

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
Feb 26 2025
SC Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of General Sessions

The Honorable H. Steven DeBerry, Circuit Court Judge

Appellate Case No. 2023-001182

The State,

Respondent,

v.

Antonio Denon Brayboy,

Appellant.

RECORD ON APPEAL
(VOLUME I)

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Senior Assistant Attorney General
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Florence, SC 29501

Attorneys for Respondent

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IN THE COURT OF GENERAL SESSIONS

STATE

VS.

INDICTMENT/CASE#: 2021-GS-21-02507

AKA: [REDACTED]
Race: Black Sex: [REDACTED] Age: [REDACTED]
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL#* [REDACTED] SID# [REDACTED]

AW#: 2020A2110100782

Date of Offense: 12/28/2019

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death 0-5

In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor	SC Bar #	Defendant	Attorney for Defendant	SC Bar #
-----------	----------	-----------	------------------------	----------

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center.

for a determinate term of 5 days/months/years/Time Served ☐ **Youthful Offender Act** not to exceed _____ years

and/or to pay a fine of \$____; provided that upon the service of ____ days/months/years/Time Served and or payment

of \$____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS.

Antonio Deno, Boyboy

INDICTMENT/CASE#:

2021-GS-21-02507

COPY**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	375
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	
TOTAL		\$	628.75

 Clerk of Court/Deputy Clerk: E. Ragan
 Court Reporter: B. Fisher

 Presiding Judge: N. A. D. J.
 Judge Code: 2771
 Sentence Date: 7/30/2023

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence

STATE

VS.

INDICTMENT/CASE#: 2021-GS-21-02508

AKA: Antonia DeLeon Bayley
Race: Black Sex: M Age: 30
DOB: 12/28/1989
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL# [REDACTED] SID# [REDACTED]

AW#: 2020A2110100783
Date of Offense: 12/28/2019
S.C. Code §: 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder / Murder

(30 - Life)

In violation of § 16-03-0010; 16-03-0020 the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. [REDACTED] (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 102584
Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 50 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run HSD II
☒ CONCURRENT or ☒ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOP.
days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS. Antonio Deon Gray INDICTMENT/CASE#: 2021-GS-21-02508

COPY

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered:**

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ 375

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

\$500	\$
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/Deputy Clerk: E. Ragan
Court Reporter: Bobbi Fisher

Presiding Judge: Al Steven D. Berry
Judge Code: 2771
Sentence Date: 7-20-2023

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

-----X
STATE OF SOUTH CAROLINA *
vs. * Case No. 2021-GS-21-02507
ANTONIO DENON BRAYBOY, * 2021-GS-21-02508
Defendant.*
-----X

July 17-21, 2023

TRIAL

B E F O R E:

The Honorable Steven DeBerry, IV, Presiding Judge; and
a jury.

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

Ryan White, Esq.
Todd Tucker, Esq.
Assistant Solicitors for the State

Ralph Wilson, Jr., Esq.
Lauren Anderson, Esq.
Attorneys for the Defendant

Court Reporter: Bobbi Fisher, RPR
SC Official Court Reporter II

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E X H I B I T S

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

State's Exhibit

No.	Description	ID.	REC'D
1	Photograph of Scene	104	149
2	Photograph of Scene	104	149
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14	Photograph of Scene	104	149
15	Photograph of Scene	104	149
16	Photograph of Scene	104	149
17	Photograph of Scene	104	149
18	Photograph of Scene	104	149
19	Photograph of Scene	104	149
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21	Photograph of Scene	104	149
22	Photograph of Scene	104	149
23	Photograph of Scene	104	149
24	Photograph of Scene	104	149
25	Photograph of Scene	104	149

1	22	Photograph of Scene	104	149
2	23	Photograph of Scene	104	149
3	24	Photograph of Scene	104	149
4	25	Photograph of Scene	104	149
5	26	Photograph of Scene	104	149
6	27	Photograph of Scene	104	149
7	28	Photograph of Scene	104	149
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9	30	Photograph of Scene	104	149
10	31	Photograph of Scene	104	149
11	32	Photograph of Scene	104	149
12	33	Photograph of Scene	104	149
13	34	Photograph of Scene	104	149
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20	41	Photograph of Scene	104	149
21	42	Photograph of Scene	104	149
22	43	Photograph of Scene	104	149
23	44	Photograph of Scene	104	149
24	45	Photograph of Scene	104	149
25	46	Photograph of Scene	104	149

1	47	Photograph of Scene	104	149
2	48	Photograph of Scene	104	149
3	49	Photograph of Scene	104	149
4	50	Photograph of Scene	104	149
5	51	Photograph of Scene	104	149
6	52	Photograph of Scene	104	149
7	53	Photograph of Scene	104	149
8	54	Photograph of Scene	104	149
9	55	Photograph of Scene	104	149
10	56	Photograph of Scene	104	149
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25				

P R O C E E D I N G S

(The following proceedings started at 11:42:)

THE COURT: All right. Ladies and gentlemen, I apologize for the delay, but I think we're ready to go at this time.

Will the attorneys approach, please.

COURT REPORTER: Do you want this on the record?

THE COURT: No, that's fine.

BENCH CONFERENCE

(A bench conference was held off the record regarding jury selection process and outside of the hearing of the jury.)

THE COURT: All right. Mr. White, would you like to call your first case.

CALL OF THE CASE

MR. WHITE: Yes, sir, Judge.

Judge, at this time, the State would call the case of Antonio Brayboy, Indictment 2021-GS-21-02507, -508; one count of murder and one count of possession of a weapon during a violent crime.

THE COURT: All right. Now, ladies and gentlemen, please understand that the fact that this defendant was arrested, charged, and indicted in this case is not evidence in this case. It can't be considered by you as evidence of guilt in this case, nor does it create any

1 presumption or inference of guilt. It's simply a document
2 -- the indictment is simply a document which contains a
3 formal written instrument, which contains the charges made
4 against the defendant. So please understand that.

5 At this time, I'd ask the State -- Mr. White, if
6 you'd stand and introduce yourself and your office.

7 MR. WHITE: Yes, sir. Thank you, Judge.

8 Good morning, everybody. I don't think it's
9 afternoon just yet. My name is Ryan White. I want to
10 thank you-all for being here, on behalf of the solicitor's
11 office. We handle cases in the 12th Judicial Circuit,
12 which covers Florence and Marion.

13 Again, my name is Ryan White, and I'll be trying
14 this case along with Deputy Solicitor Todd Tucker, and our
15 investigator, Roxane Love. Thank you.

JURY QUALIFICATIONS

17 THE COURT: All right, ladies and gentlemen. Has
18 any member of the jury panel who has ever had a case
19 handled by or had any dealings with the 12th Circuit
20 Solicitor's Office? If that's the case, please stand.

21 (No response given.)

22 THE COURT: Is there any member of the jury panel
23 who has a close personal relationship or a business
24 relationship with any member of the 12th Circuit
25 Solicitor's Office? If that's the case, please stand.

1 (No response given.)

2 THE COURT: All right. Mr. Wilson, at this time,
3 I'd recognize you to introduce yourself, your client, and
4 your office.

5 MR. WILSON: Your Honor, if it please the Court.

6 Good morning, ladies and gentlemen of the jury. My
7 name is Ralph Wilson. I am lead counsel for the defense.
8 My office is known as Wilson Law Group and also Ralph
9 Wilson, Jr., Law Firm, LLC. To my left is my co-counsel,
10 Ms. Lauren Anderson, who is a partner in my firm as well,
11 and litigation specialist.

12 This is my client, who is charged in this case.

13 Sitting over here, these young ladies are our staff.
14 This is one of my paralegals. This is also my senior
15 paralegal, Ms. Guetta (ph), and this is Ms. DeMartino.

16 I am barred in the State of South Carolina and
17 barred in Federal court. We practice also in RICO cases,
18 and we also review U.S. Supreme Court cases. Thanks so
19 much.

20 Judge, would you like to have the client turn
21 around?

22 THE COURT: Sure, if you'd like to just...

23 MR. WILSON: My client's name is Antonio Brayboy.

24 THE COURT: Thank you.

25 All right. Is there any member of the jury panel

1 who has ever been represented by the Wilson Law Group?

2 (No response given.)

3 THE COURT: All right. Is there any member of the
4 jury panel who has any close personal relationship or
5 business relationship with any members of the Wilson Law
6 Group or Ralph Wilson, Jr., or any of his associates?

7 (No response given.)

8 THE COURT: Is there any member of the jury panel
9 who knows the defendant in this case, Antonio Denon
10 Brayboy? If that's the case, please stand.

11 (No response given.)

12 THE COURT: All right. Now, ladies and gentlemen,
13 I'm going to read a list of names. If you will please pay
14 close attention as I read these names, and then I'll ask
15 you some questions after I read this list of names. This
16 list of names represents the potential witnesses that will
17 be called to testify in this case.

18 We have Alex Edwards, formerly of the Florence
19 County Sheriff's Office; Angel Clark with the Florence
20 County Sheriff's Office; Justin Hardee, Florence County
21 Sheriff's Office; Austin Meggs, formerly of the Florence
22 County Sheriff's Office; Andrew Clendenin, Florence County
23 Sheriff's Office; Eric Barnes, Florence County Sheriff's
24 Office; Tony Moore, Florence County Sheriff's Office;
25 Catherine Leisy, SLED or South Carolina Law Enforcement

1 DNA analyst; Paul Greer, SLED firearms analyst; Preston
2 Simpson, SLED; Investigator Ballard. I'm not sure -- is
3 that Williamsburg County Sheriff's Office?

4 MR. WHITE: Yes, sir, Judge.

5 Sharon Keith, Pee Dee Auto Sales; Thomas Bo Myers,
6 Coroner's office; Dr. Nicholas Batalis, MUSC pathologist;
7 Shonda Mitchell; Timothy Mitchell; Asia Cooper; LaQuasia
8 Fields; Derrick Jones; Allen Thomas; James Allen; Vivian
9 Allen; Jade Roy with SLED; and Joanne Joyner.

10 Is there any member of the jury panel who knows any
11 of these potential witnesses, has a close personal
12 relationship or business relationship with any of these
13 potential witnesses? If that's the case, please stand.

14 All right. Ma'am, your name and number?

15 JUROR NO. 22: Regina Brown, 22.

16 THE COURT: All right. Ms. Brown, what is the
17 relationship?

18 JUROR NO. 22: They're co-workers of my husband.

19 THE COURT: All right. And who is that?

20 JUROR NO. 22: Austin Meggs used to be, Angel, Tony
21 Moore. There were several of them. Clendenin.

22 THE COURT: So is your husband a member of the
23 sheriff's office?

24 JUROR NO. 22: He's the director over the jail at
25 the sheriff's office.

1 THE COURT: Okay. All right. And that being the
2 case, would that prevent you from being fair and impartial
3 if you were selected to serve on this jury?

4 JUROR NO. 22: No.

5 THE COURT: All right. Thank you, ma'am.
6 Appreciate it.

7 Ma'am, your name and number?

8 JUROR NO. 81: Carolyn Gregg, 81.

9 THE COURT: All right. And what's the situation?

10 JUROR NO. 81: Austin Meggs is a family friend.

11 THE COURT: All right. And that being the case,
12 would that prevent you from being fair and impartial if
13 you're selected to serve on this jury?

14 JUROR NO. 81: No.

15 THE COURT: Thank you, ma'am. Appreciate it.

16 All right. Does any member of the jury panel have
17 any personal, political, religious, or philosophical
18 beliefs that would prevent you from being a fair and
19 impartial juror? If that's the case, please stand.

20 (No response given.)

21 THE COURT: All right. Is there any member of the
22 jury panel a former law enforcement officer or have a
23 family member who is a law enforcement officer or former
24 law enforcement officer? If that applies to you, please
25 stand.

1 (No response given.)

2 THE COURT: All right. We'll start with Ms. Gregg.
3 Tell us your number again, please.

4 JUROR NO. 81: 81.

5 THE COURT: All right. And what is your
6 relationship to a law enforcement officer?

7 JUROR NO. 81: Jimmy Gregg is my granddad, who is
8 the former sheriff.

9 THE COURT: All right. And that being the case,
10 would that impair your ability to be fair and impartial if
11 you were selected to serve on this jury?

12 JUROR NO. 81: No.

13 THE COURT: Thank you, ma'am.

14 And Ms. Brown?

15 JUROR NO. 22: Juror 22. My husband is the director
16 of...

17 THE COURT: All right. And that being the case,
18 would that affect your ability to be fair and impartial if
19 you were selected to serve on this jury?

20 JUROR NO. 22: No.

21 THE COURT: All right. Thank you, ma'am.

22 Appreciate it.

23 All right. Has any member of the jury panel
24 expressed any opinion about this case? If you have,
25 please let us know.

1 (No response given.)

2 THE COURT: All right. Has any member of the jury
3 panel read, heard, or seen anything about this matter on
4 the news or anywhere else that would lead you to
5 understand anything about this case at this time? If
6 that's the case, please stand.

7 (No response given.)

8 THE COURT: All right. Are you or any members of
9 your family a member of any victim's rights or law
10 enforcement organizations such as Citizens Against Violent
11 Crime, otherwise known as CAVE; maybe People Against Rape;
12 Mothers Against Drunk Driving; or any community watch
13 program or similar organization? If that's the case,
14 please stand.

15 Ma'am, your name and number?

16 JUROR NO. 118: Angela Miles, 118.

17 THE COURT: And what's the situation?

18 JUROR NO. 118: Mothers Against Drunk Driving.

19 THE COURT: All right, ma'am. And the fact that
20 you're associated with that group, does that affect your
21 ability to be fair and impartial if you were selected to
22 serve on this jury?

23 JUROR NO. 118: No.

24 THE COURT: Thank you, ma'am. I appreciate it.

25 All right, ma'am. Your name and number?

1 JUROR NO. 79: Stacy Graham, 79.

2 THE COURT: All right. And what's the situation?

3 JUROR NO. 79: I'm affiliated with the Wright
4 Children's Center, which is affiliated with the Pee Dee
5 Coalition for sexual assault and crimes against children
6 and adults.

7 THE COURT: All right. And the fact that that's the
8 case, would that affect your ability to be fair and
9 impartial if you're selected to serve on this jury?

10 JUROR NO. 79: No.

11 THE COURT: Thank you.

12 All right. Is there any member of the jury panel
13 who knows of any reason why you can't give both the State
14 and the defendant in this case a fair and impartial trial
15 if you were selected to serve on this jury? If that's the
16 case, please stand.

17 All right, sir. Your name and number?

18 JUROR NO. 106: I'm 106. And I ain't sure, because
19 with all the stuff I have been going through that I could
20 be fair to somebody like that.

21 THE COURT: All right, sir. I understand that.

22 JUROR NO. 106: I already explained my situation to
23 you.

24 THE COURT: All right. We're going to excuse you
25 from serving on this jury. And if you'll just stay with

1 us. Okay?

2 JUROR NO. 106: Oh, just stay?

3 THE COURT: Yeah, I appreciate it.

4 All right. Is there any further voir dire from the
5 State?

6 MR. WHITE: Not on behalf of the State, Judge.

7 THE COURT: All right. Any from the defense?

8 MR. WILSON: Nothing from the defense, Your Honor.

9 THE COURT: Madam Clerk?

10 All right. So, ladies and gentlemen, just to give
11 you an idea of what we're about to do, we're about to
12 select the jury in this case. If your name is called, the
13 clerk will tell you what to do, but, basically, you would
14 come forward, turn around, face the back of the courtroom.
15 Each side will decide whether or not to exercise a strike
16 or to have you seated on the jury. And then, once we get
17 12 jurors and two alternates, then the process will be
18 over. Thank you for your patience.

19 (Pause in the proceedings.)

20 JURY SELECTION

21 THE CLERK: Whenever I call your name, if you will
22 bring all your belongings with you. Come up to where the
23 podium is in the middle of the courtroom and just turn
24 around face the back of the courtroom and just stand
25 there, and I'm going to ask questions of the attorneys.

1 You'll just have to stand there. And then I'll tell you
2 what to do.

3 147, Bryan Smith. Just stand right there and face
4 the back of the courtroom. Yes, sir.

5 (Juror No. 147, a white male, presents.)

6 THE CLERK: What say the State?

7 MR. WHITE: Please present Mr. Smith.

8 THE CLERK: What say the defendant?

9 MR. WILSON: Please seat this juror.

10 THE CLERK: Sir, if you'll please have a seat in the
11 jury box.

12 No. 5, Daja Anderson.

13 (Juror No. 5, a black female, presents.)

14 THE CLERK: What say the State?

15 MR. WHITE: Please present Mr. Anderson --
16 Ms. Anderson. Excuse me.

17 THE CLERK: What say the defendant?

18 MR. WILSON: Please seat this juror.

19 THE CLERK: Please have a seat in the jury box,
20 ma'am.

21 116, Marquitta McKithen.

22 (Juror No. 116, a black female, presents.)

23 THE CLERK: What say the State?

24 MR. WHITE: Please present Ms. McKithen.

25 THE CLERK: What say the defendant?

1 MR. WILSON: Please seat this juror.

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

3 54, Katherine Dennis.

4 (Juror No. 54, a white female, presents.)

5 THE CLERK: What say the State?

6 MR. WHITE: Please present Ms. Dennis.

7 THE CLERK: What say the defendant?

8 MR. WILSON: Please excuse this juror from this
9 particular case.

10 THE CLERK: You are excused from this trial. You
11 may return to your seat.

12 117, Jeremiah Merritt.

13 (Juror No. 117, a black male, presents.)

14 THE CLERK: What say the State?

15 MR. WHITE: Please present Mr. Merritt.

16 THE CLERK: What say the defendant?

17 MR. WILSON: Please seat this juror.

18 THE CLERK: Please have a seat in the jury box, sir.

19 75, Pamela Godbold.

20 (Juror No. 75, a black female, presents.)

21 THE CLERK: What say the State?

22 MR. WHITE: Please excuse Ms. Godbold.

23 THE CLERK: You're excused from this trial. You may
24 return to your seat.

25 76, Dubelsa Gonzalez.

1 (Juror No. 76, a Hispanic female, presents.)

