where you located that video
4 at [REDACTED] Street?

5 A It does.

6 Q Would you indicate to the jury where that trailer is
7 located?

8 A It's this trailer right here.

9 Q And where is that in relation to the victim's trailer
10 and where the body was found?

11 A Victim's trailer, the body is right there.

12 Q Did you, also, review the video from [REDACTED]
13 Street?

14 A I did.

15 Q What, if anything, did you note of importance?

16 A During the review, we did notice a dark in color sedan
17 driving back and forth down the street. I noticed that it
18 was motion activated, so it would only kick on as this
19 vehicle was driving by.

20 Q At one point during reviewing the video, the vehicle
21 that we believed to be the one driving back and forth does
22 stop and, actually, backs into the driveway of this [REDACTED]
23 [REDACTED] Street. It was at that point whenever it backed in
24 that we could confirm that it was, in fact, a Ford Focus?

25 MR. COOPER: Beg the Court's indulgence one second.

1 (Pause.)

2 BY MR. COOPER:

3 Q I'm going to show you State's Exhibit 152. Describe if
4 you would what this pictures shows us.

5 A So this is the video that's on [REDACTED] Street.
6 If you look down this way -- this is Lakewood Street. If
7 you look down this way, that's towards where the victim was
8 found. If you go back in the opposite direction, that's
9 towards Piedmont.

10 Q And is this, also, one of the pictures that was
11 provided to Detective DeSheers in an effort to try and
12 locate that vehicle?

13 A Right. So you're looking at the suspect vehicle, or
14 the vehicle that backed in, the Ford Focus, and that's the
15 one yesterday when Detective DeSheers testified he was
16 talking about the window tint and the stickers and stuff.

17 Q And then with the time stamp at the top of that, will
18 you describe what, if anything, is off by the time stamp?

19 A The time is off. It's several hours slow.

20 Q I believe this is the same video that was testified to
21 earlier in the week?

22 A Yes, sir.

23 Q Detective Pritchard, I want to show you what's already
24 been admitted into evidence as State's Exhibit 102, the
25 video from that incident.

1 Mark, if you'll bring it up and start us off at four
2 minutes and 48 seconds, please.

3 Beg the Court's indulgence while we get that set up.

4 (Pause.)

5 BY MR. COOPER:

6 Q Detective Pritchard, as we're getting that set up, once
7 it comes up, if you will orient the jury as to what we're
8 seeing in that video.

9 A Okay.

10 Q And before we hit play, describe the view that we have,
11 sir.

12 A This is the same view that I just described on the last
13 still shot.

14 Q And approximately, where would [REDACTED] which is
15 the victim's residence, be in relation to this video?

16 A You can't see it because of this trailer right here,
17 but it's about right there, maybe three trailers past the
18 initial dot that I did.

19 Q Okay. And as we begin to play the video, if you'll
20 narrate what we see.

21 A Okay.

22 (WHEREUPON, video is played for the jury.)

23 BY MR. COOPER:

24 Q What do we see at the top of the screen?

25 A That's a sedan turning left onto Lakewood Street from

1 Railroad Avenue.

2 Q And is this the car believed to be the suspect's car?

3 A That's correct. As it gets closer, you can tell it's a
4 dark in color sedan.

5 Q We started that at 4:48, I can't read that small
6 number, what is the time stamp we stopped at?

7 A 5:13, I believe.

8 MR. COOPER: For the record, Judge, the State first
9 played 4:48 to 5:13.

10 BY MR. COOPER:

11 Q Detective Pritchard, we are going to -- this video is
12 approximately 20 or so minutes long, I believe. There are
13 portions where you don't see that car driving back and
14 forth; is that right?

15 A That's correct.

16 Q But there are several times where you do see that
17 vehicle driving back and forth down the street?

18 A Yes, sir.

19 MR. COOPER: And Mr. Sams, if you would get us to 8:14,
20 please, sir.

21 (WHEREUPON, video is played for the jury.)

22 BY MR. COOPER:

23 Q Detective Pritchard, we're going to start playing from
24 there.

25 A Okay. This is another view of that. It appears to be

1 the same car passing by and it's applying brakes as it's
2 getting closer to [REDACTED] Street and Railroad Avenue.

3 MR. COOPER: If you'll pause that for me, sir.

4 BY MR. COOPER:

5 Q And we started at 8:14, if you'll read that time stamp
6 for me?

7 A It looks to be 8:31.

8 MR. COOPER: So, Judge, we've played 8:14 to 8:31 the
9 second time for the record.

10 BY MR. COOPER:

11 Q Detective Pritchard, before we get to the next part,
12 would you indicate for the jury, in seeing this vehicle
13 going up and down the street, what does that indicate to
14 you?

15 A Well, knowing that --

16 MR. SHELTON: Objection, Your Honor, calls for
17 speculation.

18 THE COURT: Please repeat the question.

19 MR. COOPER: I asked him in seeing the vehicle going up
20 and down the street prior to the shooting, what, if
21 anything, would that indicate to him.

22 THE COURT: Speculation and lack of foundation and the
23 video speaks for itself. Sustained.

24 BY MR. COOPER:

25 Q Did you at any point of your investigation learn at all

1 that the suspect was potentially looking for the deceased
2 victim?

3 A I did and it appeared that the video was backing up
4 that.

5 Q Was corroborating what you had learned in the
6 investigation?

7 A That's correct.

8 MR. COOPER: And now, if you would get us to 9:38,
9 please, sir.

10 (WHEREUPON, a video is played for the jury.)

11 BY MR. COOPER:

12 Q Detective Pritchard, what do we see in this clip?

13 A It's another sedan turning left onto Lakewood from
14 Railroad. It appears to turn into a driveway. It goes out
15 of the picture.

16 Q At that point, do we know whether that was the suspect
17 vehicle?

18 A There's no way of telling. It never gets close enough
19 to see.

20 MR. COOPER: Pause it, please.

21 BY MR. COOPER:

22 Q What time do we stop at? Can you read the screen,
23 Detective Pritchard?

24 A It's at 10:11.

25 MR. COOPER: So we started at, I believe, 9:38 and

1 played until 10:11 for the record.

2 And then if you will get us to 12:37, please, sir.

3 BY MR. COOPER:

4 Q And that's 12:36, Detective Pritchard?

5 A It is.

6 Q If you'll narrate what, if anything, we see in this
7 clip.

8 A It's another sedan turning left onto Lakewood from
9 Railroad. It appears to be slowing down. And as it gets
10 closer, we can see that it is the same dark sedan that keeps
11 on driving by. Now, you're going to see it back into the
12 driveway of 1928, which is where the still shot was.

13 Q And is that, ultimately, where we get the screen shot
14 that we discussed the video, I think State's 152?

15 A Yes, sir.

16 MR. COOPER: If you would pause that, please.

17 BY MR. COOPER:

18 Q What's the time stamp, Detective Pritchard?

19 A That's 13:32.

20 MR. COOPER: So for the record, we would have played
21 12:36 to 13:32.

22 If you'll back that up about ten seconds for me, sir.

23 BY MR. COOPER:

24 Q And Detective Pritchard, as the car starts to back in,
25 if you will describe what, if anything, you notice about the

1 brake lights as they're coming back in.

2 (WHEREUPON, video is played for the jury.)

3 A As it's backing in, you can see the third brake light
4 in the center and then running lights, they're much
5 brighter, indicating the brake lights aren't applied.

6 Q And then now, the third brake light is not glowing; is
7 that correct?

8 A Correct.

9 Q And that indicates to you that those brake lights are
10 not being applied?

11 A Yeah, more than likely, they're in park right now.

12 MR. COOPER: If you would pause that for us, sir.

13 BY MR. COOPER:

14 Q And Detective Pritchard, are you aware for
15 approximately how long that car sits in that driveway?

16 A It was for several minutes. I don't know the exact
17 timeframe.

18 Q In reviewing the video, did anybody in the vehicle at
19 that point ever get out of the vehicle?

20 A Not here, no, sir.

21 Q And are you aware if this camera was motion activated?

22 A It is.

23 Q At some point, does that vehicle pull out the driveway?

24 A The next thing you're going to see is the vehicle up
25 the street, so we know it does pull out of the driveway and

1 it's traveling up the street towards Railroad Avenue. Just
2 due to the timeframe it sits here, it relapsed and the next
3 motion it sees is it driving off.

4 MR. COOPER: If you'll get us to 16:20, please.

5 BY MR. COOPER:

6 Q And, again, Detective Pritchard, if you narrate what
7 you see for us.

8 A It was just sitting there, motion stopped. The next
9 motion is it driving up the street. And you can see it at
10 the end of the street and it's there about at the stop sign
11 at Railroad right now.

12 Q And then, Detective Pritchard, what is the timestamp we
13 stopped that at?

14 A That is 16:27.

15 MR. COOPER: Okay. So we played from 16:20 to 16:27
16 that time.

17 If you would bring us back to 16:28, please, sir.

18 BY MR. COOPER:

19 Q Now, Detective Pritchard, once he goes to start that
20 video, what is the timestamp at the top of the video?

21 A That's 20:20:42.

22 Q You noticed the timestamp is several hours off?

23 A Correct.

24 MR. COOPER: If you'll play that for us, sir.

25 (WHEREUPON, video is played for the jury.)

1 MR. COOPER: If you'll pause it now, sir.

2 BY MR. COOPER:

3 Q What does that timestamp at the top now show?

4 A 20:22:58.

5 Q So in the life of the motions, we skipped about two
6 minutes?

7 A Correct.

8 Q Where was the vehicle at this point?

9 A It's at Lakewood coming up to Railroad.

10 Q Okay.

11 MR. COOPER: If you'll play that for us, sir, please.

12 (WHEREUPON, a video is played for the jury.)

13 BY MR. COOPER:

14 Q Do we notice anything with that vehicle, what's going
15 on now?

16 A It looks like it's at the stop sign and it's going to
17 be taking a left on Railroad going towards Marson Street.

18 Q What is the next thing we're going to be looking for?

19 A You're going to see it come up off of Railroad and then
20 take a right onto Lakewood.

21 Q Is that what we see now?

22 A Yeah, you just saw the turn. Now, you're seeing it
23 stopping and it's backing into the area where the driveway
24 of [REDACTED] Street is at.

25 Q And the time when we saw it turn left on Railroad and

1 came back, it was approximately a minute or so.