2 THE CLERK: What say the State?

3 MR. WHITE: Please present Ms. Gonzalez.

4 THE CLERK: What say the defendant?

5 MR. WILSON: Please seat this juror.

6 THE CLERK: Please have a seat in the jury box,
7 ma'am.

8 159, Adelaida Tindall. I'm sorry if I mispronounced
9 your first name.

10 (Juror No. 159, an Asian female, presents.)

11 THE CLERK: What say the State?

12 MR. WHITE: Please present Ms. Tindall.

13 THE CLERK: What say the defendant?

14 MR. WILSON: Please seat this juror.

15 THE CLERK: Please have a seat in the jury box,
16 ma'am.

17 17, Catherine Bochette.

18 (Juror No. 17, a white female, presents.)

19 THE CLERK: What say the State?

20 MR. WHITE: Please present Ms. Bochette.

21 THE CLERK: What say the defendant?

22 MR. WILSON: Please seat this juror.

23 THE CLERK: Please have a seat in the jury box,
24 ma'am.

25 85, Rakeia Harrell.

1 (Juror No. 85, a black female, presents.)

2 THE CLERK: What say the State?

3 MR. WHITE: Please present Ms. Harrell.

4 THE CLERK: What say the defendant?

5 MR. WILSON: Please seat this juror.

6 THE CLERK: Please have a seat in the jury box,
7 ma'am.

8 150, Timothy Smith.

9 (Juror No. 150, a white male, presents.)

10 THE CLERK: What say the State?

11 MR. WHITE: Please present Mr. Smith.

12 THE CLERK: What say the defendant?

13 MR. WILSON: Please seat this juror.

14 THE CLERK: Please have a seat in the jury box, sir.
15 55, Paul Dewitt.

16 (Juror No. 55, a white male, presents.)

17 THE CLERK: What say the State?

18 MR. WHITE: Please present Mr. DeWitt.

19 THE CLERK: What say the defendant?

20 MR. WILSON: Please seat this juror.

21 THE CLERK: Please have a seat in the jury box, sir.
22 97, Edward Knight.

23 (Juror No. 97, a white male, presents.)

24 THE CLERK: What say the State?

25 MR. WHITE: Please present Mr. Knight.

1 THE CLERK: What say the defendant?

2 MR. WILSON: Please seat this juror.

3 THE CLERK: Please have a seat in the jury box, sir.

4 13, George Bitting.

5 (Juror No. 13, a white male, presents.)

6 THE CLERK: What say the State?

7 MR. WHITE: Please excuse Mr. Bitting.

8 THE CLERK: You have been excused from this trial
9 only, sir. You may return to your seat.

10 44, Michael Cook.

11 (Juror No. 44, a white male, presents.)

12 THE CLERK: What say the State?

13 MR. WHITE: Please present Mr. Cook.

14 THE CLERK: What say the defendant?

15 MR. WILSON: Please seat this juror.

16 THE CLERK: Please have a seat in the jury box, sir.

17 THE COURT: That's it.

18 THE CLERK: 108, Tina Lynch.

19 (Juror No. 108, a white female, presents.)

20 THE CLERK: What say the State?

21 MR. WHITE: Please present Ms. Lynch.

22 THE CLERK: What say the defendant?

23 MR. WILSON: Please excuse this juror from this
24 particular case.

25 THE CLERK: You have been excused from this trial.

1 You may return to your seat.

2 64, Lisa Evans.

3 (Juror No. 64, a white female, presents.)

4 THE CLERK: What say the State?

5 MR. WHITE: Please present Ms. Evans.

6 THE CLERK: What say the defendant?

7 MR. WILSON: Please excuse this juror.

8 THE CLERK: You have been excused from this trial.

9 You may return to your seat.

10 74, Michael Gleba.

11 (Juror No. 74, a white male, presents.)

12 THE CLERK: What say the State?

13 MR. WHITE: Please present Mr. Gleba.

14 THE CLERK: Does the defendant wish to challenge
15 this juror for cause?

16 MR. WILSON: Please seat this juror.

17 THE CLERK: Please have a seat in the jury box, sir.

18 70, Christopher Frasier.

19 (Juror No. 70, a black male, presents.)

20 THE CLERK: What say the State?

21 MR. WHITE: Please present Mr. Frasier.

22 THE CLERK: What say the defendant?

23 MR. WILSON: Please seat this juror.

24 THE CLERK: Please have a seat in the jury box, sir.

25 THE COURT: All right. Is there any objection to

1 the impanelling of the jury from the State?

2 MR. WHITE: None by the State, Judge.

3 THE COURT: All right. Any from the defense?

4 MR. WILSON: None from the defense, Your Honor.

5 THE COURT: All right. Ladies and gentlemen, those
6 of you who have been selected to serve on this case,
7 again, I appreciate your time, your patience, your
8 service, and your attention. Again, I promised you not to
9 do anything that's going to waste any of your time this
10 week, and we're going to be as expeditious as possible and
11 get this case tried.

12 What I'll tell you is that, from time to time
13 throughout this trial, there's going to be what we refer
14 to as matters of law that come up. They're not for you to
15 hear. And the reason is, is because your job during this
16 trial is to determine what the facts of this case are, and
17 that's what the jury does. You're the sole determiner of
18 what the facts of what really happened in this case are,
19 and nobody can influence that whatsoever, especially not
20 any comments that I might make while ruling on a question
21 of law.

22 So I'm the judge of the law in this case. You, as
23 the jury, are the judges of the facts in this case.

24 Having said that, this afternoon, there's going to
25 be some legal matters that have to be taken up outside of

1 your presence. Don't know exactly how long they're going
2 to take, might be a couple of hours. I don't think it's
3 fair to ask you just to go to lunch and come back and sit
4 and wait to see if we can have everything ready to start
5 this afternoon; so we're going to go and release you for
6 the day.

7 We're going to take care of all the matters that we
8 need to take care of before we can start this trial, and
9 that way, we don't impose any more time on you than is
10 absolutely necessary, and when you get here tomorrow
11 morning, we can start the trial of this case. You can
12 hear the evidence and the testimony in this case and to
13 begin to determine what the facts are in this case.

14 Having said that, I want to ask you to do a few
15 things for me. Number one is to understand that the way
16 this process works is that you as the jury in this case,
17 again, are the sole determiners of the facts in this case,
18 and so it's improper for you to determine anything about
19 this case whatsoever from any source outside of this
20 courtroom. In other words, the testimony from the
21 witnesses and the evidence that's introduced during this
22 trial and from this witness stand are what you have to go
23 on in determining what the facts are in this case.

24 Having said that, it would be completely improper,
25 illegal, the wrong thing to do. We cannot have you go

1 home and conduct any independent research, do any sort of
2 Google or, you know, whatever might be on Facebook or any
3 social media or any -- old newspaper articles or anything.
4 I'm not sure what's out there about this case. There may
5 not be anything at all. But if there is, it's improper
6 for you to look at it, to read it, to see it, and to
7 consider it whatsoever.

8 In other words, we have to have you decide what
9 happened in this case based on the facts and testimony
10 that are entered in this courtroom during this trial. All
11 right? It's a very serious matter, and I am in control of
12 making sure that everybody in this trial has a fair trial,
13 and that's what I intend to do.

14 So if there is anything on the news, just don't
15 listen to it, don't watch it, don't read it. You can
16 certainly tell people what you're doing, that you have
17 been selected to serve on a jury this week, but it would
18 be improper for you to ask them anything or even tell them
19 anything about this case. You shouldn't consider or you
20 shouldn't have any conversation about this matter until
21 it's time for you to deliberate. And then, after this
22 trial is over, you can talk to anybody you want to, you
23 can talk to nobody at all. If you have any problem with
24 anything, you can ask me and we can take care of it. But
25 it's even improper for you to talk amongst yourselves

1 about this case until it's time for you to do so. And
2 I'll certainly let you know when it's time -- and over the
3 time of this case that it takes to try this case, you'll
4 be together. You'll probably get to know each other a
5 little bit. You can certainly talk about anything you
6 want to talk about, but don't talk about the facts of this
7 case -- all right? -- until it's time that we tell you
8 it's okay to do so.

9 Having said all that, I'm going to ask you to go
10 with the bailiff, Mary. She'll tell you where to come in
11 the morning -- if you have any questions, what to bring,
12 that sort of stuff and what to expect -- and she'll take
13 care of you, and she'll allow you to exit the courtroom
14 and courthouse out that way, and we'll see you back here
15 at about 9:20 in the morning. All right? I plan to start
16 this trial at 9:30. And, again, we'll make the most
17 effective use of your time as we possibly can.

18 And I appreciate your time, your patience, and your
19 service. Okay? So I hope each one of you have a
20 wonderful rest of the day and evening. We'll see you back
21 in the morning. Thank you so much.

22 (The jury exited the courtroom at 12:13 p.m.)

23 THE COURT: All right. Ladies and gentlemen, not
24 sure if you wanted to get picked to be on that jury or if
25 you didn't want to get picked, but whatever it was, now

1 you know whether or not you got picked on that jury.

2 What we're going to do at this point in time is
3 we're going to release you for the remainder of this day.
4 We're going to ask you to call back after 6:00. There's a
5 number that you have been given. You can call back any
6 time after 6:00. It doesn't have to be right at 6:00.
7 But there will be a message on that line that will tell
8 you exactly what you need to do for the balance of the
9 week.

10 I'm not sure if there will be another trial. There
11 may be. There may not be. And if there's not, then you
12 have already fulfilled your entire service as a juror for
13 this week. But if there is, you may have to come back and
14 see if you get picked again.

15 But, in any event, I appreciate you being here. I
16 appreciate your time, your attention, and your patience.
17 You're free to go. Please call back after 6:00 -- any
18 time after 6:00, and you'll learn what you need to do
19 next. Thank you so much.

20 (The remaining jury panel exited the courtroom at
21 12:15 p.m.)

22 THE COURT: All right. Mr. Wilson, already
23 complaining it's too hot in here, so...

24 Any other things we need to take up before we resume
25 this afternoon?

1 MR. WHITE: Not on behalf of the State, Judge.

2 MR. WILSON: Nothing on behalf of the defense,
3 Judge. Just pretrial motions.

4 THE COURT: All right. What time would y'all like
5 to start those?

6 MR. WHITE: Judge, I have got one witness coming in
7 to testify on that motion to suppress. I would say 2:00,
8 if it's amenable to the Court.

9 THE COURT: Mr. Wilson, do you have any complaints
10 with that?

11 MR. WILSON: No, Your Honor. That would be good for
12 the defense, Judge.

13 THE COURT: Okay. We'll see y'all at 2:00.

14 MR. WHITE: Thank you, Judge.

15 THE COURT: Okay.

16 (A brief recess was taken from 12:17 p.m. to 2:00
17 p.m.)

18 PRETRIAL MOTIONS

19 (Court's Exhibit No. 1, Search Warrant, was marked
20 for identification and received into the record.)

21 THE COURT: All right. Good afternoon.

22 MR. WILSON: Good afternoon, Your Honor.

23 THE COURT: Are we ready to go forward?

24 MR. WHITE: Yes, sir, Judge. We have some pretrial
25 issues to take up -- several pretrial motions on behalf of

1 the defense. I don't think any of them would be
2 particularly lengthy; however, the most lengthy, which
3 will be their motion to suppress cell phone records.
4 Judge, we're prepared to go forward, however you see fit.

5 We do have the chief, Alex Edwards, now but
6 Hemingway was the investigator at the time of this
7 incident. He's the one who got the search warrant in
8 question. I have him prepared to testify. Other than
9 that, I'll approach it in any manner you see fit.

10 THE COURT: All right. Mr. Wilson, how do you want
11 to proceed? It's your motion.

12 MR. WILSON: Your Honor, we can do testimony first,
13 Judge. If the Court would like me to flesh this out a
14 little bit so you know where we're going with this, I'll
15 be glad to do so, Your Honor.

16 THE COURT: All right. That sounds good.

17 MR. WILSON: Okay. This is a murder case where
18 there was no evidence from the beginning of this case.
19 That's uncontested. They were looking for persons of
20 interest related to the murder of Mr. Rashad Jones. This
21 was back in 2019. I think it was in December 2019.

22 So what they did was they eventually found either
23 the cell phone or the fact that Mr. Rashad Jones had a
24 cell phone number. So then they got a search warrant for
25 his number and then they found another number. That

1 number, the last person that called him, they then issued
2 a search warrant for that number.

3 Now, the issue is -- that we have is, is that State
4 v. Gibbs, which has already been decided by the Court of
5 Appeals and denied cert by the U.S. -- excuse me, by the
6 South Carolina Supreme Court, as well as U.S. v.
7 Carpenter, has already said that a person has an
8 expectation to privacy in that cell phone data.

9 Now, what they have extracted from that cell phone
10 data is extremely important. What they have now are
11 pinging information which goes to where he was, what he
12 was doing, possibly, you know, what web sites he visited.
13 You know, it also extracted other information related to
14 who he's calling, who was calling him. All those things
15 are protected under the Fourth Amendment based on State
16 v. Gibbs and based on U.S. v. Carpenter.

17 And, Judge, I want to read this because, even in the
18 Gibbs case -- the Gibbs case is a case -- a murder case
19 that I tried in Horry County, okay, where Judge Hyman
20 refused to allow the information in because of this exact
21 same type of issue where the police then issued a --
22 basically, a fishing expedition warrant which was void of
23 all of the protocols that the Supreme Court already placed
24 in place for even search warrants.

25 So the Court said, Hey, look, you know, this is a

1 problem. This doesn't even meet the mere standards of
2 what a search warrant should allege.

3 So let me read this to you, Judge, so you understand
4 kind of where we're going. This is the search warrant
5 that was presented to the magistrate at the time. On
6 December 29th, 2019, at 1:30 a.m., Florence County
7 Sheriff's Office responded to 2711 Pamplico Highway,
8 Florence County, also known as the Greenwood Athletic
9 Park, located within the jurisdiction of Florence County,
10 concerning a suspicious vehicle complaint.

11 Deputies responded to make contact with the vehicle,
12 one 2003 GMC Yukon, SC tag NPK-425, concerning this
13 incident. Deputies observed a black male individual in
14 the driver's seat, appeared to be sleeping.

15 Upon approach, deputies discovered the male
16 individual was unresponsive and bleeding from the left
17 side of his head area, prompting them to call for EMS.
18 The Florence County Coroner's Office was notified, along
19 with investigators with the sheriff's office, to respond
20 to the scene.

21 Upon further investigation, it appeared that the
22 male sustained a gunshot wound to his head area.
23 Investigators were able to identify the deceased victim as
24 Rashad Maurice Jones of Mullins, South Carolina.

25 During the course of the investigation, Mr. Jones'

1 personal cell phone made contact with the listed number,
2 1 (704) 777-8982, several times around the time of his
3 death. Investigators have reason to believe that the
4 subscriber information along with the cell phone records
5 contained vital information to assist with the ongoing
6 investigation.

7 Now, Judge, in every single affidavit where you have
8 a warrant for anyone's cell phone, the Court describes
9 that you have got to, one, accuse the person of a crime.
10 That's the first thing. This is even derelict of that
11 level. They don't accuse him of anything. They don't
12 even allege what crime occurred let alone the fact that
13 this person is deceased. They allege no crime whatsoever.
14 And then, to add to that, they don't even connect him to
15 the death of Mr. Rashad Jones at all.

16 In the Gibbs case, they at least went to the trouble
17 of saying, "Hey, look" -- I have his affidavit here if you
18 want to read it. This was the affidavit in the Gibbs
19 case, Judge. They at least -- excuse me.

20 Furthermore, the affidavit -- I'm sorry. Where are
21 we at?

22 This was the affidavit in the Gibbs case. "The
23 phone number to be searched belonged to Javon Gibbs, who
24 has been identified as many -- by being involved with the
25 victim's disappearance based on drug-related incidents

1 before his disappearance. The male denied any allegations
2 that identified that he did not want to provide a DNA
3 sample or take a polygraph to exclude himself. It is my
4 belief that searching the records Javon Gibbs will provide
5 information regarding any contact with the victim and his
6 whereabouts during the date and time of the crime."

7 The Court went through great lengths and killed it.
8 Court of Appeals. There was no dissent. Okay? And then
9 the Supreme Court had denied cert, making it the law of
10 the land. And this followed Carpenter, which gave the
11 expectation of privacy.

12 Now, the problem here is that, even in Javon Gibbs's
13 affidavit, they allege that there was some bad act going
14 on, that he may have had a problem with this gentleman.
15 You don't even have that in this affidavit.

16 Again, if the Court wants to go into the Court's
17 reasoning right now, I will go into it, but we believe
18 that, not only does the Cellebrite information need to be
19 quashed and suppressed because it was illegally obtained,
20 but everything that's derived from it -- because that's
21 what the Court said -- that fruit of the poisonous tree
22 from any illegal search -- so that means that the cell
23 phone sites, even his identification, which is set in --
24 I'm sorry, the Wong Sun case -- I apologize, Your Honor.
25 My apologies, Judge; I just want to give it to you. It's

1 Wong Sun v. United States. And basically, in that case,
2 the Court said not only derivative evidence but even the
3 identification.

4 At the time, they had no idea who he was. They
5 didn't know who he was. And that is evidenced by the case
6 notes from the detective, the lead investigator at the
7 time, who was Investigator Edwards. They found out who he
8 was based on the fact that they got that number, looked
9 him up, and then dumped everything, and now they want to
10 proceed to use it against him in trial. It is
11 unconstitutional, it was illegally obtained, and the
12 warrant itself is absolutely bad.

13 Here's what the Court said, Judge. The Court in
14 Gibbs said that a reason that -- "A person has a
15 reasonable expectation of privacy in CSLI because of the
16 nature is especially revealing."

17 Also, they refer to Carpenter. "Timestamp data
18 provides an intimate window into a person's life,
19 revealing not only his particular movements but, through
20 them, his familial, political, professional, religious,
21 and sexual associations."

22 The Court goes on further, Your Honor, and says
23 that, "The duty of the reviewing court," which is this
24 Court in this case, "is to ensure that the issuing
25 magistrate had a substantial basis upon which to conclude

1 that probable cause existed. The passing upon the
2 validity of a warrant and reviewing court may consider
3 only information brought to the magistrate's attention,"
4 which was the affidavit itself.

5 First, the affidavit fails in Gibbs, they say,
6 basically, because -- again, they say it did not even
7 mention a crime that the police believed that Gibbs had
8 committed himself. Also, the affidavit failed to set
9 forth facts as to why the police believed that he was a
10 suspect and committed a particular offense, and they had
11 no support for the search warrant.

12 The Court went on further and said, "Nevertheless,
13 our Supreme Court has held that the affidavit must set
14 forth facts as to why the police believed the defendant
15 was the individual to commit the crime," not simply that a
16 crime was even committed, even though this warrant is
17 derelict of that.

18 Here, the affidavit fails to even set forth the
19 crime police believed transpired and, as such, the
20 affidavit necessarily fails, as set forth why the police
21 believed in this particular case, in Gibbs' case, that the
22 crime was even committed by Gibbs.

23 And, to go even further, the Court said,
24 "Furthermore, the affidavit merely expressed the belief
25 that Gibbs' phone records would provide information

1 regarding any contact with the victim and may have had
2 Gibbs' or Gibbs' whereabouts that night of the victim's
3 disappearance."

4 And the Court went further to say that, even though
5 they begin to allege there were some tenuous problems that
6 Gibbs may have had with the people -- because they said,
7 "Hey, there are some problems that he had." They had some
8 beef with each other. That's not enough. The Court said
9 that is not enough. You cannot have that.

10 What they have done now is tried to extrapolate now
11 a ton of information, including his identity, and then
12 saying, "Hey, look, he was where this guy was. He was
13 with this guy he knew. He also, you know, was on a web
14 site." All the information they got, they got from his
15 cell phone.

16 They couldn't -- even when they got this done --
17 this was done in October of -- excuse me, I apologize --
18 January 16th of 2020. At that point in time, they had no
19 probable cause for the arrest. How do we know that? They
20 didn't arrest him. They didn't arrest him.

21 They waited until October, after they had a star
22 witness come forward who then says that he told her X, Y,
23 and Z. And that's exactly what happened in the Gibbs
24 case. They then arrested Gibbs in the Gibbs case, and
25 then the Court -- this is what happened, because it wasn't

1 enough.

2 In the Gibbs case, Your Honor, the cousin came
3 forward and said, "Yes, he told me he committed the
4 murder, and this is what he said about it," and gave
5 details.

6 This is exactly on point about what happened with
7 this case with this young man. Young lady comes forward
8 now a year later and then says, "I have a boyfriend who is
9 related to another guy who he believes that his cousin,
10 this other man, believes that this man was involved in the
11 murder. I want you to go to the police on him about this
12 particular murder."

13 She then proceeds to tell the detectives -- after
14 they asked her multiple questions, she tells them things
15 that everybody already knew, things that the police had
16 already told the family, and some of the information we
17 found out, uncorroborated, even by the forensic evidence
18 that's in the case that we have. Not to mention -- what
19 bothers me mostly, Judge -- and I have got to tell Your
20 Honor this because it's going to be a contention -- a
21 point of contention. They already know that the buccal
22 swabs that they have came back negative for any DNA
23 connecting him to that crime scene at all.

24 THE COURT: Well, those seem like unrelated issues.

25 MR. WILSON: It seemingly is, Judge, but because,

1 again, of the nature -- and that's what the Court says,
2 "Taking the totality of the circumstances into view, the
3 Court has to then make the determination about how much
4 evidence they derive."

5 An arrest warrant should have never been issued for
6 him, is my point. Okay? The arrest warrant is invalid.
7 Again, they didn't have enough information at the time.
8 They didn't have the evidence at the time, Your Honor.

9 And the Court has been clear about how the State
10 should move and how the police should present this
11 evidence when it comes down to these search warrants.
12 They have deemed it to be invalid.

13 And is this is not the only case where they have
14 done this. State v. Gibbs was one of the few cases that I
15 worked on where the Courts have thrown these things out
16 because, again, the police have gone on these expeditions
17 trying to get the information.

18 Now, there are only three exceptions to the
19 exclusionary rule. I know what they are. None of them
20 apply in this case.

21 THE COURT: I understand.

22 MR. WILSON: Yes, sir.

23 THE COURT: Thank you.

24 MR. WHITE: Judge, briefly before I call our
25 witness, you know, I agree that the Gibbs' search warrant

1 is deficient. That's one thing we can agree on. How we
2 get to comparing the two is where I have a problem.

3 And, Judge, I just want to read it one more time so
4 when Former Investigator Edwards testifies, that you'll
5 have a clear picture. The Gibbs affidavit: "The phone
6 number to be searched belongs to Javon Gibbs, who was
7 identified by many as being involved with the victim's
8 disappearance based on drug-related incidents before his
9 disappearance." Now, that is deficient. That is not what
10 we have here.

11 THE COURT: That's deficient, you say?

12 MR. WHITE: Yes, sir, Judge. In Gibbs -- and that's
13 how they rule. I mean, that's based on hearsay.

14 What we have here is not based on hearsay. How this
15 unfolded is they start investigating, they realize that
16 the victim's phone was not present in his vehicle. They
17 get a search warrant for his phone records.

18 The last phone number that he makes contact with is
19 a 704 number that they discover is related to the
20 defendant.

21 And that wasn't the only contact, Judge. From
22 7:53:38 p.m. until 1:26 in the morning, there are one,
23 two, three, four, five, six contacts between the defendant
24 and the victim, and that was all discoverable from the
25 victim's cell phone records.

1 One of those contacts is 53 minutes and 35 seconds,
2 at 12:28 a.m. That's about an hour before we believe the
3 murder transpired. The last contact, 1:26 a.m., is just
4 minutes before the murder takes place; it's a 57-second
5 phone call.

6 Judge, so based on those contacts, that is the
7 reason for the probable cause set out in the affidavit.
8 But as you'll hear from Chief Edwards, he went further,
9 when he went to Judge Wall to obtain the search warrant.

10 One of the things in the Gibbs case that they took
11 issue with is the investigator in the Gibbs case went to
12 several magistrates, you know, shopping these things
13 around. Well, each and every time that Investigator
14 Edwards got a warrant in this case, he went to Judge Wall,
15 and she was aware of everything that he set out.

16 And he's going to testify, Judge, that he showed her
17 the victim's records and showed her the contacts that were
18 made with this 704 number. And from 7:53 to 1:26 a.m.,
19 those are the only contacts contained in those cell phone
20 records. He conveyed that to Judge Wall.

21 There was no contact with that number before or
22 after. In fact, there's no contact at all with the
23 defendant's number -- or, excuse me, the victim's number.
24 That 1:26 a.m. call that he makes with the defendant's
25 number, that is the last time that he uses that phone.

1 The very last time. That was evident on the victim's cell
2 phone records that were showed to Judge Wall.

3 Furthermore, Judge, at that time, Investigator
4 Edwards believed, based on his training and his
5 experience -- considerable experience, that this crime may
6 be sexual in nature, and that was based on that there was
7 a condom in the car, Vaseline in the car, the victim's
8 pants were unzipped.

9 So he went to an investigator at the sheriff's
10 office who specializes in sex crimes, and they used an
11 application called Spotlight. This is a common tool used
12 by investigators and used by SLED. Basically, it's a
13 search engine for sex-related sites. And they typed that
14 704 number that was on the victim's cell phone records
15 into that Spotlight, and they get an advertisement, about
16 ten days prior to the murder, from that 704 number
17 advertising for sex for sale on SkipTheGames.
18 Investigator Edwards also relayed that information to
19 Judge Wall.

20 The affidavit in and of itself that there are
21 contacts with this number in such a way as laid out in the
22 victim's cell phone records is enough to survive Gibbs.
23 Now, I can see how this affidavit in Gibbs didn't survive
24 clearly, but this is wholly separate and apart from the
25 affidavit we have here.

1 But, furthermore, there is grounds for supplementing
2 your affidavit. I mean, that's why they make the
3 investigators come in and tell them about the case and go
4 over the specifics of the case, all of which were done
5 here, Judge.

6 So it's a two-prong argument from the State. The
7 affidavit as it reads survives any challenge. It is
8 sufficient based on those contacts. To be honest with
9 you, it's Investigator 101. I mean, if you asked any
10 nine-year-old, "Hey, we're going to play a little
11 hypothetical. We're going to take the victim's phone.
12 What would you want to look at?" They want to look at the
13 last number that he called.

14 And his very last conversation that he has on that
15 telephone number is with the defendant's telephone. But,
16 again, he's going to -- "he" being Chief Edwards -- is
17 going to tell you how he supplemented that already
18 sufficient affidavit and was granted probable cause from
19 Judge Wall, who granted probable cause on each and every
20 warrant that he presented and was up to date and made him
21 go through great lengths to get these search warrants that
22 he presented.

23 THE COURT: All right. If we're going to hear
24 testimony, you can call your witness.

25 MR. WHITE: Thank you, Judge. At this time, the

1 State would call Chief Alex Edwards.

2 THE COURT: Do we have a copy of the affidavit?

3 MR. WHITE: Yes, sir, Judge. I made it a Court's
4 exhibit, and I'll just go ahead and pass it up to you,
5 Judge.

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

9 THE CLERK: Please be seated and state your full
10 name for the record.

11 THE WITNESS: My name is Alex Edwards.

12 DIRECT EXAMINATION (ON MOTION)

13 BY MR. WHITE:

14 Q And it's Chief Edwards; is that right?

15 A Yes, sir, it is.

16 Q Chief, where are you employed?

17 A The Town of Hemingway.

18 Q And you're chief of police there; is that right?

19 A Yes, sir.

20 Q How long have you been employed in that capacity?

21 A Almost two years now.

22 Q Now, prior to that job, that position, where were
23 you employed?

24 A The Florence County Sheriff's Office.

25 Q And how long were you employed there?

1 **A** I was employed with the Florence County Sheriff's
2 Office starting in October of 2017, approximately 4-1/2
3 years.

4 **Q** And before that, where were you employed?

5 **A** I was employed with the Williamsburg County
6 Sheriff's Office for a matter of 10-1/2 years.

7 **Q** So you have considerable experience in law
8 enforcement; is that right?

9 **A** Yes, sir. I have approximately 16-1/2 years.

10 **Q** Now, during your time with the sheriff's office, in
11 what capacity were you employed?

12 **A** From patrol, criminal investigations in Williamsburg
13 County; also FTO. The Florence County Sheriff's Office, I
14 was on patrol for a short period of time, and then I was
15 promoted to Criminal Investigations Division.

16 **Q** Now, back in December of 2019, were you employed as
17 an investigator at that time?

18 **A** Yes, I was.

19 **Q** And that was with the sheriff's office; is that
20 correct?

21 **A** Yes, sir.

22 **Q** And you were the lead investigator on this case; is
23 that right?

24 **A** Yes, sir.

25 **Q** How did you get involved in this case? Were you

1 assigned this case or were you on-call?

2 A I was the on-call investigator.

3 Q And did you get called out to the crime scene at the
4 Greenwood Athletic Park there in Effingham?

5 A Yes, sir.

6 Q Was that on the 29th -- December 29th, 2019?

7 A Yes, sir.

8 Q And what, if anything, did you find when you arrived
9 there?

10 A I received a phone call from Corporal Meggs in
11 reference to an unresponsive male, appeared to have a
12 gunshot wound to his head. Notified me and also the
13 sergeant dealing with the crime scene to respond, and also
14 the coroner's office was also notified, as well as EMS.

15 So we all got there, noticed a vehicle. It was
16 dark, so we noticed a vehicle in the corner. It was a
17 gold or champagne in color GMC SUV in the corner.

18 Q And did you find that individual deceased in that
19 vehicle?

20 A Yes.

21 Q And was that individual Rashad Jones?

22 A Yes. He was identified by the coroner as Rashad
23 Jones. He was able to locate his wallet.

24 Q And you mentioned that the coroner's office as well
25 as Crime Scene arrived too. Did y'all work together to

1 kind of observe and look as they processed the crime
2 scene?

3 A Yes, sir.

4 Q And you said 16 years in law enforcement, many of
5 those years in Investigation. Did the crime scene look
6 like it had the possibility to be sex related?

7 A Yes. By observation, we noticed a condom and condom
8 wrapper outside of the vehicle. And, also, Mr. Jones's
9 pants, when he was in the driver's seat, his zipper -- his
10 fly was down.

11 Q And was there a condom inside the vehicle as well?

12 A I believe there was, upon search, to my
13 understanding.

14 Q And do you recall a thing of Vaseline in the
15 vehicle?

16 A Yes, sir. The Vaseline was located in the rear of
17 the vehicle in the passenger area.

18 Q Did you recover the victim's cell phone?

19 A No, sir. On that particular night, as we were
20 searching, we saw an iPhone box for a cell phone --
21 approximately, I think, an iPhone 6 Plus, but there was no
22 cell phone to be found in the vehicle.

23 Q Did you speak to members of Mr. Rashad Jones's
24 family?

25 A Yes. After we cleared up from the park, we

1 attempted to -- the deputy coroner had a contact in Marion
2 County with the coroner's office to actually go and make
3 contact with a family member at his residence. And then
4 that's when they relayed the information, and they gave me
5 the phone number, and then I met them at the sheriff's
6 office in Effingham approximately six hours later.

7 Q So you were able to ascertain that he did, in fact,
8 have a cell phone?

9 A Yes.

10 Q And did you attempt to what's known as ping that
11 cell phone?

12 A Yes, sir.

13 Q Were you trying to discover the location of the cell
14 phone?

15 A Yes, sir.

16 Q And were you utilizing the Marshal Task Force for
17 that objective?

18 A Yes, sir. I made contact with Lieutenant Moore.

19 Q And were you ultimately able to locate that cell
20 phone?

21 A No, sir. We had, like, a generalized area, but the
22 physical phone, no, sir, we never located it.

23 Q Did you employ any other resources in order to look
24 for that phone?

25 A Yes, sir. We made contact with

1 Lieutenant Street (ph) over in Forensics, in the Crime
2 Scene. She had a contact with South Carolina DNR to have
3 article dogs that can find certain objects. They had
4 several that they were going to loan us with the handlers.
5 We came out and searched the area from Pamplico Highway
6 and the Law Road area, but we were unsuccessful.

7 Q Now, you couldn't find the phone, but you said you
8 were able to ascertain Mr. Jones's telephone number; is
9 that correct?

10 A Yes, sir.

11 Q And did you go ahead and try to get a search warrant
12 for those records?

13 A Yes, sir.

14 Q And who did you go to to obtain the search warrants
15 for those records?

16 A At that time, it was Judge Holly Wall.

17 Q Now, did Judge Wall -- was she the judge you went to
18 on each and every warrant associated with this case?

19 A Yes, sir.

20 Q And was she familiar with each and every step that
21 you took in the case?

22 A Yes, sir.

23 Q Did she just rubber-stamp, you know, a warrant, or
24 did she make you supplement your affidavit with, you know,
25 want of a better description, oral testimony in her

1 office?

2 A Yes, sir. I had to provide oral testimony. Also --
3 I always travel with my case file -- it's a force of
4 habit -- just in case if the judge asks any questions and
5 also to give visual details and any information we get
6 from the scene.

7 So she was disclosed photos from the case file. I
8 also explained that I spoke with the family -- his family
9 members -- Mr. Jones's family members and was able to get
10 a phone number. They're not sure what happened.

11 And in speaking with his father -- just a moment --
12 I spoke with his father. He stated that -- Mr. Allen
13 stated that Mr. Jones, that particular night on the 27th,
14 was on the phone with somebody around 10:00, and he
15 appeared to be in a hurry, but he was trying to put his
16 son to bed. So it also confirmed, along with them giving
17 information for the phone number, that he had his cell
18 phone.

19 Q Is it, based on that information, you obtained a
20 search warrant for the victim's phone records; is that
21 right?

22 A That's correct.

23 Q And then, shortly thereafter, you obtained a search
24 warrant for his bank statement; is that correct?

25 A Yes, sir, also. Yes, sir.

1 Q Did you go to Judge Wall at that time?

2 A Yes, sir.

3 Q Now, did you then review the cell phone records
4 belonging to the victim, Rashad Jones? That's cell phone
5 number (843) 289-9100.

6 A Yes, sir.

7 Q And did you -- were you able to ascertain the last
8 phone call that he made from his phone?

9 A Yes, sir.

10 Q And was that at 1:26:50 a.m. to (704) 777-8982?

11 A Yes, sir.

12 Q Lasting approximately 57 seconds?

13 A Yes, sir. That's correct.

14 Q And that was the last call that he made -- the last
15 contact that anyone made with him on that cell phone; is
16 that right?

17 A Yes, sir. That's the last contact, yes, sir, that
18 he answered, that Mr. Jones picked up on, yes, sir.

19 Q Did that pique your interest?

20 A It did.

21 Q And did you then look at all contacts that were made
22 with that 704 number?

23 A Yes, sir.

24 Q And was one at 7:53:38 p.m. kind of the evening --
25 this happened Friday evening leading into Saturday morning

1 so that would have been 7:53 p.m., a text message to that
2 704 number. Did you review that on the records?

3 A Yes, sir.

4 Q And then, 11:52 p.m., the victim's phone calls that
5 is unsuccessful in reaching anyone at that 704 number, did
6 you review that record?

7 A Yes, sir.

8 Q And then, a second later, a phone call lasted
9 approximately 5 seconds between that same number; is that
10 correct?

11 A Yes, sir, that's correct.

12 Q At 12:26 in the morning now -- now we're going into
13 Saturday -- that number calls our victim's number and
14 lasts approximately a minute and 7 seconds; is that right?

15 A Yes, sir.

16 Q And then, at 12:28:05 in the morning, the victim's
17 number calls that 704 number, and it lasts approximately
18 53 minutes; is that correct?

19 A Yes, sir, that's correct.

20 Q Did that jump out to you that an hour-long call, you
21 know, essentially an hour before the murder was on the
22 victim's cell phone records?

23 A Yes, sir.

24 Q And then, again, an hour later -- they speak for an
25 hour and then moments pass by and then a 57-second phone

1 call from the victim to the 704 number and it lasted about
2 a minute; is that right?

3 A Yes, sir, that's correct.

4 Q Now, at this point, you're kind of armed with cell
5 phone records that show significant contacts around the
6 time of the murder; is that right?