2 MR. COOPER: If you'll pause that for us.

3 BY MR. COOPER:

4 Q Detective Pritchard, what time did we stop that video?

5 A It looks like 17:44.

6 MR. COOPER: So, Judge, we stopped it at -- we started
7 at 16:20 and stopped it at 17:44 for the record.

8 BY MR. COOPER:

9 Q And then what was your next involvement in this case,
10 Detective?

11 A So after getting done reviewing this, we, actually,
12 went home for the night. We had been involved with several
13 other incidents throughout that day prior to this incident.
14 The team was exhausted, so we, actually, went home for the
15 night and took a break.

16 Q Did you meet with anybody the next morning?

17 A Yeah, the first thing I did whenever I came in is I
18 went back to the victim's home to speak with the victim's
19 mother.

20 Q And that is LaShawn Singleton, who's been present in
21 court?

22 A Yes, sir.

23 Q And what did you learn in your meeting with her?

24 A Well, I first asked about who Jamaul is. She says
25 Jamaul was one of his really good friends. She, actually,

1 provided me a Facebook of Jamaul. And then from there, I
2 was able to get his last name, which is Jamaul Simmons.

3 Q And you, ultimately, were able to determine that was
4 the same Jamaul Simmons that testified earlier this week?

5 A Correct, yeah.

6 Q What else did you learn that morning?

7 A When I was speaking with her, she, also, told me that
8 she was hearing rumors that a light-skinned male by the name
9 of Twan may be responsible for her son's death. She, also,
10 showed me a Facebook name that she was provided of who Twan
11 was supposed to be. So I took the information provided me
12 of both Facebook names and then I went back to the office,
13 researched them and identified Jamaul Simmons and Antwan
14 Johnson.

15 Q And you just said it right there, but you had, also,
16 determined that Twan was Antwan Johnson?

17 A Correct.

18 Q After you learned that information, what did you do
19 next?

20 A Another detective had received a video from [REDACTED]
21 Street, which captured the murder, so we began reviewing
22 that.

23 Q Okay. Showing you a picture, State's Exhibit 4.
24 Again, if you'll show us where was the victim's body
25 located?

1 A Right about there.

2 Q And [REDACTED] where the video was recovered from,
3 where is that?

4 A It's this trailer right here.

5 Q Detective Pritchard, at this time, I want to show you
6 what has been marked for ID purposes only as State's 101.
7 What is that item?

8 A This is the video from [REDACTED] Street.

9 Q How do you know that?

10 A I reviewed it and it has my initials on it.

11 Q And it appears to be the exact same video that was
12 collected that night and that you reviewed of the shooting?

13 A Yeah, it is.

14 MR. COOPER: Your Honor, at this time, the State would
15 offer what has been marked for ID purposes only as State's
16 101 into evidence.

17 THE COURT: Any objection?

18 MR. SHELTON: No objection.

19 THE COURT: Marked and admitted without objection.

20 (WHEREUPON, State's Exhibit No. 101 was admitted into
21 evidence.)

22 MR. COOPER: Your Honor, I ask permission to publish
23 that to the jury.

24 THE COURT: You may proceed.

25 Please have the witness spell the name of the street

1 for the benefit of the court reporter.

2 BY MR. COOPER:

3 Q Would you spell Marson Street for us?

4 A M-A-R-S-O-N.

5 Q So Detective Pritchard, before we start, if you would
6 kind of indicate what we are about to see in the video?

7 A So to the left of us is Railroad Avenue, Lakewood.
8 This is the shed, which is directly behind [REDACTED]. The
9 victims are going to walk in from this direction and you'll
10 see the suspect vehicle back in right there.

11 Q Okay. Thank you.

12 (WHEREUPON, video was played for the jury.)

13 A So that's the suspect vehicle on Railroad getting ready
14 to take a right on Lakewood.

15 Q Does that appear to be consistent with the video we
16 just saw from [REDACTED] Street?

17 A So the video we just saw, the video backing in on
18 Lakewood Street, this camera is picking it up right now.
19 You see the vehicle stops and blacks out.

20 Q And those appear to be not brake lights, but running
21 lights?

22 A Yeah, running lights. The person in the front is the
23 deceased victim, Mr. LR [REDACTED] The person behind him is
24 who we believed at the time was Jamaul Simmons. That's the
25 victim being shot.

1 Q Through your investigation, who did you determine was
2 the individual that runs up to the body?

3 A We identified him as Antwan Johnson. It's the vehicle
4 leaving. It's going back out towards Railroad.

5 MR. COOPER: And if you would start that over for us.

6 (WHEREUPON, video is played for the jury.)

7 BY MR. COOPER:

8 Q And Detective Pritchard, as we're playing it, if you'll
9 indicate where Mr. Jamaul Simmons goes when the shots are
10 fired?

11 A Again, the first person is LR The second is
12 Jamaul Simmons. He runs off to the left side of the
13 trailer.

14 Q Back behind would have been the victim's residence?

15 A Correct.

16 MR. COOPER: If you'll pause that for us, please, sir.

17 BY MR. COOPER:

18 Q Can you indicate on this video approximately where you
19 located all of the rifle casings and the one handgun casing?

20 A The handgun would have been on the porch. The rest of
21 the casings would have been scattered about in that area.

22 Q That would have all been on the driver's side of the
23 vehicle?

24 A Yeah, everything was located on the driver's side of
25 the vehicle.

1 Q And then given this video is not zoomed out, but it's
2 far away where the vehicle is, did at some point, you
3 observe the video kind of zooms in on the vehicle itself?

4 A Yes, sir.

5 Q And showing you what's been marked for ID purposes only
6 as State's 157, what does that appear to be?

7 A This is zoomed-in footage from Marson Street.

8 Q And it's the same clip, same length, it's just zoomed
9 in?

10 A Yes, sir.

11 MR. COOPER: Your Honor, at this time, the State would
12 offer what's been marked for ID purposes only as State's 157
13 into evidence.

14 THE COURT: Any objection?

15 MR. SHELTON: No objection.

16 THE COURT: Marked and admitted without objection.

17 (WHEREUPON, State's Exhibit No. 157 was admitted into
18 evidence.)

19 MR. COOPER: If you would bring out State's 157 for us.

20 BY MR. COOPER:

21 Q And, again, Detective Pritchard, if you would, would
22 you indicate what we are seeing in the video?

23 (WHEREUPON, video is played for the jury.)

24 A Yep. This is just a zoomed-in footage. The porch to
25 the left is 1904. This is the suspect vehicle backing in.

1 MR. COOPER: If you'll pause that for us, sir.

2 BY MR. COOPER:

3 Q So one, if you'll touch on the lights that we currently
4 see?

5 A Those are brake lights. You can tell they're much
6 brighter than what you'll see as the running lights.

7 Q And they appear to connect because of that third brake
8 light?

9 A Correct.

10 MR. COOPER: And then if you'll please play, sir.

11 (WHEREUPON, video was continued for the jury.)

12 BY MR. COOPER:

13 Q What does that appear to be?

14 A Those are running lights. If you pay attention to the
15 video to the left on the driver's side of the car, whenever
16 those running lights come on, you start seeing movement on
17 the driver's side. So I believe those lights are coming on
18 whenever one of the doors is opening.

19 MR. COOPER: If you'll pause it, please, sir.

20 BY MR. COOPER:

21 Q Is it this point that the person identified as Mr.
22 Johnson is running towards the body?

23 A Yes, sir.

24 Q Will you indicate what, if anything, you notice back by
25 the vehicle at this point?

1 A It's kind of hard to see, but if you look closely --
2 you have to ignore Mr. Johnson running up to the body, but
3 continue looking on the driver's side of the car. And what
4 I do to see it is I pay attention, there's a white picket
5 fence or a white fence on the other side of the street, if
6 you compare -- if you just pay attention to where the
7 driver's side of the car would be, pay attention to the
8 white side of the fence and then you'll start seeing
9 movement indicating there's a second person on the driver's
10 side outside of the car.

11 Q And if you will for us, sir, just circle that area for
12 us?

13 A It would be right around here. And, again, you have to
14 ignore what Mr. Johnson is doing and you can see movement.

15 Q And in this case, what did you appear to see?

16 A It appears to be somebody from the driver's side,
17 knowing that Mr. Johnson would have gotten out of the back
18 passenger seat, the other person on the driver's side would
19 be the driver getting out.

20 Q Would that be consistent with what you learned during
21 the investigation about potential number of shooters?

22 A Yeah, it would be two people that were inside that car
23 and yes, that would be consistent.

24 Q Consistent with two different types of shell casings
25 found on the scene?

1 A Yes, sir.

2 Q Did it appear in that video that anybody got out of the
3 passenger side of the vehicle?

4 A No, you can't see any movement from the passenger side.

5 Q After reviewing that video, what happened next?

6 A Well, after seeing that there was, in fact, a second
7 person, we did a little research on Jamaul Simmons. He was,
8 obviously, a victim. We wanted to track him down and get
9 his statement. So we, actually, located him at his
10 residence in Goose Creek and brought him back to the
11 detective bureau to speak with us.

12 Q What, if anything, did you learn?

13 A He confirmed there was two shooters. He confirmed
14 there was an altercation between the victim and Antwan
15 Johnson earlier in the day.

16 Q Was he able to identify either one of the people
17 involved in that incident?

18 A No. He indicated that one may have been light-skinned,
19 but he stated there was something over their face covering
20 their face.

21 Q Now, moving to the next day, April 20th, what was the
22 next step in the investigation?

23 A So one thing I kind of brushed over, Jamaul Simmons
24 did, also, let us know where Antwan Johnson, also, lived,
25 which was [REDACTED] Street. Didn't really -- the next day

1 whenever I came in, I got with my sergeant, Sergeant Jon
2 Glenn, that's when we realized we had already collected
3 video from [REDACTED] Street.

4 Q For the court reporter's benefit, would you spell Emden
5 for us?

6 A [REDACTED].

7 Q Thank you. Go ahead, I'm sorry.

8 A So right at the same time we were interviewing Jamaul
9 and doing all that stuff that day, other detectives were out
10 getting more video. One of the videos was [REDACTED]
11 Street. Come in the next day, that's when we realized we
12 had video from one of the suspect's house, so we started
13 watching it and reviewing that video.

14 Q So I want to show you State's Exhibit 1. Is this a map
15 of the Ferndale neighborhood?

16 A It is.

17 Q If you'll indicate for us, orient us where was the
18 crime scene?

19 A The crime scene was right in that area.

20 Q And then if you'll orient us, Railroad Avenue, which
21 road when we saw the car?

22 A Yeah, this is Railroad.

23 Q Where is [REDACTED] Street?

24 A [REDACTED] Street is this house at the corner right
25 down here at the bottom of your screen.

1 Q And you mentioned that y'all had, actually, collected
2 evidence from there before knowing that anyone in that
3 residence was involved in the case; is that right?