7 A Yes, sir.

8 Q With this 704 number?

9 A Yes, sir.

10 Q And based on your training, your experience in law
11 enforcement, you felt there's a possibility that this may
12 be sex related; is that correct?

13 A Yes, sir.

14 Q And you also are armed with the knowledge that you
15 cannot find the cell phone belonging to the victim; is
16 that correct?

17 A That's correct.

18 Q Now, is there someone in the sheriff's office at
19 that time who specializes in sex cases?

20 A Yes, sir. It was Investigator Angel Clark.

21 Q Are you aware that she uses a tool that's commonly
22 used in law enforcement with SLED and the sheriff's office
23 and several agencies around the state called Spotlight?

24 A Yes, sir.

25 Q And it's kind of a search engine for sex sites; is

1 that right?

2 A Yes, sir.

3 Q And did you ask her to enter that number, that
4 (704) 777-8982 number into her Spotlight database?

5 A Yes, sir.

6 Q And was she able to retrieve an ad associated to
7 that telephone number for sex?

8 A Yes, sir.

9 Q And was that ad posted ten days before the murder?

10 A Yes, sir. Approximately, yes, sir.

11 Q Based on all that information, did you go to Judge
12 Wall to obtain a search warrant for that telephone number?

13 A Yes, sir.

14 Q And you have put in your affidavit that it was based
15 on the contacts between that 704 number that we just went
16 over; is that right?

17 A Yes, sir.

18 Q But did you also supplement that affidavit with the
19 information from Spotlight?

20 A Yes, sir.

21 Q And I think you also talked to friends and family,
22 that one family member or maybe it was a friend, Mr. Allen
23 Thomas, did he indicate that the victim in this case would
24 solicit individuals for sex?

25 A Yes, sir.

1 Q Was Judge Wall -- did she require you to provide
2 more information?

3 A Yes, sir. Each encounter, I went to the office with
4 my case file. Every new detail, document she was made
5 aware of and also was shown -- you know, was shown to her
6 during the investigation.

7 Q So she was made aware of the Spotlight information?

8 A Yes, sir.

9 Q And the Spotlight information was related to that
10 704 number?

11 A Yes, sir.

12 Q And you showed her the victim's cell phone records?

13 A Yes, sir, I did.

14 Q And you made her aware of the statement made by a
15 friend?

16 A Yes, sir.

17 Q And all of that was provided and then a search
18 warrant was granted; is that correct?

19 A Yes, sir.

20 MR. WHITE: Beg the Court's indulgence for one
21 moment.

22 BY MR. WHITE:

23 Q Based on your considerable training and experience
24 -- and you're chief over the Hemingway office now -- the
25 last contact that occurs with a dead person, is that the

1 number of the person that you -- that raises your
2 suspicion and your interest and that you want to look at
3 to either eliminate or add as a suspect?

4 A Yes, sir. In our experience, whether it's a
5 homicide, a kidnapping, or a missing person, today's day
6 and age with technology as far as cell phone -- everybody
7 has some type of phone, whether it's a smart phone or
8 regular phone. And based on that information, in speaking
9 with Judge Wall, we said it's very important that we want
10 to try to identify this person or at least talk to them,
11 whether a person of interest or cultivate a suspect.

12 Q And, again, the very last contact that was made on
13 the victim's cell phone records that you obtained was with
14 the 704 number that ends up belonging to the defendant in
15 this case; is that right?

16 A Yes, sir.

17 MR. WHITE: Thank you, Judge. That's all I have.

18 THE COURT: Mr. Wilson?

19 MR. WILSON: Your Honor, if it please the Court,
20 Judge?

21 CROSS-EXAMINATION

22 BY MR. WILSON:

23 Q Good morning, Chief.

24 A Good morning, sir.

25 Q How are you doing this morning?

1 A I'm doing all right.

2 Q Or, I'm sorry, afternoon. I'm tired. I apologize.

3 When you do an investigation related to murders,
4 kidnapping, missing persons, you look at phone records all
5 the time? That's fair; correct?

6 A Yes, sir.

7 Q Okay. And it is suspicious -- let's say if you have
8 a missing person and I'm the last person who called the
9 missing person, that is suspicious; is it not?

10 A Yes, sir.

11 Q It raises your interest, as you said earlier?

12 A Yes, sir.

13 Q Okay. All right. Do you go to the magistrate at
14 this point because your interests are raised or your
15 suspicion is raised and tell her that you have probable
16 cause for a search warrant?

17 A We provide that information to the judge and give
18 all the facts and say we need this information to try to
19 -- since we didn't physically have Mr. Jones's phone, we
20 couldn't find it, so we got his cell phone information and
21 went to her to try to figure out who the last numbers were
22 that he came in contact with.

23 Q Fair enough.

24 And then you discovered during your investigation
25 there was a last number that talked to him a couple of

1 times; right?

2 A Yes, sir.

3 Q And that raised your interest; correct?

4 A Yes, sir.

5 Q All right. What evidence at the time when you went
6 to Judge Wall did you have that this defendant was
7 identified by you? Had you identified this defendant at
8 all?

9 A No, sir, not at that time.

10 Q Okay. All right. As a matter of fact, the
11 prosecutor said that you guys found out about the number
12 on Spotlight, you know, and told the judge about that.
13 That was the testimony; right?

14 A Yes, sir.

15 Q Do you recall receiving -- do you know JM Roy --
16 Lieutenant Roy?

17 A Yeah, with SLED.

18 Q Okay. Was there an internal -- or, excuse me, an
19 external email sent out which reads, "Hello, Roy Jade. I
20 looked up the phone number (704) 777-8982 and with 1 in
21 front, but I could not find any user that had that number
22 in their profile."

23 That was given to us in discovery and sent to you in
24 your office on January 24th, 2020. But the search warrant
25 was issued when?

1 A Let me check my notes. January 13th.

2 Q January 13th. Okay. All right.

3 So, at the time, y'all didn't have an identification
4 for Mr. Antonio Brayboy; correct?

5 A No, sir.

6 Q You hadn't cultivated -- as you said under oath when
7 Mr. White was questioning you, you said y'all hadn't
8 cultivated any suspects; right?

9 A That's correct.

10 Q All right. And y'all were trying to cultivate
11 suspects; correct?

12 A Or witnesses or persons of interest.

13 Q Persons of interest. Very good.

14 All right. So when you went to her, to Judge Wall,
15 and you say that you had the Spotlight -- can you give me
16 the Spotlight -- you had the Spotlight that was done by --
17 I think someone in the PD's office. When you did the
18 Spotlight search, the Spotlight search didn't say anything
19 about "I'm going to meet a man," did it?

20 A No, sir.

21 Q No. What did the Spotlight search say?

22 A It was about -- if I'm allowed to paraphrase, about
23 meeting females, to satisfy females.

24 Q All right. It was about meeting females, to satisfy
25 females. Okay.

1 So it wasn't a man -- and I'm just trying to cut
2 through all the chase.

3 A Yes, sir.

4 Q It wasn't about a man meeting a man, was it?

5 A That's correct.

6 Q Okay. All right. Now, in the warrant itself, which
7 is, I think, already been offered as an exhibit, I want
8 you to tell the Court what crime you allege, one, occurred
9 and, two, how you connected Mr. Brayboy in this particular
10 warrant to the judge, how you thought that he was the
11 person that committed the crime, the corpus delecti, which
12 is the most important thing in our justice system when it
13 comes down to the nexus of how we present warrants to
14 magistrates to get cell phone records.

15 A Yes, sir.

16 Q Tell me what -- tell the Court what information you
17 had at the time that connected him to the murder of
18 Mr. Rashad Jones.

19 A Basically, once I got the search warrant for
20 Mr. Jones's phone --

21 Q That's right.

22 A -- we got the information back, we went through it,
23 and that was one of the last numbers that he had contact
24 with, the (704) 777-8982.

25 Q Okay.

1 A And then --

2 Q I apologize; I didn't mean to interrupt you. Go
3 ahead.

4 A And then, at that point, they had a conversation for
5 53 minutes. And going back from the 27th on back, there
6 was no other contact with that (704) 777-8982 number.

7 Q Okay.

8 A And after speaking with Mr. Thomas, his co-worker,
9 his friend, stated that he met females in the park for
10 prostitution-wise as far as any sexual encounters. We
11 were trying to establish, "Hey, who does this phone number
12 belong to" in trying to get a person of interest, or it
13 could have been a witness. We didn't know at that point
14 in time.

15 Basically, we're trying to make heads or tails. It
16 could have been a witness. And if we could talk to that
17 person and find out if they knew where he was going.
18 Because the family -- when we talked -- he didn't tell him
19 where he was going. And he was a very private person,
20 Mr. Jones did.

21 Q Yes, sir.

22 A So that led me to try to push, as far as with the
23 704 number -- and there was a couple other phone numbers
24 also that we took to get search warrants for as well.

25 Q Okay. All right. Answer me this question: How did

1 you test the veracity of the friend who talked about the
2 fact that he gave you information which you said you
3 presented to Judge Wall? How did you test his veracity?
4 How did you know he was telling the truth at all, period?

5 A One thing we did, we brought him in to say, "Hey, do
6 you know if he met anybody new in his life?" Basically,
7 with those particular type of cases, we tried to work them
8 backwards. So we tried to talk to family, friends. Did
9 he meet any person new? Did he have any enemies? You
10 know, anything strange going on? What was they involved
11 in? You know, so we could either check a box and rule
12 certain things out.

13 In speaking to his friend, Mr. Allen, stated that he
14 would meet females at the same park, in exchange for money
15 for sexual favors. I let Judge Wall know that as well.

16 Q But you didn't know Mr. Allen, did you?

17 A No, sir.

18 Q Okay. You had had no former dealings with him?

19 A No, sir.

20 Q All right. You didn't know whether or not he was a
21 truthful person or not, did you? You just listened to
22 what he said; right?

23 A That's correct.

24 Q Okay. And in the warrant, you didn't put anything
25 in there related to the fact that you had talked to him;

1 right? In the warrant.

2 A No, sir.

3 Q Okay. Did you put anything in there related to all
4 these phone calls that the prosecutor says happened
5 between that particular number and which y'all say is the
6 crux of what the argument is because, again, there's
7 nothing in the warrant that says it, but you're saying
8 now, "Hey, look, we knew there were those phone calls"?

9 A Yes, sir.

10 Q All right. And so you're telling the Court now,
11 instead of putting it in the warrant to Judge Wall, that
12 you said all that to Judge Wall?

13 A Yes, sir.

14 Q All right. In testimony?

15 A Yes, sir.

16 Q Okay. All right. And so, again, I would ask you to
17 tell me this: If all that's true, okay, I want you to
18 tell the Court when you got the phone records for the
19 number you say is associated with Antonio Brayboy. Do you
20 remember when you got it?

21 A January the 13th.

22 Q Okay.

23 MR. WILSON: Your Honor, may I approach the witness?

24 THE COURT: Yes, sir.

25

1 BY MR. WILSON:

2 Q You have case notes in the case; correct?

3 A Yes, sir.

4 Q The case notes are done for what purpose? Just to
5 remind you kind of what happens?

6 A Yes, sir.

7 Q All right. I want you to read to the Court your
8 case notes related to January 16th, 2020. And
9 specifically what was highlighted.

10 A Okay. On January 16th, 2020, okay, I highlighted,
11 "I, Investigator Edwards, along with Investigator Clark,
12 reviewed Antonio Brayboy's cell phone and discovered
13 Mr. Brayboy was also on SkipTheGames web site during the
14 same time frame as the male victim, Rashad Maurice Jones.
15 Investigator Clark discovered Mr. Brayboy had an ad posted
16 on SkipTheGames and provided the information to this
17 investigator.

18 "I, Investigator Edwards, reviewed the SkipTheGames
19 ad and observed Mr. Brayboy was soliciting himself as a
20 male prostitute. Investigator also discovered that both
21 parties texted each other prior to Mr. Jones's death."

22 Q Okay. All right. So it was after he got -- now on
23 this date, which is the 16th; right?

24 A Yes, sir.

25 Q This is after you already got Mr. Brayboy's records;

1 right?

2 A Yes.

3 Q It was hard to correspond anything without getting
4 his records; right?

5 A That's correct.

6 Q There was no connection to Mr. Brayboy until y'all
7 got his cell phone records?

8 A Yes, sir.

9 Q Let me ask you this question: Y'all reviewed the
10 crime scene?

11 A Yes, sir.

12 Q All right. You went over that earlier.

13 At the crime scene, did you find anything -- an ID,
14 Mr. Brayboy's cell phone, anything that might give you
15 probable cause to arrest Mr. Brayboy or think that he
16 might be possibly involved in the crime?

17 A No, sir.

18 Q All right. Well, let me ask you this: At any point
19 in time during your investigation, U.S. Marshals helped
20 y'all, didn't they?

21 A Yes, sir.

22 Q All right. So they told you -- said, "Look, we
23 can't go beyond a certain point with you guys, but we'll
24 let you track the ping on this phone." Right?

25 A Yes, sir.

1 Q And so y'all went out and tracked this ping?

2 A Yes, sir.

3 Q Y'all took dogs out; correct?

4 A Yes, sir.

5 Q But you still couldn't find the cell phone?

6 A That's correct.

7 Q Now, in your search warrant -- I'm asking you a
8 direct question: What crime can you point to --

9 MR. WILSON: And, Your Honor, may I pass up a copy
10 of the warrant?

11 THE COURT: Sure.

12 BY MR. WILSON:

13 Q I want you to tell the Court what crime you allege
14 Mr. Brayboy committed.

15 A In the affidavit, there's no crime listed, in the
16 affidavit.

17 Q Okay. Let me ask you this: Did you place anything
18 in that affidavit which says that Brayboy had a problem
19 with Mr. Rashad Jones beforehand and that you knew about
20 that?

21 A Rephrase the question.

22 Q I apologize. Did you put anything in the warrant
23 which suggested that there was beef or some sort of
24 turmoil or chaos between Mr. Rashad Jones and Mr. Brayboy?

25 A No, sir.

1 Q Okay. Did you place anything in the warrant about
2 the friend and he said he liked meeting females for sex?

3 A No, sir.

4 MR. WILSON: Court's indulgence, Your Honor.

5 BY MR. WILSON:

6 Q Just to clarify one other issue: When you said for
7 the record that there was association with the 704 number
8 with male prostitution, when you pulled the ad finally,
9 again, he wasn't looking for men, was he?

10 A No, sir.

11 Q He was looking for women?

12 A That's correct.

13 Q All right. Thank you. Thank you, sir. Appreciate
14 you. No further questions.

15 THE COURT: Anything further?

16 MR. WHITE: Just briefly, Judge.

17 REDIRECT EXAMINATION

18 BY MR. WHITE:

19 Q Chief, let me ask you this: It says in your
20 affidavit, "The male victim sustained a gunshot wound to
21 his head area." And that's a crime; right?

22 A Yes, sir.

23 Q Okay. And there was no gun recovered at the scene
24 of the crime; is that right?

25 A No, sir. Nor shell casing.

1 Q And you said you went over the crime scene
2 photographs with Judge Wall?

3 A That's correct.

4 Q And you went over the statement that was made by the
5 friend; is that right?

6 A That's correct.

7 Q And you went over the Spotlight information?

8 A Yes, sir.

9 Q And Mr. Wilson is correct, that original Spotlight
10 ad was not advertising for male-on-male sex, was it?

11 A That's correct.

12 Q But what he's referring to on that Jade Roy
13 document, that's a -- Jade Roy is a SLED agent who
14 specializes in Spotlight; is that right?

15 A That's correct.

16 Q And he took that original ad -- right? -- and he
17 sent it to SkipTheGames; is that correct?

18 A Yes, sir.

19 Q And they associated it with other ads for sex; is
20 that right?

21 A Yes, sir.

22 Q That were used by the same IP address?

23 A Yes, sir.

24 Q And was one of those ads associated a man pretending
25 to be a female?

1 A Yes, sir.

2 MR. WHITE: Judge, that's all I have.

3 THE COURT: Mr. Wilson, is there anything further
4 for this witness?

5 MR. WILSON: Your Honor, nothing further, Judge.

6 THE COURT: Thank you, Chief. You may step down.
7 Do you have a copy of the Gibbs case?

8 MR. WILSON: Yes, Your Honor.

9 May I approach, Your Honor?

10 THE COURT: Sure. Did y'all want to follow with
11 some brief arguments or how did y'all want to --

12 MR. WHITE: Judge, I think you heard everything. I
13 think this is separate and apart from the Gibbs case. You
14 know, I agree that the affidavit in the Gibbs case was not
15 enough but that's not what we're dealing with here. There
16 were several things flawed in the Gibbs case, none of
17 which are present here.

18 The affidavit on its face is sufficient. You heard
19 from Chief Edwards. I mean, he went above and beyond to
20 meet the requirement set forth by Judge Wall in his oral
21 supplementation. He went into great detail. She knew
22 every step of the case. In fact, to be honest with you,
23 in all the years I've been doing this, I never heard an
24 investigator to go to such great lengths to spell out
25 everything in a case and make the judge privy to

1 everything that the investigator was privy to.

2 So, respectfully, Judge, this is just not Gibbs.
3 These are not the Gibbs factors. You can see on its face,
4 the affidavit in Gibbs is deficient. I mean, it's based
5 on nothing more than hearsay. This is more than hearsay.
6 This is the last person that the victim spoke to when he
7 had breath in his lungs, and he was murdered a short time
8 thereafter.

9 Judge -- and if you read the Gibbs case, for all the
10 things that were deficient in there, Investigator Edwards
11 covered, he sured up, and the law allows for oral
12 supplementation.

13 You know, I think it speaks volumes that he kept
14 going back to the same judge, and the judge was apprised
15 of each and every step of this investigation.

16 So, respectfully, I understand Mr. Wilson's
17 argument. I don't think that it prevails here because the
18 affidavit, as it stands here, and the issues that were in
19 Gibbs are wholly separate and apart from one another.

20 THE COURT: All right. Mr. Wilson?

21 MR. WILSON: Your Honor, just briefly, Judge.

22 Judge, on the stand, he testified, while he was
23 being directly examined by the State, that they wanted to
24 cultivate a suspect. Okay? That's what they used it for.

25 In addition, it doesn't matter, Your Honor, whether

1 he goes to the same magistrate or a different magistrate.
2 That is not the issue. The question is whether or not
3 they have probable cause at the time when they get
4 someone's search records or, excuse me, searching
5 someone's records.

6 It doesn't matter if you're the last person to call.
7 Javon Gibbs, in the Gibbs case, was the last person they
8 saw with this young man, Zachary Malinowski. That's in
9 the case. Okay? He was the last person seen with him.
10 And the Court, again, said that's not enough.

11 There is a threshold. You have to accuse a person
12 of a crime. You've got to say what that nexus is to the
13 crime. And then, on top of that too, you've got to
14 describe with some sort of certainty about why you suspect
15 he committed the crime before you can go in to invade his
16 records.

17 This will be a different situation, I would agree
18 with counsel. If this was a situation where let's say
19 they were looking for a missing person. Okay? And they
20 weren't trying to use this at trial. They say, "Look, we
21 need to find Timmy right now." And we don't care about,
22 you know, who kidnapped Timmy. The last person to call
23 Timmy was Joe Jackson. They go get his records illegally.
24 Okay. They don't plan on using it at trial, but they find
25 Timmy. That's a great end to the story.

1 The question is, can they use the records against
2 the person unless they have probable cause? And the
3 answer is no. The Court has said that in Carpenter.
4 Again, the Supreme Court, after the Attorney General's
5 Office went through several petitions making the arguments
6 against the exclusionary rules, saying, "Hey, look, we're
7 going to argue that this was related to..."

8 Where are my documents? I apologize, Judge.

9 "...independent source doctrine, inevitable
10 discovery, and good faith, reliance." They went through
11 all those arguments, and the Court said no, that doesn't
12 apply here. All right?

13 You didn't get a court order, which you could have
14 done, for wiretap. That didn't happen. You didn't also
15 go and voluntarily get the information. That is under the
16 SCA. Okay? Stored Communications Act. They could have
17 done that. That's not what happened here. They got a
18 warrant.

19 And the judge doesn't have the authority to issue
20 the warrant. That's why the Court has to review it.
21 That's why the Supreme Court says that the Court has to
22 review it because magistrates sometimes get it wrong, and
23 they issue these warrants based on either the
24 relationships with these detectives, long-standing
25 relationships with these detectives, and they'll issue the

1 warrant no matter what.

2 And Your Honor understands also that this is not
3 inevitable discovery. They don't have that issue, and
4 obviously, they don't have independent source doctrine.
5 Okay. There's case law related to State vs. Moore, case
6 law -- abundant case law related to these other issues at
7 hand, Judge, going back to the Carpenter and Wong Son,
8 which say that not only is it an issue if you don't have a
9 warrant that is effective in nature, but when it is
10 defective, everything else that is derived from that
11 particular warrant is no longer good. Anything. And
12 that's why they call it the derivative evidence rule,
13 because, again, you have a problem with the warrant.

14 It is invalid on its face, and even by testimony,
15 when I asked a direct question about "What crime did you
16 tell her [verbatim] he committed," there was no answer.
17 He didn't say, "I thought he committed a murder because of
18 X, Y, and Z."

19 I even asked him if he knew anything else about it
20 at the time of the crime. He says, "No, nothing."

21 They knew nothing about this man beforehand. And
22 then they arrested him once they found somebody who was
23 willing to come in and say, nine months later -- a really
24 mad girlfriend, "Well, yeah, he did it. He told me he did
25 it, and this is what happened."

1 I'm asking the Court to quash the warrant, Judge, as
2 being, obviously, deficient. It is extremely deficient.
3 It's not just a matter of being, you know, somewhat
4 deficient. It doesn't even meet the standards that are
5 placed in Gibbs, and the Court would never even get to the
6 analysis before it would overturn this case, Judge.

7 Thank you so much.

8 THE COURT: All right. Let me take about a five- or
9 ten-minute recess to read this case, and I'll certainly
10 come out and let you know my ruling, and then we'll hear
11 the rest of the motions. All right?

12 MR. WILSON: Thank you, Your Honor.

13 MR. WHITE: Thank you, Judge.

14 (A recess was taken from 2:55 p.m. to 3:08 p.m.)

15 THE COURT: All right. Anything before we resume?

16 MR. WHITE: No, sir, Judge.

17 MR. WILSON: Nothing, Your Honor.

18 THE COURT: So the Court -- I mean, when I
19 considered what was before the Court here with the
20 suppression motion and cell phone records from the
21 defendant, I certainly harken back to the situation at
22 hand that law enforcement found themselves in, in the
23 early stages of this investigation whereby they had the
24 victim's cell phone records that showed what was placed in
25 the affidavit of the warrant, that the victim talked to or

1 at least had -- or at least these two cell phones had
2 contact with each other shortly prior to the crime that
3 was committed.

4 And certainly when an investigator or a law
5 enforcement officer seeks a warrant to search whatever the
6 premise or the object may be, there must be probable cause
7 that would lead to evidence of the crime that's been
8 committed.

9 So -- and, I mean, I find, even in reading the Gibbs
10 case, just to quote from the Gibbs case, because the
11 affidavit did not allege Gibbs committed any crimes, Gibbs
12 then argues that there can be no assertion that the
13 affidavit stated that there was a fair probability that
14 evidence of a crime would be found if the warrant was
15 issued.

16 And I think that's the -- I think that goes to the
17 heart of this issue. You know, they knew that a murder
18 occurred or at least a homicide occurred. They knew that
19 these phones that were related, at least to the victim at
20 the time, communicated with each other. I believe the
21 affidavit contains probable cause that would lead to the
22 evidence of or the exclusion of evidence of the commission
23 of the crime.

24 And so, you know, certainly what Investigator
25 Edwards testified to, which he might have supplemented,

1 you know, I don't think it's needed at this point for this
2 warrant, and the issue as to whether or not it was
3 supplemented before or after the issuance of this warrant
4 is not material to my ruling. I believe the affidavit
5 contained within the search warrant is sufficient and
6 contains probable cause for what was sought at the time,
7 and so I'm going to respectfully deny your motion. All
8 right?

9 Is there any questions about that?

10 MR. WHITE: No, sir, Judge.

11 And then moving on, the defense did make a motion to
12 suppress evidence based on fruit of the poisonous tree. I
13 think that one, subsequent to your ruling, would also be
14 denied.

15 There are some other motions made that I can clear
16 up. There's a motion to provide copies of each witness's
17 NCIC. My paralegal was working on that. I think she's
18 got all those printed. I'll have those first thing in the
19 morning to give to the defense. That's no problem.

20 Motion for pretrial disclosure of State's witness
21 list. I have turned over that, Judge.

22 Motion to sequester witnesses, Judge. I don't have
23 -- generally, I don't have a problem with that. I mean,
24 obviously, I know the defense is entitled to that.

25 However, I would ask, because the victim, Rashad Jones,

1 his parents are the living victims of this, they are going
2 to be witnesses. What they're going to testify to is
3 essentially that the -- the kind of rough estimate of what
4 time he left that evening and that he did have a cell
5 phone when he left.

6 I would argue that that's not enough to keep them
7 excluded from the courtroom. These are the parents of the
8 man who was murdered. I'd ask that they be allowed to
9 stay. Otherwise, I will obviously police and make sure
10 that every other witness is sequestered, but I'd ask that
11 they be allowed to stay.

12 And co-counsel Deputy Tucker brings up a good point.
13 I don't know how often the lead investigator -- Chief
14 Edwards will be in here, and he's obviously got a
15 department to run, but when he is here, I'd ask that you
16 allow him to be in here as well.

17 THE COURT: Mr. Wilson, what's your position on
18 that?

19 MR. WILSON: Your Honor, related to Your Honor's
20 ruling, if I may, Judge, I obviously intend on, during the
21 trial, making and renewing motions. I understand the
22 Court's position. I do also understand Gibbs. I
23 understand the Court's ruling, but I would also ask the
24 Court to hear the matter related to fruit of the poisonous
25 tree.

1 The prosecutor is probably right; Your Honor has
2 ruled on the issue of the actual -- but I want to put it
3 on the record related to his issue for appeal, Judge, and
4 related to the fruit of the poisonous tree, Judge.

5 As far as the parents being in the room, my only
6 concern about the parents are related to any issues that
7 may come up related to any prejudicial or inflammatory
8 testimony. To my knowledge, based on the evidence, Judge,
9 there is no -- they're not aware of any factual matter in
10 this case other than, I think, his communications.

11 And, again, we just would like the Court to admonish
12 all the witnesses to, obviously, be careful about
13 inflaming the passion of the jury. This is going to be a
14 sensitive case.

15 But as far as the fruit of the poisonous tree, I
16 would like to put it on the record.

17 THE COURT: Yeah, I'll be happy to hear from you.
18 But let me first address this sequestration issue. Are
19 you saying that you don't mind if they stay in the
20 courtroom as long as --

21 MR. WILSON: Well, there will be questions related
22 to issues of veracity that we're going to ask. Obviously,
23 we prefer them be sequestered. If Your Honor is going to
24 keep them in the courtroom, if the Judge decides that,
25 then I would still ask the Court then to admonish them,

1 you know, to not do anything to inflame the passion of the
2 jury.

3 THE COURT: Well, I mean, I don't ever anticipate a
4 situation where I would deny an order to sequester the
5 witnesses because I think that's your right to make that
6 motion and have that be the case. Certainly, the State
7 can put those witnesses up early on or -- you know, if
8 there's some agreement as to exactly what their testimony
9 is going to be and y'all want to work that out and you
10 allow it and you don't mind them staying in the courtroom,
11 then that's up to you.

12 MR. WILSON: Yes, sir.

13 THE COURT: All right. And I believe their lead
14 investigator can certainly remain in the courtroom.

15 MR. WILSON: Yes, sir. Absolutely.

16 THE COURT: Mr. White, is there any -- do you
17 understand that?

18 MR. WHITE: Yes, sir, Judge.

19 THE COURT: All right. Mr. Wilson, do you want to
20 place your --

21 MR. WILSON: Yes, sir. Even in light of, obviously,
22 the Court's decision, Judge, to allow this information in,
23 the Cellebrite information, the tracking information, the
24 web site information, the identification, all those things
25 under the law -- and I believe under Gibbs and

1 Carpenter -- based on the lack of the issue related to the
2 search warrant, even with the supplemental testimony
3 that -- again, I would question whether or not that was
4 even given, but even in light of those things, all those
5 things should be excluded from the record.

6 And the reason is, is because simply, when the Court
7 decided Gibbs, in that particular case, they also, in that
8 case, killed every piece of evidence that came afterwards.
9 So everything that was derived from Gibbs related to
10 him -- the affidavit stating, "Hey, look, you know, he was
11 around this guy, he had problems with him," which, again,
12 in my mind, supercedes the issue related to this
13 particular warrant, the Court still held that those things
14 are inadmissible against the defendant for the purposes of
15 trial.

16 So everything that they have now, okay, everything
17 that the State now wants to put up -- the cell phone
18 records, the Cellebrite location, Cell Hawk -- put up the
19 testimony related to that, his movements, where he was
20 going, what he was doing, who he was texting, who he
21 wasn't texting, what web sites he's going on, all that
22 information now has, in my opinion -- my legal opinion,
23 had been gotten from fruit of the poisonous tree.

24 And under the rules related to fruit of the
25 poisonous tree, when it comes down to case law, it is well

1 established that search and seizure, if it's illegal --
2 not only evidence obtained thereby is inadmissible but any
3 evidence discovered as a result or the exploitation of
4 that primary illegality is also inadmissible.

5 And fruit of the poisonous tree, also under Wong
6 Sun, U.S., Judge, that's not only the evidence obtained by
7 the primary legalities admissible, but also any derivative
8 evidence obtained by exploitation of that illegality,
9 Davis vs. Mississippi, Judge, where probable cause for the
10 search warrant is established, prior illegal search or
11 arrest, then, would be the same, and it's all tainted.

12 And, again, for the record, I'm going to also do a
13 motion to quash, Judge, at this point in time, his arrest
14 warrant, based on the fact that -- and I understand the
15 Court's ruling but I have to, for the record -- based on
16 the issues again with the search warrant. And I want to
17 make this clear on the record that, obviously, he
18 understands the ruling of the Court, and I am not arguing
19 with the Court, Judge -- that's not my position -- but his
20 right to have that illegal search warrant as well as the
21 illegal arrest quashed by the Court, I think, is still
22 ripe at this point in time.

23 I think that, to send this to the jury, Your Honor,
24 is -- and I said this again at one of the hearings
25 earlier, but it is constitutionally offensive what this

1 warrant says and that it leads again -- it doesn't say a
2 word about him committing a crime, which is exactly what
3 the Court says you have got to have. Obviously, you know,
4 I understand the Court's position, but his life is at
5 stake and his rights.

6 So I would ask the Court at this point in time to
7 consider still all this stuff to be fruit of the poisonous
8 tree, understanding that, obviously, the Court believes
9 that there may be some probable cause found in the warrant
10 but also understanding that that probable cause doesn't
11 necessarily exist in someone saying, "Okay, well, he's the
12 last person he called, so you can go ahead and get the
13 records." That is not how probable cause works.

14 And there are tons of cases out there, Judge, where
15 what we're going to have is a case, in my opinion, that
16 we're going to try over the next several days, and then,
17 once we file the appeal, it's going to be reversed.

18 This is exactly what happened in the Gibbs case. In
19 the Gibbs case, they couldn't try the murder, and that is
20 a consequence. And that was how high the burden is for
21 these search warrants for these cell phones.

22 You know, again, I would ask the Court to reconsider
23 its position on this matter because, again, I told counsel
24 and I will tell the Court how I feel, that this case is
25 coming back. And I would ask the Court to reconsider so

1 we don't sit here and waste a lot of time and effort in
2 trying a case based on evidence where they have one piece
3 of the evidence -- I understand they need to have that in
4 -- but the only other piece -- and that's how they got the
5 arrest warrant.

6 So, other than that, you know, if he's convicted at
7 trial, he's going to appeal the issue. It will be
8 overturned. And if he goes to trial and he's convicted,
9 while he's trying to assert his rights under Gibbs and
10 Carpenter, the fruit of the poisonous tree says, "Hey,
11 look, all this stuff putting against him is wrong."

12 Again, I would ask the Court to look at that from
13 the perspective that it's not enough simply for an officer
14 or a detective to say, "Hey, look, we think that because
15 he was the last person that called him, he may have killed
16 him."

17 THE COURT: Well, when you get to that point, you
18 certainly start considering the testimony of Investigator
19 Edwards and the supplemental information that was provided
20 to the issuing judge and certainly various other
21 information that's derived not just from his phone
22 records.

23 MR. WILSON: Such as?

24 THE COURT: They're derived from these internet
25 searches.

1 MR. WILSON: Judge, there were no searches that they
2 found until January 16th. There was no search. They
3 didn't have anything else to tie him into this crime until
4 the January 16th. They got the search warrant, Your
5 Honor, before that ever happened. They had nothing.
6 Nothing.

7 My issue is, is that they didn't accuse him of a
8 crime. Even when they went to the judge, they didn't
9 accuse him of a crime. They didn't say anything at all.
10 If they had said that he had, you know, somehow robbed the
11 car or if he committed armed robbery or they believed that
12 he had done that, even if they had alleged anything --
13 they didn't allege one single crime, Judge, and that's
14 exactly what Gibbs says is unconstitutional. The Court
15 clearly says it.

16 And they also say that, because of that, everything
17 that flows is fruit of the poisonous tree. We will have a
18 case that will be returned. I have done this now twice.
19 Both appeals have been overturned.

20 THE COURT: All right. Well, what do you say about
21 the fact that the affidavit contains that, you know, "Upon
22 further investigation, it appeared the male victim
23 sustained a gunshot wound to his head"?

24 MR. WILSON: Yeah, but the Court said one thing
25 about that: you have got to connect the dots to the

1 person.

2 THE COURT: I understand.

3 MR. WILSON: So if the Court says very clearly --
4 even in Gibbs and Carpenter and other cases that, even
5 before Gibbs came out, that you have to have a nexus
6 between that individual and that shooting. If they had
7 said this, "We believe that Brayboy shot him in the head,"
8 even if there's no evidence of it, IT (ph) that.

9 Or if they said this, "We believe that Brayboy had a
10 gun and shot him in the head," that would be, then, them
11 saying, "Look, we have got probable cause," because let's
12 say X, Y, and Z saw him that day with a gun -- or if they
13 even said, "Hey, we saw his car at the location, Your
14 Honor," that would be enough to say, "Hey, we're getting
15 there." Okay? They don't allege any of that. They're
16 not even alleging he trespassed at this park. That's how
17 weak this affidavit is.

18 I understand the Court -- the Court wants to go
19 forward with trial, and we're prepared, and I'll go
20 through it, but it is --

21 THE COURT: I mean, my ruling is not based on
22 whether or not the Court wishes to try this case. I can
23 assure you that.

24 MR. WILSON: Judge, I know that. And I know you,
25 Judge. What I'm saying is, is that we're efficiently

1 deficient if we try this case and let this stuff in.
2 Because, again, Gibbs controls.

3 I didn't change the law. I didn't make it. But
4 when we knew about it with Carpenter and we tried it with
5 Gibbs, Judge Hyman said, "Look, you can't bring in all
6 that stuff. It's not constitutional."

7 And then, on top of that too, the Court of Appeals
8 went one step further and said, "Not only can you not do
9 it; you can't use anything else that you got from it."

10 And on top of that, too, with the allegations that
11 there's still beef with these people, that's not even in
12 this warrant. To say that he's the last person that
13 called him -- even to go to the judge and say, "Hey,
14 Judge, also, we want you to know that we think he called
15 him several times," that is not probable cause. That is
16 suspicion, which, when I asked him on the stand and he
17 said, under oath, "Yes, it's suspicious," which means that
18 he was trying to cultivate a suspect. That in itself,
19 Your Honor, tells me that he is trying to develop his case
20 and get a person of interest.

21 If it was a case that they had probable cause or
22 they got this, they could have arrested him. That's why
23 they didn't. They didn't have probable cause.