4 A Correct.

5 Q Why did you have someone collect video from that
6 residence?

7 A Well, there's really two main exits out of Ferndale.
8 There's a couple side streets, which is Emden and Fuller,
9 but this camera at that intersection captured that whole
10 intersection. So we knew it went out Railroad, but had it
11 made across the street over and went out Piedmont by chance,
12 we would have caught it on video and then we would have
13 known where to followup with more video to continue tracking
14 the car.

15 Q And you did review that video and did you see any car
16 that matched the description we had in the videos initially?

17 A I did.

18 Q I'm sorry, I think you said on Montague, the other
19 video when y'all were trying to see if it went down and left
20 through Railroad --

21 A Yeah, I'm sorry. It went left and went down Railroad.
22 There's a corner store at Montague and Railroad that
23 captures the whole intersection. I reviewed that, the car
24 never comes out. So based on that, I know that if it did go
25 out, it didn't go out Railroad. It either stayed in the

1 neighborhood or cut through over to Piedmont or maybe one of
2 the side streets or on Fuller. Those are the only other
3 ways out of the neighborhood.

4 Q And is that one of the reasons you collected the video
5 from Emden Street?

6 A Yes.

7 Q In reviewing that video, what did you, ultimately,
8 learn reviewing that video?

9 A The suspect vehicle pulls in front of the house of [REDACTED]
10 [REDACTED] Street, that's the video we've already seen of Antwan
11 Johnson and Pierre Nelson getting out.

12 MR. COOPER: So if you'll play --

13 Beg the Court's indulgence.

14 BY MR. COOPER:

15 Q Showing you what's already been admitted into evidence
16 as State's 160.

17 MR. COOPER: If you'll bring that up for us, but don't
18 press play yet.

19 BY MR. COOPER:

20 Q Showing you this video footage, is that the video
21 footage you're talking about from Emden Street?

22 A It is.

23 Q And that's, ultimately, the residence that you learned
24 was Antwan Johnson's?

25 A Yes, sir.

1 Q You mentioned at the beginning of your testimony about
2 approximately what time the first 911 call came in. Will
3 you indicate what time that was for us?

4 A It was 11:18.

5 Q And the timestamp at the bottom of this video is what?

6 A That's 11:13.

7 Q Did you notice anything in your investigation about
8 what was off about those timestamps?

9 A Yes. So this camera is six minutes slow, so it's
10 showing 11:13. It's, actually, 11:19.

11 Q And that's what you and Investigator Glenn, Sergeant at
12 the time, figured out while y'all were there?

13 A Correct.

14 MR. COOPER: If you'll play that video for us.

15 BY MR. COOPER:

16 Q And if you'll narrate what you see, Detective
17 Pritchard, in this video.

18 (WHEREUPON, video is played for the jury.)

19 Q While we're waiting, would you orient us, which way is
20 Railroad Avenue?

21 A Railroad Avenue is to the right. If you go straight
22 down the road to the right, you're going to dead end on
23 Railroad.

24 Q Will you indicate which side of the video?

25 A Yes, this side right here.

1 Q Thank you.

2 A You've just seen the vehicle cross over Piedmont on
3 Emden, it's pulling in front of the --

4 MR. COOPER: If you'll pause it real quick for us,
5 please.

6 BY MR. COOPER:

7 Q What is happening -- the individual you identified as
8 getting out of the back driver's side, who is that?

9 A That's Antwan Johnson.

10 Q What does he appear to be doing in this video?

11 A He's shaking the hand or dapping up or interacting
12 somehow with the driver.

13 Q And who was that, ultimately, identified as?

14 A Alonza Marable.

15 Q Showing that they were friendly?

16 A Correct.

17 Q Was that consistent with what you had learned from the
18 investigation that the two of them, Antwan and this
19 Defendant, were friendly?

20 A That's correct. Of the two people that I interviewed
21 inside that car, the front passenger was unknown, we have
22 never identified him. There was -- based on my
23 investigation, I knew Antwan Johnson and Alonza Marable to
24 be friends.

25 Q And what do you see again happening now?

1 A So that's Antwan Johnson carrying what looks to be a
2 cloth of some kind and that's Pierre Nelson coming up behind
3 him in the hoodie.

4 Q And just to confirm, we don't see anybody walking in
5 carrying a rifle?

6 A No.

7 Q And one of the things --

8 MR. COOPER: If you'll pause that now for us, sir.
9 Thank you.

10 BY MR. COOPER:

11 Q In these different videos, in the video of Marson
12 Street that showed the shooting and the car backing in and
13 [REDACTED] showing the vehicle backing in, we can't read
14 the emblems, but does it appear to be the same vehicle?

15 A It does.

16 Q And how are you able to determine that?

17 A Just from connecting the videos together. Seeing the
18 similar car, the way it's coming from, it's the same car.

19 Q And, again, where we've paused it now where the vehicle
20 has just backed out of the frame, what is the timestamp
21 here?

22 A It's 11:14.

23 Q And what would that be adjusted to the appropriate
24 time?

25 A 11:20.

1 Q So just about a minute and a half after the 911 call
2 after the shooting?

3 A Correct.

4 Q Did you speak to anyone at that residence regarding
5 anything they knew?

6 A Yes, I spoke to a Jessica Freeman.

7 Q Okay. And what did you learn from Ms. Freeman?

8 A I learned that people at that residence had heard
9 gunshots. A short period of time later, a vehicle driven by
10 Alonza Marable arrived. The back left passenger, she
11 identified as Antwan Johnson. The back right passenger, she
12 identified as Pierre Nelson --

13 MR. SHELTON: Objection, hearsay.

14 THE COURT: Sustained. Hearsay.

15 MR. COOPER: Thank you, Your Honor.

16 BY MR. COOPER:

17 Q Showing you State's 148, what is this document?

18 A That's a single photo ID that I showed Ms. Freeman of
19 Alonza Marable.

20 Q And who did she identify him as?

21 A She identified him as the driver of the car.

22 Q And I'm going to show you State's 147. What does this
23 picture show us?

24 A That's a picture of the suspect car.

25 Q And have you shown that to Ms. Freeman as well?

1 A I did.

2 Q And what did she indicate on that document?

3 A She wrote out "looks like the car".

4 Q And in this document, we can't make out the tag, can
5 we?

6 A No, but this is a picture taken from an ALPR, which is
7 automated license plate reader. We know it is the tag on
8 the car, but it's just the picture that was provided during
9 the -- from ALPR, just doesn't show it.

10 Q And what do we notice on the bottom left side of the
11 car?

12 A You can see the sticker that's consistent with the
13 sticker seen on camera at 1928.

14 Q Showing you State's Exhibit 152?

15 A If you look closely, you can see that sticker.

16 (WHEREUPON, State's Exhibit No. 164 was marked for
17 identification only.)

18 BY MR. COOPER:

19 Q Let me show you what's been marked for ID purposes only
20 as State's 164. What does that appear to be?

21 A That's a zoomed-in picture of overlooking it right now.

22 MR. COOPER: Your Honor, at this time, the State would
23 offer what's been marked for ID purposes only as State's 164
24 into evidence.

25 THE COURT: Any objection?

1 MR. SHELTON: No objection.

2 THE COURT: Marked and admitted, State's 164.

3 (WHEREUPON, State's Exhibit No. 164 was admitted into
4 evidence.)

5 MR. COOPER: Permission to publish?

6 THE COURT: You may proceed.

7 BY MR. COOPER:

8 Q Showing you State's 164, this is the zoomed-in picture
9 of the last picture?

10 A Correct.

11 Q And what does it help us see on that bottom left-hand
12 corner?

13 A If you look, you can see a sticker and below it, it
14 seems to be something else.

15 Q You can tell it's not one big item?

16 A Yeah.

17 Q Were you able to identify the person that got out of
18 the back passenger side of the vehicle, which would have
19 been that door right there; is that right? Is that the back
20 passenger side door?

21 A Yes, sir.

22 Q And who were you able to identify got out of that door
23 at Emden Street?

24 A That was Pierre Nelson.

25 Q If you would, are you aware of any DNA results that

1 came back in this case?

2 A I am.

3 Q What was consistent with Pierre Nelson's DNA?

4 A His DNA was found on the back passenger side of that
5 car.

6 Q If you recall, was it from the interior or the exterior
7 of that vehicle?

8 A I believe interior.

9 Q Did that further your suspicion you had the right
10 vehicle?

11 A Correct. Based on his interview and whenever I spoke
12 with him, we were looking for -- he didn't know Alonza, so
13 if he says I just got in Alonza's car and his DNA is in that
14 car, that's the car.

15 MR. SHELTON: Objection.

16 THE COURT: Basis?

17 MR. SHELTON: Hearsay.

18 THE COURT: Sustained, hearsay.

19 BY MR. COOPER:

20 Q The DNA results were consistent with what you learned
21 in your investigation?

22 A That's correct.

23 Q And then once learning that [REDACTED] Street was the
24 residence of Antwan Johnson, was a search warrant obtained?

25 A It was.

1 Q What, if anything, of value was collected from that
2 residence?

3 A There was a couple rifles that were collected that,
4 also, fired 223 ammunition. We did locate some ID cards
5 inside the house, which helped confirm that he did, in fact,
6 live there.

7 Q Did you locate a variety of other weapons in that
8 residence?

9 A Yeah, there was lots of guns in the house.

10 Q Were they all collected?

11 A No. We just collected the guns that matched the
12 calibers that were used at our scene.

13 Q And why would you not just collect every single gun?

14 A Well, we only had evidence of certain types of guns
15 being used in our crime, so we can't just take people's
16 weapons. We have to have probable cause to seize what we
17 want and we didn't have it.

18 Q But you did collect weapons that did seem to be
19 consistent with those 223 rifle casings?

20 A Yes, sir.

21 Q What was done with those weapons once they were
22 collected in evidence?

23 A Those are normally swabbed and fingerprinted and then
24 test fired. The test fire from the gun is then submitted
25 into IBIS, which y'all heard about.

1 Q And why are test fires from weapons put into IBIS?

2 A Well, that's how we correlate whether or not that gun
3 is used --

4 MR. SHELTON: Objection, Your Honor.

5 THE COURT: Basis?

6 MR. SHELTON: May we approach?

7 THE COURT: Uh-huh.

8 (WHEREUPON, a bench conference was held in the presence
9 of the jury, but outside the hearing of the jury.)

10 THE COURT: Madam Forelady, ladies and gentlemen, I
11 have a matter of law to take up outside your presence.
12 During the break, please, do not discuss the case. We
13 appreciate your patience.

14 (WHEREUPON, the jury exits the courtroom at 11:55 a.m.)

15 THE COURT: What's the question you -- ask the question
16 of the witness again.

17 MR. COOPER: Judge --

18 THE COURT: I need you to ask the question.

19 MR. COOPER: Yes, ma'am.

20 Q Why are test fired from weapons that you collect put
21 into IBIS?

22 A To correlate to any shell casings collected from the
23 scene.

24 Q Is that in an effort to try to determine potentially
25 what weapons may have been used?

1 A Correct.

2 Q Putting items in IBIS and getting results, does that
3 help dictate what weapons, if any, you may submit to SLED
4 for further examination?

5 A Yes. IBIS we use as kind of a preliminary thing. If
6 we get a hit, that tells us that we need to send it to SLED
7 for confirmation. I liken it to drug tests. If I stop a
8 car, get a gram of marijuana, take a piece of what I believe
9 to be marijuana, put in a drug test and it test positive,
10 then I will send that to SLED for confirmation in order to
11 continue the prosecution of the case.

12 Q And if it test negative?

13 A It would be submitted for destruction or returned back
14 to its owner.

15 Q And in this case, did you receive an IBIS hit on one of
16 the weapons that was collected in this case?

17 A Yeah, just one.

18 Q What weapon was that?

19 A The rifle found from [REDACTED]

20 Q So what did you then do with that rifle?

21 A That was sent to SLED for confirmation of that hit.

22 Q And then I think there's testimony from this case, DNA
23 swabs and I think some fingerprints, were they collected
24 from both the rifle at Railroad Avenue and, also, from the
25 rifle on Emden Street?

1 A I believe that's standard, yeah.

2 Q But only the swab from the rifle on Railroad Street was
3 sent to SLED; is that right?

4 A Correct.

5 Q Why would you not have sent DNA swabs from the rifles
6 collected from Emden Street?

7 A Per our analysis from IBIS, those guns weren't used, so
8 those guns were returned back to their owner.

9 Q Was there any evidentiary value in sending DNA swabs on
10 a weapon that you didn't believe was used in a crime?

11 A No, that wouldn't make any sense.

12 MR. COOPER: Your Honor, that would be what the State
13 is intending to proffer from Detective Pritchard, also, in
14 response --

15 THE COURT: I need to hear Mr. Shelton's objection
16 before you respond.

17 Is there any objection to this line of questioning?

18 MR. SHELTON: Yes, Your Honor. On the IBIS hit coming
19 from the AR that was found at Railroad Avenue. As Detective
20 Pritchard indicated, it's preliminary and it was confirmed
21 that it was inconclusive. So, therefore, Judge, I believe
22 that line of questioning is more prejudicial than probative.
23 It indicates that there is a -- there is some type of link,
24 whereas the SLED examiner himself has said that it's
25 inconclusive. So, Judge, I believe that should not be

1 allowed in as far as the information of the IBIS hit from
2 the test fired shell casing from the AR from Railroad
3 Avenue.

4 THE COURT: Would you like to respond?

5 MR. COOPER: Thank you, Judge. Several things in
6 response, certainly, Mr. Shelton can query Detective
7 Pritchard on cross-examination about these matters, but Mr.
8 Green from SLED has already testified and testified to the
9 fact that it was inconclusive, which is the final say on the
10 item, not just IBIS. Mr. Shelton had the opportunity and
11 did fully query Mr. Green on that matter.

12 The other issue, Judge, certainly, the jury deserves to
13 know how we got to this and why that weapon was sent to
14 SLED, but Mr. Shelton has already made issue in his opening
15 and throughout witnesses in this case laying the groundwork
16 for the North Charleston Police Department didn't send or
17 look and examine the weapons on Emden Street. So the State
18 is entitled to show why certain evidence was further
19 processed and certain evidence was not as a matter of right
20 in the beginning, but, also, in response to the accusations
21 by Mr. Shelton that for some reason North Charleston
22 neglected the weapons and focused only on Mr. Marable.

23 So for a variety of reasons, we think this is proper
24 testimony. I know that oftentimes, Judge, we were talking
25 about databases, for example, CODIS, IBIS and things like

1 that. There's a danger on any prior act of the Defendant.
2 The shell casings that were getting a hit from IBIS were
3 from the shell casing from this incident and from the test
4 fire of the weapon found in his house. So there's not any
5 danger of any prior bad act or anything. It's all
6 completely encapsulated in this case. So we would ask that
7 we be able to present that line of questioning to Detective
8 Pritchard.

9 THE COURT: Anything further from the Defense?

10 MR. SHELTON: Yes, Your Honor. As far as the DNA
11 evidence, I was very, very careful to only include and ask
12 the DNA analyst about DNA swabs taken from Railroad Avenue.
13 I did not ask about any swabs taken from Emden. I asked
14 about the rifle that was -- the DNA taken from Railroad
15 Avenue, Judge. I was very careful to on the car.

16 So, therefore, Judge, I just ask that the IBIS --
17 positive IBIS coming from an AR that was then determined to
18 be inconclusive, I believe is prejudicial -- more
19 prejudicial than probative and confusing the issue for the
20 jury. I just think it should not be allowed in.

21 MR. COOPER: If I'm not mistaken, we can ask the court
22 reporter, but I'm fairly confident that on his
23 cross-examination of Ms. DeWane, he asked her if she
24 examined any swabs taken from a DTI rifle. That was a rifle
25 collected from Emden Street. And the reason it wasn't sent

1 was just as Detective Pritchard testified. So Mr. Shelton
2 squarely made this an issue.

3 THE COURT: The objection is overruled. The testimony
4 regarding the test firing and the other items being entered
5 into IBIS is permissible. It is probative on the
6 thoroughness or the trajectory of the investigation of this
7 case and whether and how the State investigated the case.

8 Arguments made by the Defense are factual in nature.
9 You'll certainly have the ability to cross-examine the
10 witness. Those are factual arguments to be made, not
11 evidentiary matters for exclusion.

12 Therefore, the Court finds the testimony is probative.
13 It is relevant. It does not have the tendency to mislead
14 the jury, in fact, it creates a complete picture of how the
15 matter was investigated. And to some extent, the firearms
16 expert's testimony has been mischaracterized. He did not
17 say -- you have to listen to the basis of why he says it was
18 inconclusive. And so it all becomes factual issues for you
19 all to hash out and argue for the finder of fact.
20 Therefore, the objection to the testimony is overruled. It
21 does not have the tendency to mislead the jury. It is
22 relevant and probative and there's no chance of the
23 probative nature being outweighed by any unfair prejudice to
24 the defense.

25 Are we ready to proceed?

1 MR. COOPER: Yes, ma'am, we are.

2 THE COURT: Please bring in the jury.

3 While we're waiting on the jury, the firearm expert, he
4 said that his analysis was inconclusive and that the
5 cartridges could have been fired from the gun, but he could
6 not be completely sure. He said he could neither exclude or
7 include the cartridges as being fired from the gun because
8 he could not be completely sure based on peer review and the
9 analysis he's required to engage in. He testified he could
10 neither say the cartridges definitely were or definitely
11 were not fired by the weapon. And that was in part because
12 of the condition of the cartridge because, basically, it was
13 gone by the time he was able to look at it.

14 MR. COOPER: Yes, ma'am.

15 (WHEREUPON, the jury enters the courtroom at 12:05
16 p.m.)

17 THE BAILIFF: All jurors are present, Your Honor.

18 THE COURT: You may be seated.

19 Ladies and gentlemen, we appreciate your indulgence.

20 You may proceed with your questioning of the witness.

21 MR. COOPER: Thank you, Judge.

22 THE COURT: You're welcome.

23 BY MR. COOPER:

24 Q When we broke, Detective Pritchard, I think we were
25 talking about IBIS. Would you again describe for the jury

1 what is IBIS and what's the purpose for putting shell
2 casings and test fires in that system?

3 A It's to correlate any weapon that the test fire was
4 shot from to any crime scene, or any shell casings collected
5 from the scene.

6 Q And its focus is shell casings or casings; is that
7 right?

8 A Yes, sir.

9 Q So the purpose of test firing a weapon is to have a
10 standard shell casing to put into the system?

11 A That's correct.

12 Q And when you do that, what are you looking for or what
13 are you waiting for from IBIS?

14 A Looking to see if it's going to give us any what they
15 call a hit, any correlation between the test fire to a scene
16 or a shell casing collected from a scene.

17 Q And does that help you determine what, if any, evidence
18 to be sent for further analysis?

19 A It does.

20 Q So IBIS is, essentially, almost like a first step in
21 the investigation. If you'll kind of describe that for us?

22 A Yeah, another analogy I like to use is say I'm a patrol
23 officer. I do a traffic stop, I find marijuana. We have
24 test kits. They're presumptive test kits. I put a piece of
25 the marijuana in the test kit, it will turn a certain color

1 if it is, in fact, believed to be marijuana. If it is, in
2 fact, believed to be marijuana, I've still got to send that
3 marijuana to SLED for confirmation. IBIS is just that
4 presumptive test.

5 Q Is that how you determine what items of evidence, if
6 any, may be sent to SLED for examination?

7 A Yes, sir.

8 Q In this case, did you get what we call a IBIS hit on
9 any rifle or any firearm that was collected in this case?

10 A I did.

11 Q What weapon did you get a hit on?

12 A The rifle that was found in bedroom number one at [REDACTED]
13 Lot B, [REDACTED] Avenue.

14 Q Showing you what's already been moved into evidence as
15 State's 124, would this be that rifle?

16 A That is the rifle.

17 Q So once you got a hit from IBIS, what did you then do?

18 A Once the hit comes in, I send it up to SLED for
19 confirmation. I'll send the shell casings from the scene,
20 the rifle. And I believe the expert testified yesterday
21 that they do their own test firing as well to do their
22 testing.

23 Q That was Jamie Green who was the analyst that analyzed
24 the firearms in this case?

25 A Yes, sir.

1 Q And, ultimately, his conclusion was inconclusive?

2 A That's correct.

3 Q Why did you not send rifles from Emden? I think it was
4 a DTI rifle, but the 223 caliber rifles that you mentioned a
5 few minutes ago, why were they not sent to SLED for firearms
6 examination?