24 THE COURT: I'll certainly take the rest of the day
25 and try to read and understand if there's any -- I'll

1 reevaluate my decision, but I don't think I'm going to
2 change it, but I'll let you know.

3 MR. WILSON: I understand, Judge. Thank you, Judge.

4 MR. WHITE: And, Your Honor, I'm just going to
5 briefly respond. I'm not going to go into detail and
6 respond to everything Mr. Wilson said, because I agree
7 with the Court's decision here and everything that you
8 have ruled.

9 I do want to make clear for the record, Judge, that
10 the fruit of the poisonous tree would not apply here to
11 the Spotlight information, the searches of the internet
12 search because that telephone number came from the
13 victim's cell phone records. That's going to be separate
14 and apart for the record. I just wanted to make sure that
15 that's clear.

16 MR. WILSON: Your Honor --

17 THE COURT: I mean, I -- that's what I understand.

18 MR. WILSON: Judge, they identify -- when you go on
19 these sites, if I put in (444) 444-4444, you're going to
20 get a user name and a web site. Okay? They only
21 identified him by taking his records. Again, that's why
22 it's so important. They didn't identify him any other
23 way. That's not how they identified him. There was no
24 independent source of identification of Mr. Brayboy.

25 THE COURT: But they identified that number

1 associated with that web site; right? Independently;
2 right? Am I wrong?

3 MR. WILSON: No. They identified -- they identified
4 that there was an ad -- all right? -- related to a
5 Spotlight web site, not that he is a person who owned the
6 number. And so the identity, again, becomes the issue
7 because they're trying to tie him to it at the time.

8 THE COURT: That's still an issue.

9 MR. WILSON: No. "We are a free site so I have no
10 billing information. I hope this information helps you in
11 your case. Please let me know."

12 There was no information. We got the messages from
13 the web site. They didn't know who in the world -- they
14 don't know who creates these sites, Judge.

15 THE COURT: Well, who is a question of fact for the
16 jury and goes to the weight of the evidence.

17 MR. WILSON: It is.

18 THE COURT: Certainly they have this phone number
19 that they know was in contact with the victim's phone
20 number at least. Still don't know who might have been
21 talking on it; correct?

22 MR. WILSON: That's true. But, again, when you try
23 to put that competent evidence in front of the jury and
24 then say, "We know it's Brayboy" and even imply it without
25 knowing who he is, without being able to identify him --

1 they identified him, again, by the records. He wasn't
2 identified any other way.

3 So, let's say they put that up for the jury and Your
4 Honor had said, "Look, I'm going to grant this motion."
5 They can't identify him. They can't identify him at the
6 time. They only have one witness who knew his phone
7 number, and she didn't know it until later on after this
8 murder had happened.

9 So she can't come back and say, "Well, yeah." She
10 didn't even know this defendant at the time when this
11 murder happened. She can only say what it was in the
12 future, not what it was at the time when they're looking
13 up this information. They can't have it that way.

14 Again, they identified him by getting this -- let's
15 say they got the number off the phone. When they got the
16 number off the phone, Your Honor, you saw nothing in the
17 police records at all which said this number belonged to
18 Antonio Brayboy.

19 As a matter of fact, U.S. Marshals -- excuse me --
20 SLED issued an email to them telling them, "We can't find
21 any records." They didn't know who he was until they got
22 the records. And that's why I asked the officer on the
23 stand, "Look at this and tell me what it is that you're
24 seeing here." And he says, "Yeah, this is on the 16th,
25 three days after we got the warrant from Judge Wall for

1 his records," where they then get to identify him. For
2 the first time in the records -- and I looked through them
3 ad nauseam. It's the first time they say Brayboy's name.

4 So, again, there was no mention of him beforehand.
5 None at all.

6 THE COURT: So where are you arguing that, in this
7 circumstance, that law enforcement has no way to identify
8 that number?

9 MR. WILSON: What I'm saying is, Judge, they didn't
10 -- if they had gone to the FBI and the FBI had said, "Hey,
11 yeah, we tracked it -- we found -- we tracked his number,
12 here's his information," they didn't do that. They chose
13 a warrant. Okay? That was their choice. They could have
14 come before the Court for an order. They could have,
15 under the SCA, gone and asked for voluntary information
16 from the providers themselves. That's what the SCA says.
17 That is something they could have done. They didn't do
18 that.

19 What they did was issue a warrant that was defective
20 and deficient. Saying it's the last number that somebody
21 called doesn't give you the right to go in their private
22 information unless you can show they committed a crime.
23 Saying in an affidavit, "Hey, somebody got shot in the
24 head," it's the same thing that happened in Gibbs. They
25 said this guy is dead. He is. Zack Malinowski was dead.

1 No doubt about it. And Javon Gibbs had had a problem with
2 him. But the Court said even that's not enough. It's not
3 enough.

4 And, again, you know, I know that -- again, I'm not
5 trying to argue with the Court. I would suggest to the
6 Court -- and, again, in all caution -- that this is a
7 matter where the law is what it is. Again, I didn't make
8 it. I'm not trying to -- I don't know him that well. I
9 do believe in the law, and I do believe that, in this
10 case, that Gibbs controls, that Carpenter controls, and
11 that we're looking at a reversal, again, because it's
12 deficient.

13 Even his testimony from the stand was deficient.
14 Even the supplemental. Because he never said -- he never
15 accuses him of a crime. He never said he did anything
16 wrong.

17 He never even said, "Look, I think he may have broke
18 his nail." He never says anything. And there was no
19 connection to the crime for Brayboy before they got his
20 records saying, "Hey, okay, we know now he's the guy
21 that's now pinging with this guy and now the cell phone is
22 here." And yes, this is evidence they need for their
23 corroboration for their witness. Without it, their case
24 is dead. And it's the same case that we had in Gibbs.

25 THE COURT: All right. Thank you.

1 MR. WILSON: Thank you, Your Honor.

2 THE COURT: Is there anything else we need to take
3 up?

4 MR. WHITE: Yes, sir, Judge. They have also made
5 three more motions: a motion in limine to prevent hate
6 crime testimony, a motion in limine to prohibit any
7 mention of a .45 caliber weapon, and motion in limine for
8 prior bad acts.

9 I believe this all relates to the witness Asia
10 Cooper, who is going to testify. She and the defendant
11 were in a relationship. He confided the entirety of this
12 incident to her. He confessed to all of it. He says that
13 he was in possession of a .45 caliber handgun during that
14 time, and she says that to law enforcement and to our
15 office.

16 As far as the prior bad acts as well as the hate
17 crime testimony, I mean, she does tell us that he would
18 beat on her and that sort of stuff, and that's why she was
19 afraid. You know, I'm hesitant to get into it. I think
20 it goes to why she didn't come forward about this until,
21 you know, months later. She was afraid of him. So I
22 think my argument to that would be that it goes to, you
23 know, her state of mind whenever she was going through
24 this.

25 As far as the hate crime testimony, essentially, her

1 testimony will be that this person hated homosexuals. She
2 describes the one incident where he came home from a
3 convenience store and he was all riled up and he was
4 yelling and carrying on, and she said, you know, "What's
5 going on?" And he said -- and I'm just going to quote
6 what she said. I mean, these are not my words, but said
7 something to "I ran into a fag at a convenience store; I
8 should have killed him."

9 And he expressed time and time again this hatred for
10 homosexuals, and that goes to motive and intent, Judge.
11 I'm not sure how that doesn't come in. I mean, that's the
12 heart of this thing, is that these two individuals met up
13 online, and regardless of what the victim thought he was
14 going to meet, who he was going to meet, the defendant was
15 coming there with hate in his heart, and I think that that
16 is the motive and intent behind his crime. I don't see
17 anything in this motion that would prevent me from going
18 into that. I mean, that's a statement by a party
19 opponent. That comes in all day. So I think that that's
20 fair game.

21 I also think the gun is fair game. I mean, that's
22 what he told her. That's another statement by a party
23 opponent.

24 Again, I would probably stay away -- to be honest,
25 I'm just going to stay away from any of the beatings and

1 stuff like that. I think I can elicit testimony that
2 shows that she was afraid of this man without getting into
3 specific instances of that sort of conduct. So I'll steer
4 away from that.

5 But the other two issues, I think I should be
6 allowed to elicit from the stand.

7 THE COURT: Mr. Wilson?

8 MR. WILSON: Your Honor, if it please the Court,
9 Judge. I have read the transcript. I don't see anything
10 in there about the f-a-g word either. She made comments
11 stating that he didn't like homosexuals, is what my
12 understanding was. And I listened to the statement as
13 late as last night, Judge.

14 Also, Your Honor, here's the issue at hand. You
15 have a witness who is coming in, testifying not as a
16 defendant. She's coming in and giving statements about
17 the defendant, saying what it is that he told her,
18 allegedly. Okay? There is nothing else in the record to
19 corroborate that this man had any hatred in his heart
20 toward homosexuals. There's nothing else in the record
21 that would suggest it. There's no other witness that I've
22 read a transcript from or seen anything else that
23 corroborates what she says.

24 And here's another issue: This circumstantial
25 evidence case that they have, even with the Cellebrite

1 record, which is, in my opinion, illegal, is highly
2 circumstantial and dangerous. All right? Very close to a
3 case -- and I have said to the prosecutor before at the
4 hearing -- that, you know, it's one of these where a
5 directed verdict is going to be, obviously, made in this
6 case, a motion by the defense, because, again, she only
7 says this.

8 She also, with the .45, Judge, tells him she never
9 saw it; that it was in the possession of another person.
10 She says his baby mama's stepdaddy had a .45. All right?
11 And at some times, he will change into basically, if you
12 will -- and this is my words -- Batman, but he carried
13 a .38. And the caliber of weapon, surprisingly enough, in
14 this case was a .45. She says she never saw him with
15 a .45. She couldn't describe the gun at all.

16 And so doing that, putting that sort of power in her
17 hands to try to imply that the bullet -- that the
18 ballistics expert is going to say is a .45 caliber, you
19 know, ammunition and was fired from a .45 caliber weapon,
20 who they can't produce, they can't put in his hands, they
21 can't say at all that anybody else corroborates their
22 story, that he said anything about having a .45 weapon.

23 They're now trying to put the gun in his hands with
24 using this witness, who, I might add, had a boyfriend who
25 was from Lake City who, at the time, was encouraging her

1 to go to the police about him because he didn't like him
2 because he believed that he was involved in somebody
3 else's death that he knew.

4 THE COURT: Mr. Wilson, doesn't that go to the
5 credibility of the witness? I mean, how am I going to
6 tell a witness that, just because what she says has not
7 been corroborated, that it's not admissible? Am I missing
8 your argument?

9 MR. WILSON: Yes, sir. It's not just about not
10 being corroborating, Judge. And I apologize. It's also
11 about the issue of whether or not you want to put
12 incompetent evidence in front of the jury.

13 THE COURT: That's not for me to decide.

14 MR. WILSON: No, I understand. Actually, as the
15 judge of the law, I had this happen in another case that I
16 worked on. They had found a bullet in my guy's house.
17 Okay? This is in the Welch case. And this was, again, a
18 Court of Appeals issue.

19 They had a bullet they found in my guy's house.
20 They wanted to allege the bullet itself meant that my guy
21 had a gun. And my argument to the judge, I said, "Look,
22 just because my guy allegedly has a bullet in his house,
23 if he had a baseball glove and the murder was done with a
24 baseball bat, can you use a baseball glove to say that he
25 committed the murder?" And the judge said no. It was

1 Judge John.

2 The reason is because, again, that evidence is so
3 dangerously prejudicial, unless you have something that is
4 competent, something that corroborates it. Anything.

5 If there was circumstantial evidence that
6 corroborated that he even possessed the weapon at some
7 point in time or was there with the weapon, I could see
8 allowing it in, but because she's coming in saying, "I
9 never saw him with it, I can't describe it" --

10 THE COURT: So you're making a 403 argument?

11 MR. WILSON: Yes.

12 THE COURT: Okay. All right. Well, then, I think
13 that's best to be taken up at the time testimony is
14 elicited, because I can't otherwise make a competent
15 ruling on that at this juncture.

16 MR. WILSON: May I just add one other thing, Judge?

17 THE COURT: Sure.

18 MR. WILSON: And just for the record, they talked to
19 her back in -- I think it was October of 2020 when she
20 told him where she thought the gun was. They never issued
21 a search warrant for this weapon. They never searched
22 this defendant for the weapon. They never went to the
23 baby father's house or the baby daddy stepdaddy's house
24 where the weapon supposedly was to try to get this weapon.

25 So, again, she's coming in, making the allegation

1 where there's not been a step of corroboration at all,
2 period, that the .45 that she's going to allege he had --
3 and it definitely implies that he had the .45 and he must
4 have used the .45. That is so tenuous and dangerous
5 evidence for the defendant, and prejudicial.

6 THE COURT: Well, certainly, I want to hear that in
7 context, and make your motion when you think you need to.
8 Okay?

9 MR. WILSON: Yes, Your Honor.

10 THE COURT: All right. Is there anything further?

11 MR. WHITE: Not that I'm aware of, Judge.

12 MR. WILSON: Indulgence, Your Honor.

13 THE COURT: Sure.

14 MR. WILSON: Judge, just one last thing. There has
15 been, again, other statements made by Asia Cooper, I
16 believe is her name, which is their witness who comes in
17 saying all this stuff at the last minute. There has been
18 allegations that he was involved in another murder where
19 he was never arrested, never charged with anything. As a
20 matter of fact, in the actual interrogation room when they
21 interrogated her, talked to her, interviewed her or
22 whatever you call it, it was, I think, Investigator
23 Edwards and then someone from Kingstree or Williamsburg --
24 Williamsburg County who was in there with her. And then
25 she makes the allegation against him on that murder as

1 well.

2 She then goes further to say that he has done other
3 things as well and that he is some sort of Batman killer
4 going around.

5 And, again, we would ask the Court to admonish the
6 State to admonish their witness not to put that prior bad
7 acts stuff, which is, one, irrelevant -- highly irrelevant
8 and so prejudicial to the defendant -- into the record,
9 Judge.

10 MR. WHITE: I'm not going to talk about any other
11 murders that he committed unless the defense opens the
12 door to it.

13 THE COURT: All right. Well, just make sure that
14 your witness is prepared --

15 MR. WHITE: Yes, sir, Judge.

16 THE COURT: -- with that respect.

17 All right. Anything further?

18 MR. WHITE: No, sir, Judge.

19 THE COURT: Nothing further, Your Honor, from the
20 defense.

21 THE COURT: Well, do y'all have anything else you
22 need me for this afternoon?

23 MR. WHITE: I don't think so, Judge.

24 THE COURT: Got a couple of solicitors sitting back
25 there. I don't know -- they look like they got business.

1 MR. WHITE: Nah, we're good, Judge.

2 MR. WILSON: Your Honor?

3 THE COURT: Yes, sir.

4 MR. WILSON: Just the last thing: I would ask the
5 Court, you know, to consider -- reconsider its decision
6 related to the Gibbs case, Judge.

7 THE COURT: I'm going to look at that extensively
8 this afternoon.

9 MR. WILSON: Thank you, Your Honor.

10 MR. WHITE: Thank you, Judge.

11 THE COURT: And if y'all would be available to go on
12 the record at 9:15. I don't know if we'll have
13 anything -- or, you know, there may be at least something
14 we'll need to put on the record, and we're going to try to
15 begin this trial unless something else happens at about
16 9:30.

17 MR. WHITE: That sounds great, Judge.

18 MR. WILSON: Yes, Your Honor. Thank you, Judge.

19 (The trial recessed at 3:42 p.m.)

20 * * * *

21 TUESDAY, JULY 18, 2023

22 (The trial resumed at 9:23 a.m.)

23 (State's Exhibit Nos. 1 through 67, Photographs of
24 Scene, was marked for identification.)

25 THE COURT: All right. Is everybody here?

1 MR. WHITE: Yes, Your Honor.

2 THE COURT: All right. I have reconsidered the
3 motion from the defense to suppress the search warrant and
4 the things that came from the search warrant. Certainly I
5 still believe that my ruling is correct. I find that the
6 affidavit certainly contains probable cause. There's
7 certainly the fact that a homicide had taken place; that
8 this phone number was not -- it was a strange phone number
9 in the sense that it wasn't contained in the call logs of
10 the victim's phone. There were the multiple contacts
11 leading up to the death of the victim, and certainly, at
12 that point, they didn't need probable cause to arrest
13 anybody. They just were seeking or the affidavit needed
14 to contain probable cause to search whatever it is they
15 were going to search.

16 I find that it was sufficient, you know, without any
17 additional supplemental information that may have been
18 given before or after the issuance of the search warrant.
19 So that's my ruling.

20 Also, I mean, my ruling is not based on this
21 premise, but, you know, when this number is posted on the
22 internet, as it's been told to me it was, then I'm not
23 sure, at that point, they even have an expectation of
24 privacy. But my ruling is not hinged on that line of
25 reasoning.

1 Mr. Wilson?

2 MR. WILSON: Your Honor, if it please the Court,
3 Judge -- I'd just like my ruling -- I'm not going to
4 contest the judge's ruling. But we're ready to go
5 forward. I'd just like a ruling, also, on the motion to
6 quash the arrest warrant based on the fact that we believe
7 that, again, it was illegal.

8 Obviously, I'm going to interview Mr. -- I
9 apologize, Chief Edwards on the stand regarding these
10 issues, but I want to also get the Court's permission to
11 just to be able to, on the record, say, "Subject to" -- so
12 that Your Honor doesn't think I'm trying to object, you
13 know, a ridiculous amount in the courtroom or if the Court
14 is willing to allow me to run the objection based on the
15 argument right now and let it run through, I will not say
16 a word. And I want the Court just to tell me how you want
17 me to proceed, Judge.

18 THE COURT: I don't have any issue as to how you
19 choose to proceed as far as a running objection. I'll
20 certainly note it for the record.

21 MR. WILSON: Yes, Your Honor.

22 THE COURT: How that protects your client is not for
23 me to decide.

24 MR. WILSON: Yes, Your Honor.

25 THE COURT: The arrest warrant, I haven't seen the

1 arrest warrant. I don't even know what the affidavit
2 contains.

3 MR. WILSON: Yes, Your Honor.

4 THE COURT: If you need me to make a ruling on that,
5 I need to look at that.

6 What is your argument as to why the arrest warrant
7 is deficient?

8 MR. WILSON: Well, again, related back, Judge -- I'm
9 not going to go back, but, obviously, we believe that the
10 original search warrant was extremely derelict in its
11 obligation under the Fourth Amendment required by Gibbs
12 and required by Carpenter. There was no arrest of this
13 defendant after they found his records, and then said they
14 were tracking him through the night having phone calls
15 with this particular person. They didn't arrest him. He
16 wasn't arrested until an individual came forward and said,
17 "Look, I now have information. I met him in" -- I think
18 it was July or something of 2020. And in October of 2020,
19 says that he has now told her all this stuff.

20 Obviously, I'll deal with that on the stand, but,
21 again, the arrest warrant itself fails, in my opinion,
22 because there was no corpus delicti at all when it relates
23 to the actual search warrant for his cell phone records.

24 THE COURT: So how -- I still don't understand how
25 the search warrant ties into -- I mean, how the arrest

1 warrant ties into the search warrant.

2 MR. WILSON: Because they couldn't have --

3 THE COURT: What did they put in the affidavit?

4 MR. WILSON: This is what the affidavit says: [As
5 read] "On or about December 28, 2019, during the night --
6 the hours while at 2711 Pamplico Highway, Pamplico,
7 Florence, South Carolina, also known as Greenwood Athletic
8 Park, located within the jurisdiction of Florence County,
9 the defendant, Antonio Brayboy, did commit the offense of
10 possession of a weapon during a violent crime. Brayboy,
11 whiled armed with a handgun, unlawfully shot a male,
12 Rashad Maurice Jones, resulting in his death. The affiant
13 had electronic evidence leading to the identity of the
14 defendant."

15 So they put it in the warrant for his arrest. They
16 issued another warrant for his arrest where they also put
17 in there, again, "The affiant has electronic evidence
18 leading to the identity of the defendant, on or about
19 December 28, 2019" -- this is for the murder. I
20 apologize. This was the weapon -- this was the murder.

21 On or about December 28th, 2019, during the
22 nighttime hours, in Pamplico, also known as Greenwood
23 Athletic Park, located -- and it pretty much says the same
24 thing: "The affiant responded at the scene, again, to
25 investigate the incident. During the process of the

1 investigation, Affiant ascertained the defendant, Antonio
2 Brayboy, with malice aforethought, shot the male victim
3 with the handgun, fatally killing him, after meeting at a
4 park, thereby committing the criminal offense of murder.
5 The affiant has electronic evidence leading to the
6 identity of the defendant."

7 And, again, both the warrants are based on that
8 search warrant for the arrest, which is what they're
9 talking about. So again, without it, they can't -- if I
10 come right now to a magistrate and say, "Magistrate, look.
11 I got information. I believe that so-and-so told me
12 so-and-so killed so-and-so," the first thing he's going to
13 say is, "How do you corroborate it?"

14 That's why they needed this evidence. That's why
15 it's important.

16 And, again, Your Honor, to be honest with you, we
17 are ready to proceed, you know, to deal with the evidence,
18 because I know what the evidence shows and what it doesn't
19 show. My concern is, is that his warrants are still based
20 on that defective search warrant. That's what my argument
21 is, Judge.

22 THE COURT: Okay. I understand.

23 Mr. White, is there any response?

24 MR. WHITE: No, sir, Judge.

25 THE COURT: I assume you might want to put that

1 warrant in as a Court's exhibit, or both of these exhibit
2 warrants. I don't know how you want to deal with that as
3 far as the record goes.

4 MR. WILSON: No, sir. No, Your Honor. I'm going to
5 let it -- I have read it into the record. I have made my
6 objections, and I know the Court has made its decision. I
7 am firmly okay with that. We're ready to proceed with
8 trial. I'm ready to go forward.

9 THE COURT: Well, along with the same lines as the
10 search warrant, I find that the search warrant is proper
11 and valid; that it contains the requisite -- well, lost my
12 train of thought there.

13 But, anyway, there's nothing wrong with the search
14 warrant, it contains probable cause that it requires.
15 Along the same lines, it seems, from what I have just
16 heard during this argument, that the arrest warrants
17 issued after somebody comes forward with a confession,
18 although it does contain information of the corroboration
19 as far as the electronic evidence that's already been
20 allowed in or found to be proper from the original search
21 warrant, and I'm going to respectfully deny your motion
22 with regard to that as well.

23 Is there anything further?

24 MR. WILSON: Nothing further from the defense,
25 Judge.

1 THE COURT: Anything from the State?

2 MR. WHITE: No, sir. Well, the other only thing,
3 Judge, is I have provided the NCICs for all the lay
4 witnesses. I didn't see anything to be used. I have
5 allowed the defense to review that, but I didn't see
6 anything that could be used for impeachment purposes.

7 THE COURT: Is there any issue with that,
8 Mr. Wilson?

9 MR. WILSON: Judge, I don't have any issues to --
10 need to use that to impeach his witnesses.

11 THE COURT: All right. Was the sequestration of
12 witnesses agreed to or how is that?

13 MR. WHITE: I believe so, Judge. I believe we're
14 good on the sequestration order.

15 MR. WILSON: My understanding is the witnesses will
16 all be sequestered, Judge, just to make sure. I know that
17 there was an issue related to the mother and father, but,
18 again, I don't have an issue with them staying in the
19 courtroom just as long as, obviously, the Court -- and I'm
20 sure that counsel has talked about the inflaming the
21 passion of the jury.

22 THE COURT: All right. Is that understood,
23 Mr. White?

24 MR. WHITE: Yes, sir, Judge.

25 THE COURT: All right. Do we have the jury?

1 THE BAILIFF: Yes, sir.

2 THE COURT: Are we ready?

3 MR. WILSON: Yes, Your Honor.

4 THE COURT: All right. Bring the jury, please.

5 (The jury entered the courtroom at 9:34 a.m.)

6 THE COURT: All right. Good morning, ladies and
7 gentlemen. Thank you for being back here. Appreciate
8 your time, your service, and your patience. We are now
9 ready to begin the trial of this case, and at this time,
10 I'm going to ask that the clerk to come around and swear
11 you in.

12 THE CLERK: If all of you would, please, stand and
13 raise your right hand.

14 (The jury was duly sworn.)

15 THE CLERK: Please be seated.

16 JURY VOIR DIRE

17 THE COURT: Ladies and gentlemen, as you know, we're
18 about to begin the case of the State of South Carolina
19 versus Antonio Brayboy. Before we begin this trial, I
20 want to tell you that this trial might be different from
21 what you might expect. Many people don't have the chance
22 to actually attend court sessions as you're doing now.
23 You may think, from watching television, movies, or
24 reading books that trials are always full of high drama,
25 intense circumstances, and riveting action, and while all

1 of those things might be true at times, this trial is not
2 for entertainment. It's a fundamental part of our
3 democracy. It's a search for what happened in an effort
4 to make sure that justice is done between the parties
5 before this Court today.

6 So justice is often slow, deliberate, and
7 repetitive. It might be the opposite of what you might
8 think. This courtroom is a place of honor. It's
9 dedicated to the protection and preservation of the
10 citizens' rights through what many people have called the
11 greatest system of justice that's ever been created.

12 The attorneys appearing before you are advocates for
13 the parties they represent, but first and foremost,
14 they're officers of this court. They're sworn to uphold
15 the integrity and fairness of our judicial system and to
16 help you in the search for justice. You should expect
17 them to be professional, competent, and ethical in their
18 representation of their client's interest, and you're also
19 expected to do the same.

20 Thank you for accepting the important responsibility
21 of jury service and for your contribution today to our
22 system of justice.

23 What I will now say is intended to serve as an
24 introduction to the trial of this case. This is merely an
25 explanation of the procedure that will follow in the trial

1 in this case so that you can better understand what's
2 going on as we move through it. The defendant's charged
3 by an indictment filed in this court, and the indictment
4 is simply the charge by which the case is brought into
5 this court. It is not in any sense evidence of any of the
6 allegations that it contains.

7 The defendant has pled not guilty to this
8 indictment. The State, therefore, has the burden of
9 proving each of the elements of the indictment beyond a
10 reasonable doubt, and it will be your duty, ladies and
11 gentlemen, to decide whether the State has met that burden
12 at the end of this trial.

13 Your purpose as jurors is to find and determine the
14 facts of this case. You are the sole judge of the facts,
15 and if, at any time, I, as the trial judge, makes any
16 comment regarding the facts of this case, you must
17 disregard that. You are to determine the facts from the
18 testimony and the other evidence that's introduced during
19 this trial. It's up to you to determine the inferences
20 which you feel properly may be drawn from that evidence.
21 It's especially important that you perform your duty of
22 determining the facts diligently and conscientiously
23 because, ordinarily, if you make an erroneous decision or
24 determination about the facts, that can't be fixed.

25 On the other hand, and with equal emphasis, the same

1 law that makes you the judges of the facts makes me the
2 judge of the law. The law as given by the Court is the
3 only law you can consider. You must accept it and follow
4 it, even if you might disagree with it. I can't tell you
5 what the facts are, and you can't disagree with me about
6 what the law is or what the law should be. Your job is to
7 take the law as I give it to you and apply it to the facts
8 as you find them from the testimony of the witnesses and
9 any other evidence that's introduced during this trial.
10 After doing that, you will render your verdict.

11 You must decide this case based solely on the
12 evidence presented here in this courtroom, so that means
13 that, during this trial, you must not conduct any
14 independent research about this case, the facts of the
15 case, the evidence presented in the case, the people or
16 organizations involved in any way in this case. So please
17 don't try to find out any information from any source
18 outside of this courtroom. In our judicial system, it's
19 important that you're not influenced by anything or anyone
20 outside of this courtroom. If you become aware of any
21 jurors not following these instructions, then please
22 notify the Court immediately.

23 It's important that you keep an open mind and not
24 decide any issue in this case until all the evidence has
25 been presented, the parties have made their closing

1 arguments, and I have given you the law in this case.
2 It's your solemn responsibility to determine the guilt or
3 the innocence of this defendant, and your verdict is based
4 solely on the evidence as it is presented to you in this
5 trial and on the law as instructed to you during and at
6 the close of this trial.

7 In just a moment, the solicitor will make what's
8 called an opening statement in which the solicitor will
9 explain to you the issues in this case or at least what
10 the solicitor thinks the issues in this case are. The
11 attorney for the defendant may also make an opening
12 statement, although they're not required to do so. What
13 the attorneys tell you during their opening statements is
14 not evidence in this case. It's only their contention as
15 to what the evidence will be and what the issues are.

16 The evidence in this case will be presented to you
17 by the testimony of sworn witnesses from the witness stand
18 and/or by exhibits that might be introduced throughout
19 this case and the evidence. From time to time during the
20 trial, you might hear one of the lawyers say something
21 like, "Your Honor, I believe we have a question of law or
22 a matter of law to discuss with you" or "Your Honor, may
23 we approach the bench?" And I might even initiate the
24 same.

25 Again, it's important that you not hear any comment

1 that I might have on the facts of this case while
2 discussing a matter of law, so oftentimes, we might have
3 to excuse you to the jury room for a short period of time
4 so that you don't hear any comments that I might have or
5 somebody else might have on the facts of this case
6 because, again, it's your job as jurors to determine the
7 facts of this case.

8 In determining what the facts of this case are, you
9 must decide whether or not the testimony of the witnesses
10 is believable. In deciding whether to believe a witness,
11 you have the right to consider the interest of the
12 witness, the bias of the witness, the prejudice of the
13 witness, the opportunity for the witness to have seen the
14 matters and things about which the witness has testified,
15 and the way the witness acts on the witness stand. You
16 have the right to consider anything that's in the record
17 that will help you evaluate the testimony of the
18 witnesses. That means it's your duty to pay close
19 attention to these witnesses, to observe them, to listen
20 to them, to pay close attention to the attorney and the
21 Court, and to pay close attention to the testimony in this
22 case so that, at the end of all the testimony, after
23 arguments of counsel and the charge on the law by the
24 Court, you'll be in a position to determine what the facts
25 are and apply the law to those facts and thus, render a

1 verdict.

2 So at this time I'd ask if there's any objections to
3 the opening charge from the State.

4 MR. WHITE: None on behalf of the State, Judge.

5 THE COURT: Any from the defense?

6 MR. WILSON: None from the defense, Your Honor.

7 THE COURT: All right. At this time, we're going to
8 recognize the State of South Carolina for their opening
9 argument or opening statement.

10 OPENING STATEMENT ON BEHALF OF THE STATE

11 MR. WHITE: What are you hiding? What are the
12 secrets that you keep? What skeletons do you have tucked
13 away in the dark corners of your closet? We all hope to
14 live a life we don't have to hide, we all hope to live a
15 life where we can share our secrets, and ultimately hope
16 those skeletons in our closet will fade away and we can
17 live at peace.

18 And that's the hope. But that ain't always life, is
19 it? That's not always reality. And the danger oftentimes
20 when you live a life you have to hide a part of yourself,
21 when you feel compelled to keep a part of who you are in
22 the shadows, you run the danger of running into those who
23 lurk in the darkness. There's evil there.

24 And perhaps more than any other time in history,
25 there is no greater reflection of what I'm telling you

1 than the internet. It can be the greatest resource known
2 to man. It can also be a place where predators come to
3 prey on victims. And that's what this case is about.

4 December 27, 2019, Rashad Jones was living his life
5 like he did every day before. He's from Mullins, South
6 Carolina. He lived with his parents, who are seated in
7 the courtroom, and his young son. He had a great job.
8 Co-workers loved him. Family adored him. Perhaps most
9 importantly, he was loved by his young son. And he was a
10 provider. He provided for his mom and his dad, helped out
11 around the house, and looked after his child. And he also
12 had a secret; a secret life that he hid from everyone
13 else.

14 And on that night, he left, tucked his child in for
15 the night, kissed him goodnight, and left to go out. That
16 was a Friday night. The next morning, he never returned.
17 And his family, confused, calling him, searching for him,
18 trying to figure out where he was. Law enforcement
19 ultimately finds him parked in his vehicle in Effingham
20 with a bullet hole in his head.

21 Crime Scene arrives and they swab the inside of that
22 vehicle. They try to get DNA. And you're going to hear
23 from a DNA analyst who is going to tell you they didn't
24 find a single bit of the defendant's DNA in this case.
25 Not one bit.

1 Ladies and gentlemen, there are many reasons why
2 someone's DNA would not be at a crime scene. You wear
3 gloves. You wear a mask. You get in and out of the crime
4 scene quickly.

5 But what did pique investigators' interest is
6 another item that was missing, probably the most important
7 item in a law enforcement investigation today. His cell
8 phone.

9 The family said he had a cell phone, he had it in
10 his hand when he left out, but there was no cell phone
11 present in that vehicle where he was shot dead. Let me
12 tell you something, ladies and gentlemen, this cell phone
13 becomes important. And I guarantee you that, right now,
14 you have got text messages coming in and calls coming in
15 and people checking your social media and friend requests.

16 Cell phones have become a huge part of our lives
17 whether we like it or not. And they begin to search for
18 that cell phone, and they get cell phone records for the
19 victim's phone. And the last telephone number that he
20 spoke to, at about 1:30 in the morning, was the number
21 belonging to Antonio Brayboy, the defendant in this case.

22 And that's not all that was provided in those cell
23 phone records. The call log showed that the hour leading
24 up to his murder, they were on the phone the entire time.
25 About 53 minutes they were talking. But it also shows

1 cell site locator information. That's -- you probably
2 hear on the TV. That's the pings. The pings.

3 Antonio Brayboy lived in Lake City. Rashad Jones
4 lived in Marion. And you're going to see -- we're going
5 to have an expert show it to you -- you can see their cell
6 phones converging together at the time of the murder. And
7 then you can see both cell phones, Defendant and the
8 victim's cell phones, traveling away from the murder scene
9 back to Lake City, where, ultimately, one phone was
10 discarded, and one phone keeps traveling to Lake City.

11 They get that information, get that telephone number
12 belonging to the defendant, and they type it into a --
13 it's basically a search engine called Spotlight. We've
14 got somebody coming that's going to explain to you what
15 Spotlight is. It's basically a Google search or an app
16 used by law enforcement that searches sex sites. And one
17 site in particular pops up when you type in the telephone
18 number belonging to Antonio Brayboy, and that was a web
19 site called SkipTheGames.com. And he was advertising
20 himself for sex. And that advertisement was posted ten
21 days prior to the murder. We're also going to tell you
22 about some other associated websites that were associated
23 with that original ad.

24 And then, finally, a witness comes forward. I told
25 you about one of the newest forms of tool used by

1 investigation, and now I'm going to tell you about one of
2 the oldest: Pillow talk. It will get you in trouble
3 every time, and this case is no different, ladies and
4 gentlemen.

5 A girlfriend of Antonio Brayboy comes forward and
6 says, "He confided everything to me. He told me the
7 entirety of it." And she comes forward. She gives a
8 statement to the investigator in this case, who is now the
9 chief of police, Alex Edwards. Full confession. She had
10 details that only an investigator would know -- only an
11 investigator and the killer, who happened to be her
12 boyfriend.

13 Ladies and gentlemen, we all have secrets. We all
14 have parts of ourselves that we have hidden at one time or
15 another. There's danger that lurks in the shadows.
16 There's predators that prey in the darkness. And that's
17 what this case is about.

18 Antonio Brayboy was waiting. He was waiting online.
19 He was waiting for an unsuspecting victim because he hated
20 homosexuals. And when he found easy prey, he met the
21 victim in this case, and he murdered him. And, at the end
22 of this trial, I'd ask you to find him guilty of it.
23 Thank you.

24 THE COURT: Mr. Wilson?

25 MR. WILSON: Your Honor, if it please the Court,

1 Judge?

2 THE COURT: Yes, sir.

3 MR. WILSON: Thank you.

4 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

5 MR. WILSON: I have tried many cases in my life, and
6 I rarely hear prosecutors get up and start tugging at the
7 heartstrings of the jurors in the beginning of a case.
8 Rarely. They go straight to the law and the evidence.