7 A They were entered in IBIS and never received a hit from
8 them.

9 Q Also, I think some testimony was mentioned about -- we
10 heard the DNA expert talk about DNA swabs from that rifle,
11 State's 124. Were there, also, some swabs collected from
12 the firearms collected from Emden Street?

13 A Yes, standard procedure whenever crime scene collects
14 firearms.

15 Q And why did you not send those DNA swabs from those
16 firearms off to SLED for potential DNA analysis?

17 A Because it would have been pointless. Those guns per
18 IBIS weren't used. They would be of no evidentiary value.

19 Q Is there any evidentiary value in trying to figure out
20 whose DNA is on a weapon that was not used in a shooting?

21 A No.

22 Q And then just tell the jury what was the next thing
23 that happened in the investigation.

24 A After I got done doing a search warrant with other
25 detectives, I left for the night. It was a couple hours

1 later, my sergeant, Sergeant Jon Glenn, called me and told
2 me that the juvenile suspect, Antwan Johnson, had been
3 detained at his house at [REDACTED] Street. I contacted
4 another on-call persons crime detective to go assist me with
5 interviewing him.

6 Q Are you aware of when, ultimately, Antwan Johnson was
7 arrested and charged with in this case?

8 A Yeah, he was charged that night.

9 Q As a codefendant?

10 A Yes, sir.

11 Q Are you aware of whether or not he pled guilty to
12 shooting the victim in this case along with Mr. Marable?

13 A He did.

14 Q He pled guilty to murder?

15 A Correct.

16 Q Did he, also, plead guilty to assault and battery of a
17 high and aggravated nature --

18 MR. SHELTON: Objection.

19 THE COURT: Basis?

20 MR. SHELTON: May we approach?

21 THE COURT: We're going to take this up outside the
22 jury's presence.

23 Madam Forelady, ladies and gentlemen, I have a matter
24 of law to take up with counsel. During the break, please,
25 do not discuss the case and, please, leave your notepads in

1 your seats. We appreciate your patience.

2 (WHEREUPON, the jury exits the courtroom at 12:10 p.m.)

3 THE COURT: You may be seated.

4 What is the purpose of this line of questioning?

5 MR. COOPER: Beg the Court's indulgence.

6 (Pause.)

7 MR. SHELTON: My objection --

8 THE COURT: I asked a question and I need an answer.

9 What is the purpose of this line of questioning?

10 MR. COOPER: The purpose of this line of questioning,
11 Judge, was for as the case agent determining and explaining
12 to the jury the outcome of the case and the outcome of his
13 investigation of the case. I know i can't go into what Mr.
14 Johnson said, but as their case agent, he's the one they
15 arrested --

16 THE COURT: He just said that he pled guilty to
17 committing this murder with Mr. Marable.

18 MR. COOPER: And that is correct, Judge, he did --

19 THE COURT: We don't know that and Mr. Marable can't
20 cross-examine that. It is an impermissible question and
21 it's going to be stricken from the record.

22 Now, tell me what else you needed. What was the
23 purpose of this, the outcome of the investigation?

24 MR. COOPER: Yes, ma'am. As the case agent, he was the
25 one who arrested Mr. Johnson, is aware that he pled guilty

1 to the murder of Mr. Reid and the ABHAN of Jimenez. And I
2 can refer to it that way, Judge, instead of making a
3 connection with Mr. Marable.

4 THE COURT: And what is your objection, Mr. Shelton?

5 MR. SHELTON: I do think it goes into hearsay, Judge.

6 THE COURT: It's public record.

7 MR. SHELTON: Yes, Your Honor.

8 THE COURT: A conviction is public record.

9 MR. SHELTON: Agree, Judge.

10 THE COURT: It's a compilation of data. It's a
11 business record.

12 MR. SHELTON: The assault and battery, I had -- I was
13 under the assumption that the assault and battery was for
14 something that happened at the detention center, so I want
15 to review that transcript really quick to see if I was right
16 or wrong in that. That's what my assumption was on that.

17 THE COURT: What's your basis that he pled guilty to
18 the assault and battery of Mr. Jimenez, Mr. Cooper?

19 MR. COOPER: I'm sorry, Judge. Say it again.

20 THE COURT: I said what's the basis of your assertion
21 that Mr. Johnson pled guilty to an assault and battery of
22 Mr. Jimenez?

23 MR. COOPER: Well, Judge, got the transcript of where
24 he pled to an ABHAN. I spoke with --

25 THE COURT: What ABHAN did he plead guilty to?

1 MR. COOPER: The one of Mr. Jimenez.

2 THE COURT: And what is your basis for that?

3 MR. COOPER: I have a transcript. I have spoken with
4 the prosecutor and investigator that prosecuted the case to
5 ensure that charge was for that victim. I think what Mr.
6 Shelton is mentioning and what I understood from them, he
7 pled to an additional assault and battery third degree to an
8 incident that was unrelated to this case that happened in
9 jail. The State is not going to go into that.

10 I think Mr. Shelton was confused on which victim
11 attached to which charge. I double checked and I showed him
12 and I'll show him again an e-mail from the Family Court
13 prosecutors indicating the ABHAN was for Mr. Jimenez. The
14 State is not going to go into that unrelated A&B third. And
15 it's, also -- not the one that prosecuted it, but his
16 attorney, Ms. Bickley, also, indicated to me that that was
17 for that victim. The ABHAN was for Mr. Jimenez.

18 MR. SHELTON: It does say both incidents, Your Honor.
19 I would have nothing concerning Mr. Marable --

20 THE COURT: Do you object to him eliciting the
21 testimony that Mr. Johnson pled guilty to a murder and an
22 ABHAN and this was a part of the outcome of his
23 investigation?

24 MR. SHELTON: I do not object to that.

25 THE COURT: Okay. Then it will be limited to that

1 without objection. I'm going to strike the last question
2 and answer and instruct the jury they're not to give any
3 consideration in their deliberations as to any reference to
4 Mr. Marable.

5 Any exception from the State?

6 MR. COOPER: Judge, I want to make sure I understand
7 the Court's ruling. We're going to strike the question
8 where I mentioned Mr. Marable. I will then ask --

9 THE COURT: Actually, technically, it was the question
10 before the last question so I think I'm going to have to
11 couch it differently, which is they're to strike the last
12 two questions and give it absolutely no consideration in
13 their deliberations.

14 MR. COOPER: And then what I will do on the basis of
15 his not having an objection, I would just ask, he was
16 arrested for these charges and he pled guilty to murder of
17 LR [REDACTED] and the ABHAN of Mr. Jimenez and end the
18 question there.

19 THE COURT: Any exceptions?

20 MR. SHELTON: I would ask that it just be the murder
21 and ABHAN that he pled guilty to.

22 THE COURT: That's what he just said.

23 MR. SHELTON: Not of certain individuals, Judge.

24 THE COURT: What difference does it make?

25 MR. COOPER: So, Judge --

1 THE COURT: There's only a murder and an ABHAN charge
2 pending of those victims.

3 MR. COOPER: There are a total --

4 THE COURT: I understand that, but I don't know that it
5 really makes a difference.

6 MR. SHELTON: There was an attempted murder, so that
7 ABHAN could be a lesser included of attempted murder, so,
8 Judge, I don't really want to get into --

9 THE COURT: I assume they modified his indictment the
10 same way --

11 MR. SHELTON: I'm not sure, Judge.

12 THE COURT: What happened with that, Mr. Cooper, did
13 you all amend Mr. Johnson's indictment?

14 MR. COOPER: As I understand it, Judge, I think he was,
15 as Mr. Marable was, initially charged with attempted murder
16 of Mr. Jimenez and in the guilty plea, it was reduced from
17 attempted murder to an ABHAN at the plea.

18 THE COURT: Who reduced it, the State?

19 MR. COOPER: Yes, ma'am, as part of, I guess, a plea
20 deal.

21 THE COURT: So it was not an amendment, it was a
22 reduction to a lesser included offense?

23 MR. COOPER: Yes, ma'am.

24 THE COURT: It's all the same net effect. I would
25 assume if the State modified or amended Mr. Marable's

1 indictment, it was because it was a true assault and battery
2 of a high and aggravated nature and not attempted murder.

3 MR. COOPER: Yes, ma'am.

4 THE COURT: So what's the difference, Mr. Shelton?

5 MR. SHELTON: One second, Judge.

6 (Pause.)

7 MR. SHELTON: Judge, the plea colloquy does not
8 indicate that Mr. Jimenez was the victim of the assault and
9 battery of a high and aggravated nature --

10 THE COURT: He can't allocate without a victim. You
11 have to admit that you did it to somebody.

12 MR. SHELTON: Yes, Your Honor. We have the transcripts
13 and in the prosecutor's indication of the facts of the case,
14 he does not mention the shooting into Mr. Jimenez's --

15 THE COURT: So what's the basis for the plea of the
16 ABHAN?

17 MR. SHELTON: It does mention that the victim and a
18 friend soon came walking through the neighborhood back to
19 the victim's home. I just don't see in the plea transcript
20 -- I don't know if we want to make it part of the Court's
21 record if the Court would like to review that, but it does
22 not mention anything about Mr. Jimenez.

23 THE COURT: Is that correct, Mr. Cooper?

24 MR. COOPER: Say it again, Judge, I'm sorry.

25 THE COURT: Mr. Shelton says there's no mention of Mr.

1 Jimenez in the plea, but you referred back to the
2 indictment, so who's listed in the indictment as the victim
3 of the ABHAN.

4 MR. COOPER: It would be Mr. Jimenez..

5 THE COURT: Is that correct, Mr. Shelton?

6 MR. SHELTON: I don't have a copy of the indictment.

7 THE COURT: Can you show him a copy of the indictment?

8 MR. COOPER: And, Judge, given it's a Family Court
9 document, I don't have that, but I do have, again, the
10 e-mail for our office --

11 THE COURT: You can't rely on an e-mail because e-mails
12 are not always accurate. I know that y'all --

13 MR. COOPER: Well, the prosecutor who prosecuted the
14 case said that was the case --

15 THE COURT: You can't rely on that. It's not a court
16 document. It's not a public record. People's memories can
17 be vague. People's memories can be faulted.

18 MR. COOPER: Judge, I don't have a Family Court
19 document regarding that. Again, we have the prosecutor and
20 the defense attorney who indicated that is what he pled --

21 THE COURT: Absent some certified document telling me
22 he was listed as the victim in the indictment and it doesn't
23 specify it in the plea colloquy, which is sort of -- not
24 confounding because you don't necessarily have to mention a
25 victim's name because once you make reference to the

1 indictment, that person's name is in the indictment and that
2 handles it. But absent, you know, you being able to show
3 him there's an indictment with that gentleman's name in it
4 -- although, it's really a circular logic because who else
5 would it be?

6 MR. COOPER: If you would allow the State to ask if he
7 pled guilty to an ABHAN regarding one of the victim's in the
8 case, I think that would be sufficient.

9 THE COURT: Any exception, Mr. Shelton?

10 MR. SHELTON: I have no exception.

11 THE COURT: All right. You have no objection to him
12 talking about him pleading guilty to the murder of Mr. Reid
13 or the ABHAN of one of the victims; is that correct, Mr.
14 Shelton?

15 MR. SHELTON: That's correct, Your Honor.

16 THE COURT: Please bring in the jury.

17 (WHEREUPON, the jury enters the courtroom at 12:22
18 p.m.)

19 THE BAILIFF: All jurors present, Your Honor.

20 THE COURT: You may be seated.

21 We appreciate your patience.

22 You may proceed.

23 MR. COOPER: Judge, are you going to --

24 THE COURT: Oh, I forgot. I apologize.

25 Madam Forelady, ladies and gentlemen, you are to

1 disregard the last two questions as well as the last two
2 answers that were elicited from this witness. You are to
3 give it absolutely no consideration in your deliberations.
4 It's not to be discussed in any manner whatsoever.

5 You may proceed.

6 MR. COOPER: Thank you, Judge.

7 THE COURT: You're welcome.

8 BY MR. COOPER:

9 Q Detective Pritchard, we were discussing Antwan Johnson
10 when we broke a minute ago. Are you aware of whether Antwan
11 Johnson was arrested in connection with the crimes committed
12 in this case?

13 A He was.

14 Q And you were the case agent involved; is that correct?

15 A Correct.

16 Q Are you aware whether Mr. Johnson, ultimately, in this
17 case pled guilty to the murder of LR [REDACTED] and assault
18 and battery of a high and aggravated nature regarding one of
19 the other victims in this case?

20 A I am. Yes, sir, he did.

21 Q And then we were talking about Antwan, who you detained
22 at this point.. After that, what happened in this case?

23 A Around that same time, that's whenever Detective Jerome
24 DeSheers began doing research and trying to figure out who
25 this car belonged to. I was at home while this was

1 happening. It wasn't until the next day when I came in that
2 I discovered that they had been doing surveillance at [REDACTED]
3 Lot B on [REDACTED] Avenue.

4 Q Who was one of the listed residents at [REDACTED]
5 Avenue, Lot B?

6 A Alonza Marable.

7 Q What, if anything, came from that surveillance being
8 done by Detective DeSheers?

9 A They had witnessed Mr. Marable get into the car --

10 MR. SHELTON: Objection, Your Honor.

11 THE COURT: Basis?

12 MR. SHELTON: Hearsay.

13 THE COURT: Sustained, hearsay.

14 BY MR. COOPER:

15 Q If you could say without saying what someone said what
16 was the result of Detective DeSheers' investigation and
17 surveillance into that residence?

18 A They had stopped the suspect in the car and detained
19 him --

20 Q The suspect in this case being the Defendant, Mr.
21 Marable?

22 A Mr. Marable, yes, sir.

23 Q And when you say the car, what was the vehicle he was
24 stopped driving?

25 A It was the Ford Focus.

1 Q And then when we talk about surveillance being
2 conducted by Detective DeSheers, is it of that Ford Focus at
3 his residence?

4 A Yes, sir, it is.

5 Q When did they, ultimately, stop him in that vehicle?

6 A It was the morning after Antwan Johnson was arrested.

7 Q And was it after he left that residence, got in the
8 vehicle and drove out of that residence?

9 A That's correct.

10 Q I'm going to show you --

11 MR. COOPER: Beg the Court's indulgence one second.

12 THE COURT: Uh-huh.

13 BY MR. COOPER:

14 Q Showing you State's 164, what is this a picture of?

15 A That is the Ford Focus, the suspect car.

16 Q And if you'll indicate for us again what we see on the
17 bottom left of the trunk?

18 A That's the sticker that I had mentioned.

19 Q And then showing you State's 147, using that ALPR you
20 mentioned of that same vehicle?

21 A Yes, sir, same car.

22 Q And what do we notice in this picture?

23 A The same sticker.

24 Q And then if we can see State's Exhibit 62. Is this the
25 car that Mr. Marable was stopped driving that morning?

1 A It is, yes, sir.

2 Q Indicating what is important on the back or bottom side
3 of the trunk?

4 A That's the sticker and below that is Focus. If you
5 remember on the zoomed-in picture from 1928, you could see
6 two separate things. It's not just one big sticker.

7 Q Does that appear to be consistent with the video
8 footage that you collected in this case of that vehicle?

9 A Yes, sir.

10 Q And that is the vehicle -- what is the tag number of
11 that vehicle?

12 A It's RWS 238.

13 Q And do you know who it is registered to?

14 A A Shanicea Pease.

15 Q And who is she to Mr. Marable?

16 A That's Mr. Marable's sister.

17 Q And where does she reside?

18 A Same address, 4997 Lot B.

19 Q And then showing you State's Exhibit 63. Is this just
20 another angle of that same car?

21 A Yeah, it's just showing crime scene processing the car.

22 Q And that right passenger door, is that the door that
23 the swab that connected Pierre Nelson was located?

24 A Yes, sir, it is.

25 Q On this vehicle?

1 A Yes.

2 Q And you indicated that you had learned that potentially
3 Antwan Johnson and Alonza Marable were friends. Did you
4 learn anything about any potential relationship between
5 Pierre Nelson and this Defendant?

6 A No, sir.

7 Q Why was that important to you? What does that indicate
8 to you as the case agent?

9 A Well, we knew Pierre Nelson was in the right back seat,
10 placing him inside the car. Based on what we discovered is
11 that there would be no reason for his DNA to be in there
12 because he had no relationship.

13 Q Other than this being the vehicle used in the crime?

14 A Correct.

15 Q And did you conduct an interview of Mr. Nelson?

16 A I did.

17 Q What, if anything, in furtherance of your investigation
18 did you learn from Pierre Nelson?

19 A Based on his interview and reviewing all the video that
20 we had, his interview confirmed what we're seeing on the
21 video. Also, helped us identify people that were inside --

22 Q When you say confirmed what's on video, did it help
23 confirm in your investigation that there was more than one
24 shooter?

25 A Correct.

1 Q I'm going to show you what's been marked for ID
2 purposes only as State's 161 and 162. Do you recognize
3 those documents?

4 A I do.

5 Q What are they?

6 A They're single photos that I showed to Pierre of Alonza
7 Marable and Antwan Johnson.

8 MR. COOPER: Your Honor, at this time, the State would
9 offer what's been marked for ID purposes only State's 161
10 and 162 into evidence.

11 THE COURT: Any objection?

12 MR. SHELTON: No objection.

13 THE COURT: Marked and admitted without objection.
14 That was 161 and 162, correct?

15 MR. COOPER: Yes, ma'am.

16 THE COURT: 162 had already come in without objection.

17 (WHEREUPON, State's Exhibit No. 161 was admitted into
18 evidence.)

19 BY MR. COOPER:

20 Q Showing you State's 161, what is this picture showing
21 us?

22 A That's Antwan Johnson.

23 Q And is that Mr. Nelson's name at the top?

24 A It is.

25 Q Indicating it was shown to him?

1 A Yes, sir.

2 Q And that's his signature at the bottom?

3 A Yes, sir.

4 Q And what did he indicate this individual's name was?

5 A He advised that's Antwan.

6 Q Showing you State's 162, what is this document?

7 A That's a single photo of Alonza Marable that was shown
8 to Pierre Nelson.

9 Q And he identified this individual as who?

10 A Lonza.

11 Q It's a variation of Alonza?

12 A Yep.

13 Q And during the course of your investigation, did you
14 become aware of any other reason that Mr. Nelson might have
15 known Mr. Marable other than being involved in this case?

16 A No, sir.

17 Q Now, regarding the vehicle in this case, once the
18 traffic stop was conducted, was Mr. Marable the only
19 occupant of that Ford Focus?

20 A He was.

21 Q What happens to the Ford Focus after Mr. Marable was
22 detained?

23 A I had it towed to our crime scene warehouse and I
24 completed a search warrant on it -- or a search warrant was
25 completed on it.

1 Q And showing you State's Exhibit 62. This is the one we
2 just looked at. Is this the picture of that Ford Focus
3 during that search warrant?

4 A It is.

5 Q And showing you State's Exhibit 64, what do we see in
6 this picture?

7 A That's the trunk of the car and you can see two shell
8 casings or bullets.

9 Q And when you say bullets, they appear to be unfired?

10 A Correct.

11 Q Showing you State's 67, what is this picture?

12 A That's an up-close picture of a head stamp of a Norma
13 223 Remington.

14 Q Was that the brand and the caliber of both unfired
15 rounds located in the trunk of the vehicle?

16 A Yes, sir.

17 Q Tell the jury if you would why is that Norma 223 head
18 stamp important in this investigation.

19 A Well, the Norma 223, that's the same brand of the
20 majority of the 223 shell casings that were found on
21 Lakewood Street at the scene.

22 Q Showing you State's Exhibit 11, what does this picture
23 show?

24 A That's a fired casing. That's taken just below the
25 porch at [REDACTED]

1 Q Showing you State's Exhibit 12, what does this picture
2 show?

3 A That's a picture of a fired casing, close-up picture.

4 Q Of the one we just saw?

5 A Correct.

6 Q Does it have the same description on the head stamp as
7 the ones found in his vehicle?

8 A It does, Norma 223 Remington.

9 Q And showing you State's 14, what does this show?

10 A Two more fired rifle casings.

11 Q And State's 15?

12 A Head stamp Norma 223 fired casing.

13 Q Are you aware of how many of the rifle shell casings
14 found on scene were Norma 223?

15 A I believe it was all of them with the exception of one.

16 Q And why is that important in this investigation?

17 A It connects the make of ammunition used at the scene
18 and a suspect vehicle.

19 Q After the arrest of Mr. Marable, was a search warrant
20 then conducted at his residence?

21 A It was.

22 Q What, if anything, of value was located at his
23 residence?

24 A Lots of ammunition, the same brand of ammunition that
25 was found at the scene, including the 40 caliber Cor-Bon,

1 the Norma, the one single Tulammo 223 shell casing, the
2 rifle that y'all have seen, a packaged 40 caliber empty
3 magazine that was next to the same brand ammunition found in
4 the living room -- well, we'll get to that.

5 Q I'm going to show you --

6 Beg the Court's indulgence just one moment.

7 THE COURT: I think this might be a good place to break
8 for lunch.

9 Ladies and gentlemen, we're going to take advantage of
10 this break in testimony to take our lunch recess. During
11 the break, please, do not discuss the case and, please,
12 leave your notepads in your seats. Please avoid any contact
13 with anyone in or about the courthouse that is not a fellow
14 juror.

15 You're welcome to do as you did on yesterday. You do
16 not have to stay in the jury room. You can eat, walk
17 around, do as you like. I just need you to return to your
18 jury room by 1:30, which gives you just shy of five minutes
19 of an hour for lunch.

20 Again, if you would leave your notepads in your seats
21 for us. We appreciate your patience. Enjoy your lunch.

22 (WHEREUPON, jury exits the courtroom at 12:35 p.m.)

23 THE COURT: You may be seated.

24 Where are the jail recordings that you're seeking to
25 introduce, Mr. Cooper?

1 MR. COOPER: Judge, I have them right here on this
2 disk.

3 THE COURT: Parenthetically, tell me what it is they
4 represent and what they are going to -- how long are they
5 first, let me ask that?

6 MR. COOPER: There are five in total. I believe they
7 are --

8 MS. BARBER: Between 13 and 15 minutes.

9 MR. COOPER: Each?

10 MS. BARBER: Well, one of them may be eight.

11 MR. COOPER: I think it's just shy of about an hour --

12 THE COURT: Why would you play the entirety of all of
13 these phone calls?

14 MR. COOPER: Well, one, Judge, to give us context, but,
15 two, the vast majority of the statements and the
16 conversations being had is incriminating in nature.

17 THE COURT: I'll listen to them, but our Supreme Court
18 has been very clear about what comes in on phone calls. You
19 don't get to just play things to cast dispersions on a
20 person's character. It has to be directly admissible on the
21 issue of consciousness of guilt, but they're not fond of
22 long recordings of people just rambling on about stuff.

23 MR. COOPER: Judge, I can answer about specifically,
24 just some heads up. On the first call specifically, there
25 is talk and it's clear by Mr. Marable that he is trying to

1 construct an alibi that is not true --

2 THE COURT: That doesn't take 15 minutes to talk about
3 on a jail call --

4 MR. COOPER: Judge, I'm just giving the Court a heads
5 up --

6 THE COURT: How long of that talks about an alibi?

7 MR. COOPER: Several minutes, the majority of the first
8 call, Judge. I can go back and get you time --

9 THE COURT: Have you gone over any of the calls with
10 Mr. Shelton to see if there are any portions of the calls he
11 does not object to?

12 MR. COOPER: I have gone over them. I know there are
13 parts he does object to.

14 THE COURT: What parts do you object to, Mr. Shelton?

15 MR. SHELTON: Well, I object to them all as a whole,
16 Judge.

17 THE COURT: Yeah, well, I think the preponderance of
18 the evidence and the case law -- well, the preponderance of
19 case law is against that proposition. If it shows any
20 consciousness of guilt or falls within any of the
21 parameters, especially the most recent case from South
22 Carolina Supreme Court dealing with the admissibility of
23 phone calls.

24 I think you talk at your own hazard when you're talking
25 at the jail. They tell you very clearly that your calls are

1 being monitored, that they can be used against you. And
2 within that written acknowledgement, it tells you even more
3 clearly what risk you're putting yourself at by having any
4 real detailed conversations on their devices other than
5 those which you have with your attorney. Those are the only
6 things that are permitted. So I think we're far down that
7 road.

8 MR. SHELTON: Yes, Your Honor, and --

9 THE COURT: I need to know specifically what is it in
10 the calls that you're objecting to?

11 MR. SHELTON: And, Judge, you're going to listen to
12 them, I just ask that you listen to the very beginning part
13 where it does say it may be recorded --

14 THE COURT: It says it will be.

15 MR. SHELTON: And, Judge --

16 THE COURT: I've listened to a lot of them. I've never
17 heard may. It says you are being recorded. You are at the
18 -- I mean, it's very disrupted.

19 MR. SHELTON: I was, actually, very surprised to hear
20 that last night when I was reviewing them again, so, Judge,
21 I would just ask you to listen to that. However, he does
22 indicate -- Mr. Marable does indicate -- that if that is his
23 voice on the recording indicates that he asked for an
24 attorney in any questioning, so, definitely, anything
25 regarding --

1 THE COURT: Have y'all listened to these and see which
2 parts of these really go to consciousness of guilt? I'm
3 hard pressed to believe that all 13 minutes is about
4 consciousness of guilt.

5 MR. COOPER: Judge, when you listen to them, there is a
6 substantial amount of these calls that goes straight to --

7 THE COURT: Substantial doesn't mean all and I think
8 you should use some discretion and listen to them and decide
9 how much of that you really need to seek to admit. The
10 parameters are very clear and they're very limited. Some of
11 what's on calls goes to people's character, it goes just
12 wanting to cast them in a bad light.

13 You know, people in a desperate situation when they're
14 in a jail cell, they say a lot of imprudent things, but that
15 doesn't necessarily rise to the level of consciousness of
16 guilt or them having probative value. So I suggest during
17 the break, y'all might want to chat, but I need to listen to
18 them.

19 MR. COOPER: Judge --

20 THE COURT: Is that your only disk?

21 MR. COOPER: You can use it. This is the exhibit or
22 you can use this.

23 THE COURT: Thank you.

24 MR. COOPER: Judge, it's a little cumbersome how you
25 play it. When you put the disk in, there will be five audio

1 recordings and one application player. You just have to
2 take the spy play player, put it on your desktop --

3 THE COURT: I think we already have it. I mean, I've
4 listened to a lot of --

5 MR. COOPER: I know, but for some reason, it's changed
6 recently. If there's an issue, I can help your office with
7 that. We had to go through it, too.

8 THE COURT: I will call you if I need anything.

9 I assume, you have no objection to us calling him if we
10 need assistance?

11 MR. SHELTON: No, not at all, Your Honor. I had to do
12 the same thing.

13 THE COURT: All right. Thank you so much. We'll see
14 you after lunch.

15 (WHEREUPON, a lunch break was taken.)

16 THE COURT: Are you ready to proceed?

17 MS. BARBER: Not quite, Your Honor.

18 (Pause.)

19 THE COURT: If you'll bring in the jury.

20 (WHEREUPON, the jury enters the courtroom at 1:50 p.m.)

21 THE BAILIFF: All jurors are present, Your Honor.

22 THE COURT: Ladies and gentlemen, you may take your
23 seats. I hope you enjoyed your lunch. We will now resume
24 the testimony of the witness.

25 You may proceed.

1 MR. COOPER: Thank you, Judge.

2 THE COURT: You're welcome.

3 BY MR. COOPER:

4 Q Detective Pritchard, when we broke for lunch, I think
5 we were talking about the Ford Focus and beginning to do a
6 search warrant of Antwan's residence, is that your
7 recollection?

8 A Of Alonza's residence.

9 Q Thank you. I appreciate that. Regarding the Ford
10 Focus, we've heard testimony today about the DNA that was
11 examined by Mr. DeWane, the five swabs?

12 A Yes, sir.

13 Q What is your understanding of how many swabs you can
14 send up at a time to SLED?

15 A Five at a time.

16 Q So we tried to make a determination on what -- because
17 you had more than five swabs in this case?

18 A Yes, sir.

19 Q How do you go about making a determination about which
20 five are sent up to SLED?

21 A By the time we made a decision to send the swabs up to
22 SLED, I had already identified who the driver and back seat
23 passenger was, so my purpose for sending up items that were
24 collected on the passenger side, the front and the rear
25 seat, was I wanted to identify who else was inside that

1 vehicle.

2 Q And who did you have identified as the driver and the
3 person sitting behind the driver?

4 A Alonza Marable being the driver, Antwan Johnson being
5 behind him.

6 Q Now, regarding the search warrant at the Defendant's
7 residence, you had looked at before we broke for lunch some
8 items?

9 A Yes, sir.

10 Q One of which was State's 124, this 223 caliber rifle;
11 is that correct?

12 A Yes, sir.

13 Q And where was this located?

14 A It was under the bed of bedroom number one near where
15 Alonza Marable's beginner's permit was at.

16 Q What you believed to be his bedroom?

17 A Yes, sir.

18 Q Do that weapon appear to be consistent with the kind
19 that fired the Norma 223 shell casings at the scene?

20 A Yes, sir, it does.

21 Q And then there was, also, a great amount of ammunition
22 that was collected from his residence; is that fair to say?

23 A Yes, sir.

24 Q Showing you part of State's Exhibit 123, which is a gun
25 magazine with 30 blank Norma 223 rounds in there, what does

1 this appear to be?

2 A It's a Norma 223.

3 Q And showing you State's Exhibit 12, is this one of the
4 shell casings collected from the scene?

5 A Yes, sir, it is.

6 Q And what does that head stamp say again?

7 A Norma 223.

8 Q And is that the same type of rounds you have in your
9 hand?

10 A Yes, sir, it is.

11 Q Collected from the scene?

12 A Yes, sir.

13 Q Showing you State's 65, this is what again?

14 A That's, also, a Norma 223 that was found in the trunk
15 of the car during the search warrant.

16 Q Seems to be the same exact brand, name, caliber as the
17 ones that came from his house?

18 A Yes, sir.

19 Q And, also, included in State's Exhibit 123, tell the
20 jury what this is?

21 A This is an empty magazine for a 223.

22 Q Based on the way that is packaged and listed report,
23 were these rounds in that magazine?

24 A Yes, sir. This is a 30-round magazine. Those rounds
25 were in this.

1 Q And how many were in that magazine?

2 A I believe it was 30.

3 Q And is that magazine consistent with what could be
4 loaded into this weapon?

5 A It is.

6 Q Showing you State's 77, the item right there at placard
7 13, does that appear to be the same magazine what we just
8 went over?

9 A Yes, sir, it does.

10 Q And those both were located under the Defendant's
11 mattress?

12 A That's correct.

13 Q I want to show you State's Exhibit 21. Describe for us
14 again what is in this picture.

15 A Placard number nine, it's hard to see from here, but
16 that's a shell casing.

17 Q Showing you State's 23, is this a zoomed-in version of
18 that same picture?

19 A Yes, sir.

20 Q Showing you State's 24, can you make out what's written
21 on that head stamp?

22 A Barely, but on the left side of the head stamp, you can
23 see it's Tulammo 223 Remington.

24 Q And is that the only shell casing you found on the
25 scene that was a 223 caliber that was not involved?

1 A Yes, sir.

2 Q And in your training and experience in law enforcement,
3 can you have different brands of 223 ammunition loaded in
4 the same gun at the same time?

5 A Yeah, 223 is 223. It doesn't matter what brand it is,
6 it will fire.

7 Q We discussed that we have seen Norma 223 rounds found
8 in the Defendant's car?

9 A Correct.

10 Q And in his residence; is that correct?

11 A Yes, sir.

12 Q Did we find any Tulammo 223 rounds in his residence as
13 well?

14 A Yeah, there was a box in the bedroom. Y'all have seen
15 pictures of it previously. It was in the corner of his
16 bedroom.

17 Q Will you tell the jury, State's Exhibit 121, what is
18 that?

19 A That's the box of Tulammo that was recovered from the
20 bedroom.

21 Q And would you pull one of those rounds out?

22 A I'll try.

23 Q And is this the same as the kind of shell casing that's
24 in State's Exhibit 24?

25 A Yes, sir, it appears to be.

1 Q Both are Tulammo 223s?

2 A Yes, sir.

3 Q I want to show you State's Exhibit 28. Describe for us
4 again what this is.

5 A Initially, looks like just a dog cage, but underneath
6 the dog cage is a 40 caliber cartridge.

7 Q State's 29, is that just a closer view of that same
8 shell casing?

9 A Yes, sir.

10 Q Showing you State's 30. Is that the head stamp of that
11 same shell casing?

12 A Yes, sir, it is.

13 Q Will you read that for the jury?

14 A Cor-Bon 40 S&W.

15 Q Did you locate any Cor-Bon S&W 40 caliber rounds inside
16 the Defendant's bedroom?

17 A I don't recall in the bedroom. I believe it was in a
18 bag in the living room, if I remember correctly. I could be
19 mistaken on that.

20 Q I think they were in multiple places. Showing you
21 State's -- this is going to end up being 69A. Showing you
22 State's 71. What does this show us?

23 A That's the corner of the bedroom.

24 Q One, is that a magazine similar to what we just saw
25 earlier as well?

1 A Yeah, it appears to be another 223.

2 Q Did y'all collect two 223 magazines from that bedroom?

3 A Yes.

4 Q The item, the red box that's upside down that says
5 power ball, do you know what that is?

6 A Yeah, those are 40 caliber cartridges.

7 Q I'm going to show you State's 122, which is that box of
8 ammunition?

9 A Correct.

10 Q Would you pull out a round and tell us what the head
11 stamp says.

12 A Cor-Bon 40 S&W.

13 Q And then I'll refer you back to State's Exhibit 29.
14 That's the 40 caliber shell casing from the scene?

15 A Yes, sir.

16 Q And the very next slide, State's 30, is that head stamp
17 the same as those rounds found in his bedroom?

18 A Yes, sir, they are.

19 Q And then I, also, want to show you -- going back to
20 State's Exhibit 71. Do you see -- I'm going to show you
21 State's Exhibit 144 as the sight mark box. Tell the jury
22 what that is if you would, please.

23 A It's an empty box labeled Sight Mark holographic rifle
24 sight.

25 Q And what is a Sight Mark, do you know what that is?

1 A It's just a brand of sight, like a scope.

2 Q I'm going to show you State's 124. If you would tell
3 the jury, do you see a scope on this rifle?

4 A I do.

5 Q What is the brand of that scope?

6 A Sight Mark.

7 Q And this is the rifle found in his bedroom?

8 A Yes, sir.

9 Q And so the rifle does not automatically come with a
10 scope like that, that's an after-market edition?

11 A You can buy them like that, but, more than likely, it's
12 an after-market edition, yes, sir.

13 Q And then I want to show you State's Exhibit 79. What
14 is marked by item 16?

15 A That's a paper bag.

16 Q Are you aware of what was inside that paper bag?

17 A Yes, sir, I am.

18 Q I'm showing you the very next slide, which is State's
19 80, what do we see here?

20 A That's an empty 40 caliber magazine and it is a plastic
21 baggy containing what appears to be 223 rounds and, also, 40
22 caliber rounds.

23 Q And is this inside that paper bag?

24 A Yes, sir.

25 Q I'm going to show you State's Exhibit 125, Detective

1 Pritchard. Would you bring that item out and tell the jury
2 what that item is?

3 A Yes, this is the empty magazine that you're seeing in
4 the picture.

5 Q And what caliber weapon is it for?

6 A It's for a 40 caliber.

7 Q Does that appear to be the same item in this picture?

8 A It is the same one, yes, sir.

9 Q And then I'm going to show you one more item. That
10 plastic bag in the picture, State's 126, will you pull this
11 bag and indicate to the jury if that's the same bag we see
12 on that picture?

13 A Yes, sir, it appears to be.

14 Q And what is in that bag?

15 A Several Norma 223 rounds and several Cor-Bon 40 S&W
16 rounds.

17 Q So you've got several unfired rounds of the same brand
18 and caliber of the rifle rounds found on the crime scene?

19 A Yes, sir.

20 Q And several unfired rounds of the single 40 caliber
21 shell casing found on the scene as well?

22 A That's correct.

23 Q In the same bag?

24 A Yes, sir.

25 Q At his house?

1 A Yes, sir.

2 Q I want to ask you real quick, do you have the
3 information on the date of birth of Antwan Johnson?

4 A Yes, sir, [REDACTED].

5 Q And then I'm going to ask you a little bit of math. At
6 the time of this incident, how old would he have been?

7 A He was 15. He hadn't had his birthday yet that year.

8 Q Do you have the birth date of Pierre Nelson?

9 A Yes, sir, [REDACTED].

10 Q And, again, I'll ask you to do a little bit of math.
11 How old was he at the time of this incident?

12 A He's 15 as well, he had had his birthday.

13 Q Do you have the birth date of LR [REDACTED] Jr.?

14 A Yeah, LR [REDACTED] is [REDACTED].

15 Q So how old would he have been at the time of the
16 incident?

17 A He would have had his 16th birthday about two months
18 prior to his death.

19 Q Tell us if you would the Defendant's birthday?

20 A [REDACTED].

21 Q 2001. How old would that have made him at the time of
22 this incident?

23 A He hadn't had his birthday yet that year, so he was 18
24 at the time.

25 MR. COOPER: Beg the Court's indulgence just briefly.

1 (Pause.)

2 BY MR. COOPER:

3 Q Detective Pritchard, we have walked through your
4 investigation. Would you describe for the jury at the end,
5 did you decide to bring warrants against Alonza Marable?

6 A I did, yes, sir.

7 Q Tell the jury if you would why.

8 A So just from the beginning, received a call in
9 reference to shots fired. We were looking for a Ford Focus.
10 ID'd the Ford Focus, had it on video at Lakewood Street
11 circling the area looking for a victim. Had another video
12 showing the Ford Focus backing in, two people getting out
13 from the driver's side, shooting and killing our victim.
14 Leaving that scene and going directly to Emden Street where
15 the Defendant was ID'd by Jessica Freeman as being the
16 driver of that car a minute, minute and a half afterwards,
17 leaving the scene, knowing that it goes back out to
18 Railroad, does not leave the neighborhood knowing that he
19 lives on Railroad, likely going back to his house.

20 Doing a search warrant on his car, finding ammunition
21 that's consistent with the type, brand and same caliber at
22 the scene. Doing a search warrant on his home, finding a
23 gun that cannot be excluded as being used during this
24 murder, finding all the other ammunition, magazines
25 consistent with the same brand, type of caliber and

1 everything else that was found at the scene. We decided to
2 charge Alonza Marable with the murder of LR [REDACTED] the
3 attempted murder of Jamaul Simmons and the attempted murder
4 of Martin Jimenez.

5 Q And are you aware the attempted murder of Martin
6 Jimenez has been amended to assault and battery of a high
7 and aggravated nature?

8 A Yes, sir, it was.

9 Q I just have two more questions for you. Tell this
10 jury, if you would, based on your investigation, did Antwan
11 Johnson have motive to kill LR [REDACTED]

12 MR. SHELTON: Objection, Your Honor.

13 THE COURT: Basis?

14 MR. SHELTON: Speculation, hearsay.

15 THE COURT: Madam Forelady, ladies and gentlemen, I
16 have a brief matter of law to take up outside your presence.
17 During the break, please, do not discuss the case.

18 You can have them stand right outside in the hallway.

19 (WHEREUPON, the jury exits the courtroom at 2:10 p.m.)

20 THE COURT: You may be seated.

21 Basis for the objection?

22 MR. SHELTON: Speculation and hearsay, Judge. Antwan
23 Johnson's motivation, it's going to go to his statements
24 that his made, the statements that -- it's speculation as
25 far as this officer is concerned concerning anything

1 concerning Antwan Johnson and him being able to testify and
2 confront.

3 THE COURT: Would you like to respond to the objection?

4 MR. COOPER: I would, Judge. Thank you. I believe in
5 this situation, one, the record is replete with evidence of
6 Mr. Johnson being robbed by the victim earlier in the day.

7 THE COURT: From those who have firsthand knowledge --
8 well, really, secondhand knowledge, but Mr. Shelton didn't
9 object to the hearsay.

10 MR. COOPER: Say it again, I'm sorry.

11 THE COURT: I said it was really secondhand knowledge
12 because nobody who testified to it actually witnessed it.
13 They repeated what someone said to them, but there was no
14 objection to the hearsay.

15 MR. COOPER: Ultimately, too, Judge, you're correct,
16 there was no objection, but, also, Detective Pritchard is
17 the case agent in this case --

18 THE COURT: The Supreme Court says there's no
19 investigative hearsay exception.

20 MR. COOPER: And I'm not asking for hearsay, Judge.
21 I'm asking of the totality of the circumstances of this case
22 what Detective Pritchard learned --

23 THE COURT: How is he going to do that without saying
24 what somebody told him?

25 MR. COOPER: Ma'am?