9 I have tried cases from here to Greenville in state
10 and federal court. His interpretation is what he's
11 telling you about what happened. That's what he's telling
12 you.

13 You haven't seen one witness, one piece of evidence,
14 but he wants to tell you how Rashad Jones was this man at
15 home, loved his kids, loved his wife, had a family.
16 Everybody does. There's not one of you on here who has
17 children who doesn't love your children. That's not what
18 this case is about.

19 Justice and the law is not about heartstrings. That
20 is not why you were chosen. This has nothing to do with
21 what the man was hiding or what he wasn't hiding. I could
22 care less about his personal life. What matters in this
23 courtroom today is that they have charged Antonio
24 Brayboy -- the State has charged him with murder and
25 possession of a weapon during a violent offense. They

1 charged him with that. He's sitting here and telling you
2 that the State is wrong. "I didn't do this."

3 He ain't sitting here telling you, "I'm guilty of
4 this." He's saying to you -- and eventually, Your Honor,
5 who is going to give you the law, is going to tell you
6 he's innocent until the State proves him guilty beyond a
7 reasonable doubt with competent evidence. Meaning this:
8 If he called him 10,000 times that day, is that murder?

9 And he's right. Rashad Jones was on these apps.
10 A lot of men on these apps, looking for sex from women.
11 It is a commonplace. I have seen it now in multiple cases
12 that I've had, in CSC cases as well as murder cases. It
13 happens all the time. These men go on these websites and
14 they seek out people for different sexual activities.

15 And Rashad Jones, like all of us -- and I agree with
16 this -- the one thing he did say that I agree with --
17 everybody's got a public life, a private life, and then a
18 secret life. Everybody does. But what they ain't telling
19 you is this: when you go on these little apps, whether
20 it's Tinder or SkipTheGames, Uberhorny, Fling.com, you can
21 also communicate with other people to meet up. And we're
22 all grown folks here, and I'm going to talk grown-folk
23 talk to you. Okay? They go in there for all sorts of
24 fetishes. Men who like women in high heels. Okay? Men
25 who want women to have sex with other men while they're in

1 the room. Men who want to go and see what it's like to
2 have a woman slap him around. I have seen it all in every
3 single case. Let's get it out there. This is the
4 elephant in the room that's going to be in this case about
5 what this case is about, and it is about what he was doing
6 that night.

7 Here's the thing: When you talk about possession of
8 a weapon during a violent offense -- which is what the
9 State charged him with, and then murder, okay? -- and then
10 murder, it ain't enough to come into a courtroom and say,
11 "Hey, you know what? He called him. They talked. They
12 met online. They had a common interest. They had a
13 common interest in doing one thing: having sex with
14 women."

15 You're going to see the web site because they're
16 going to put it up for you. They're all out looking for
17 sex and a place to go have sex.

18 During the investigation, Chief Edwards investigated
19 this case and found out from his friends he liked women.
20 As a matter of fact, one of the friends told him, said,
21 "Hey, look, he was calling me that night, telling me he
22 was going to sleep with a woman; he couldn't wait to get
23 to her."

24 You're going to see Cellebrite information they're
25 going to give you. They got this. This is not something

1 we collected. This is not something I went and got
2 myself. The State gave me this evidence. And what I'm
3 going to show you is that, when they allege this murder
4 happened, this defendant, who I want you to look at, was
5 on a 37-minute phone call traveling back to his house and
6 near his job. He didn't tell you that, did he?

7 He also wanted to go ahead and let out this
8 bombshell because he thought "Mr. Wilson is about to get
9 up and tell them, we did the forensic evaluation on the
10 crime scene -- on the vehicle." So he wanted to go ahead
11 and diffuse that bomb. They did. They swiped everything.
12 They swiped the car. They swiped inside the car. They
13 swiped the passenger seat where the murderer must have
14 been sitting. They did, I believe, nine to ten swipes in
15 that car, including one of a condom. Because they say
16 this is a sex crime. Hate crime because he hates
17 homosexuals; that he left his job at Walmart that night to
18 go out to find somebody who was a homosexual to shoot him.
19 That's their case. And that's what they're telling you,
20 that there was malice in his heart.

21 These two men had a common interest online: to meet
22 women. I'm going to tell you what I believe happened
23 based on the evidence that the State turned over to us.
24 Before I say that, let me tell you this. I know you watch
25 CSI and "Law & Order" and all that other craziness out

1 there. That is not how things work. Okay? The
2 prosecutor, who I respect, is a lawyer just like I am.
3 Got a juris doctorate. Went to law school. He has no
4 other information than I have.

5 They are responsible, under Brady, to turn over
6 everything they have to me. My staff and I have poured
7 through this evidence. I'm not standing here telling you
8 they have anything extra or that Chief Edwards -- and he's
9 a great police officer, great chief -- that he knows
10 anything extra than I know right now. They don't. They
11 have their theory about what happened.

12 Let me tell you what I have. I have access to the
13 man who they are claiming did this crime. They don't. He
14 wouldn't talk to them. Refused. And did it because I was
15 the one who said, "I advise you to remain silent."

16 The evidence in this case about the Cellebrite
17 traffic, you're going to see where the phone is tracked
18 and when he's on the phone, when he's on the phone
19 talking, who he's talking to.

20 What I challenge you to do is this: The State has
21 charged him with murder, possession of a weapon during a
22 violent offense, and they have an obligation under the law
23 to prove him guilty beyond a reasonable doubt of that
24 offense.

25 So do this for me: They charged him. He got up

1 here and told you all about the Cellebrite information and
2 told you about the witness he's going to talk to, the
3 girlfriend, who definitely is an angry woman. But not
4 everything she said was true. I went through the entire
5 transcript. Not everything she said was congruent with
6 what the evidence showed in that vehicle. Not only was
7 his DNA nowhere to be found, what he didn't tell you --
8 and what the evidence is going to tell you -- there was a
9 mixture of three to four other contributors, and Antonio
10 Brayboy -- and they know this -- is excluded in every
11 single one of them.

12 Now I have seen a lot of murderers in my lifetime,
13 but in this case, I ain't heard no evidence, not seen one
14 piece of evidence about gloves being worn, about a mask
15 being worn at all. Period. That is made-up evidence.
16 Not one person is going to get up here and tell you.

17 And even if you're wearing a mask and you had
18 gloves, do you know how easy it is to transfer your DNA
19 just by sitting in your chair today? Extremely easy.

20 My challenge to you is this: At the moment that you
21 believe that the State has shown you that he has a .45
22 caliber gun in his hand and he's sitting in that car with
23 Rashad Jones and he's sitting down and he shoots him in
24 the head, when they show you that beyond a reasonable
25 doubt, come back and find him guilty. When they show you

1 that he was in that car with a .45 caliber weapon that
2 night with Rashad Jones and that it's not possible that
3 anybody else that Rashad Jones could have or would have
4 met that night, find him guilty.

5 I challenge you to look for that in the evidence
6 because that's what this case is about. It's not about
7 cell phones, not about tracking him, who the last person
8 he talked to and all that craziness. It doesn't matter.
9 They've got to prove to you beyond a reasonable doubt that
10 he had the gun in his hand, got in that vehicle, shot this
11 guy in the head, and left him there for dead. That is the
12 challenge they have. And they have got to do that based
13 on the law.

14 I am asking you as jurors -- I know this is tough.
15 It's tough. The family is here. They love this guy. I
16 don't doubt that at all.

17 Again, justice in trials are not about heartstrings.
18 It is about competent evidence. It is about what you see
19 and hear on the stand. And they still have to prove to
20 you that he had that weapon and that he killed him.

21 I promise you, at the end of this trial, that will
22 not be the case. I'm asking you to listen to the
23 evidence. I'm asking you to pay attention to the
24 witnesses, especially the forensic evidence. Witnesses
25 will lie. You know and I know that. They will lie. You

1 think for a second that nobody in the family knew what had
2 happened to this young man? The first thing they do is go
3 and ask Investigator -- Chief -- I'm sorry; I apologize --
4 Chief Edwards -- ask Chief Edwards, say, "Look, you know,
5 we want to know what happened to our family member." Of
6 course they did. This information was out there.

7 And the chief says he told her he broke his iPhone.
8 Broken iPhones don't ping for two days. And you'll hear
9 testimony that the U.S. Marshals, as well as Investigator
10 Edwards, got the ping two days later. She told Edwards
11 that. He said he broke the iPhone too.

12 Witnesses will lie. Forensic evidence does not.
13 Please pay attention. Thank you so much for being here.
14 I appreciate it. Thank you.

15 THE COURT: All right. Mr. White, want to call your
16 first witness?

17 MR. WHITE: Thank you, Judge. At this time, the
18 State would call Shonda Mitchell.

19 Actually, Judge, I'll put up Timothy Mitchell first,
20 and then Ms. Shonda.

21 THE CLERK: Sir, come up to the stand, and place
22 your left hand on the Bible and raise your right hand.

23 TIMOTHY MITCHELL,
24 after having been duly sworn, was examined and
25 testified to as follows:

1 THE CLERK: Please be seated, and state your full
2 name for the record.

3 THE WITNESS: Timothy U. Mitchell.

4 DIRECT EXAMINATION

5 BY MR. WHITE:

6 Q Say that one more time so we can get it in the
7 microphone.

8 A Oh, I'm sorry. Timothy U. Mitchell.

9 Q Okay. Thank you, Mr. Mitchell. I appreciate it.
10 Appreciate you being here. We'll get you out the door
11 real quick. Okay?

12 A Okay.

13 Q Mr. Mitchell, I want to talk to you about, back in
14 December of 2019 -- and you know why you're here; is that
15 right?

16 A Yes.

17 Q I want to talk to you specifically about
18 December 28, 2019, now. Are you from Florence? Do you
19 live in Florence?

20 A I lived in Florence.

21 Q Okay. And you live in Florence now?

22 A Yes.

23 Q How long have you been here?

24 A Most of my life. I'm 52, so...

25 Q Now, when I tell you that Greenwood Athletic Park,

1 are you familiar with that area?

2 A Yes.

3 Q Is that over in Effingham?

4 A Yes, probably a couple of blocks from my house.

5 Q And what is the Greenwood Athletic Park?

6 A Well, it's a park, you know, where kids go and they
7 play baseball, softball. They do all kinds of stuff
8 there.

9 Q And are you a person that would frequent that park?

10 A Yes.

11 Q Can you tell the jury why were you -- why would you
12 end up in that park?

13 A Well, I had a drone that I was just playing around
14 with, and it was near the holidays. My wife was at work.
15 I was sitting around the house. I left the gym, so I
16 decided to go play with the drone.

17 Q And the drone is one of those remote controls --

18 A Yeah.

19 Q -- that fly up in the air?

20 A Fly in the air. Perfect spot for it.

21 Q And were you doing that on December 28th, 2019?

22 A Yes, I was.

23 Q And what did you notice?

24 A Well, there -- when I -- first when I saw the
25 vehicle, I saw both of the windows down. I just thought

1 my brother had a night, you know, drinking, whatever. I
2 didn't pay it no attention. But the whole time, he didn't
3 move. He just laid there or sitting there, however it may
4 be.

5 Q And did you ever get close enough to see anything?

6 A No, no, no.

7 Q And how long did you think he was just sleeping?

8 A I don't know. Because, like I said, when I first
9 got there, I noticed it. And I'm just -- like I said, the
10 windows were down, when I saw it, and he was just there.

11 Q Now, did you eventually leave the park?

12 A Yes, I did. I left the park, and then I went home
13 for a couple of hours, and in that route, I took the trash
14 out. And when I took the trash out maybe three hours
15 later, the guy was still there. And he was still there,
16 and I just -- I was just curious.

17 Even that whole situation, a couple more hours, you
18 know, I drove by there again. He was still there. And
19 then, like, later on that day, my wife, she was at work,
20 and when she came home from work -- it was her sister's
21 birthday. So we went over to her house for a little
22 while. And, you know, we hung out there. And then, later
23 on that night when we was leaving, I was still curious,
24 and I asked her about it.

25 So she didn't know. I said, "Do you just want to

1 see it?"

2 And then when she asked, you know, to see it, we saw
3 it, and we was in the parking lot on the other -- as soon
4 as you come in there, and we was at the parking lot, and
5 she was like -- I asked her, I said, "What do you want to
6 do?" So we decided to call the police, and that's just
7 all that was.

8 Q Okay. Thank you, Mr. Mitchell. I have nothing
9 further for you. Please answer any questions Defense may
10 have.

11 A Okay.

12 THE COURT: Mr. Wilson?

13 MR. WILSON: If it please the Court, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. WILSON:

16 Q Just briefly, sir. When you went out there that
17 day, did -- and this -- I know you may not know the
18 answer, but you -- you didn't see Antonio Brayboy that
19 day?

20 A I didn't see anybody. Like I said -- like, when I
21 went out there, all I thought was -- it's the holidays. I
22 didn't know -- you know, he could have been drinking. I
23 didn't know.

24 Q Yes, sir.

25 MR. WILSON: No further questions, Your Honor.

1 THE COURT: All right. Thank you, sir. Appreciate
2 you being here. You're welcome to go.

3 MR. WHITE: And, Judge, we'd ask Mr. Mitchell be
4 released from his subpoena.

5 THE COURT: Any objection?

6 MR. WILSON: Without objection, Your Honor.

7 THE COURT: Thank you, Mr. Mitchell. You're free to
8 go.

9 MR. WHITE: Judge, at this time, we'd call
10 Mr. Mitchell's wife, Shonda Mitchell.

11 THE CLERK: All right. Ma'am, if you'll please step
12 up to the stand. Please place your left hand on the Bible
13 and raise your right hand.

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

17 THE CLERK: Please be seated and then state your
18 full name for the record.

19 THE WITNESS: I'm Shonda Gray Mitchell.

20 DIRECT EXAMINATION

21 BY MR. WHITE:

22 Q Good morning, Ms. Mitchell. I just have a few
23 questions for you, and we'll get you out of here. Okay?

24 A Okay. Thank you.

25 Q Ms. Mitchell, I want to turn your attention to

1 December 28, 2019. Your husband just testified. Are you
2 familiar with the time that y'all found someone in the
3 driver's side of a vehicle out at Greenwood Athletic Park?

4 A Yes, sir. December 28 is my sister birthday, so we
5 just left the party. So it could have been 11:30, maybe
6 midnight.

7 Q Okay. And what, if anything, occurred? Did your
8 husband tell you anything when you got off work that
9 night?

10 A When I got off work, we went to the party, but when
11 we left my sister house, he said that he noticed something
12 suspicious. So I was like, "What's going on?" And he
13 said he noticed a truck. And he told me that he was there
14 flying his drone.

15 So I bought him a drone from Stein Mart, and he
16 usually goes out there. And he told me that -- he was
17 taking the trash out, so he noticed it again. So he was
18 like, "I want to go by there." And he like, "Well, that's
19 okay."

20 And I said, "Well, just do what your gut say." I
21 said, "Do you want to go?" And he said yes.

22 So we went to the park, and that's when -- because
23 it was very, very dark, because I was driving. And when I
24 turned my -- I put my bright lights on, that's when I saw
25 the truck.

1 Q And did you see someone in the truck?

2 A I couldn't see because it was too dark.

3 Q Okay. And did y'all approach the vehicle?

4 A No, sir. Not at all.

5 Q And the person was still in the vehicle?

6 A I'm assuming. But it was dark. But I just noticed
7 a truck was there.

8 So I'm a healthcare worker, so I said, "Well, maybe
9 the person had a heart attack, so let's just call 911."

10 Q Is that what y'all did?

11 A Yes, we did.

12 Q And did y'all remain on the scene until law
13 enforcement arrived?

14 A We did, mm-hmm.

15 Q Okay. Thank you, Ms. Mitchell. That's all I have
16 for you.

17 A Okay. Thank you.

18 Q Please answer any questions Defense may have.

19 A Okay. Thank you.

20 THE COURT: Mr. Wilson?

21 MR. WILSON: Your Honor, if it pleases the Court,
22 just briefly.

23 CROSS-EXAMINATION

24 BY MR. WILSON:

25 Q Good morning, Ms. Mitchell.

1 A Good morning.

2 Q You-all didn't see Antonio Brayboy out there, did
3 you?

4 A No, sir.

5 Q Okay. Did y'all try to turn the ignition on in the
6 car at all?

7 A No, sir.

8 MR. WILSON: No further questions, Judge.

9 THE COURT: All right. Ms. Mitchell, thank you so
10 much for being here.

11 Is there any objection to her being released?

12 MR. WILSON: No objection, Your Honor.

13 THE COURT: All right. You're free to go. Thank
14 you, ma'am.

15 THE WITNESS: Thank you.

16 MR. WHITE: Judge, the State would call Deputy
17 Justin Hardee.

18 THE CLERK: If you'll please step up to the stand
19 and place your left hand on the Bible and raise your right
20 hand.

21 DEPUTY JUSTIN HARDEE,

22 after having been duly sworn, was examined and
23 testified to as follows:

24 THE CLERK: Please be seated and state your full
25 name for the record.

1 THE WITNESS: My name is Justin Wayne Hardee.

2 DIRECT EXAMINATION

3 BY MR. WHITE:

4 Q Deputy Hardee, where are you employed?

5 A Florence County Sheriff's Office.

6 Q And how long have you been employed there?

7 A Since July of 2019.

8 Q And prior to your employment at the Sheriff's
9 Office, where were you employed?

10 A I worked for Marion City Police Department for --
11 going on about three years.

12 Q And in what capacity were you employed back in
13 December of 2019?

14 A I was a patrol deputy at the time.

15 Q Do you recall a call for service at the Greenwood
16 Athletic Park?

17 A I do.

18 Q Is that location in Effingham?

19 A Pamplico, Effingham area, yeah.

20 Q And, broadly, is it in Florence County?

21 A Yes, sir.

22 Q How did that call for service come in? What did you
23 think you were responding to?

24 A We got a call that night for a suspicious vehicle at
25 the Greenwood ballpark. Myself, along with Corporal Meggs

1 showed up, and we met with the complainant, Ms. Mitchell.
2 She advised that they were out at the park earlier that
3 day and saw a vehicle parked over in the side of the
4 parking lot. Windows down. Had an individual in the
5 passenger seat looked to be possibly sleeping. Didn't
6 really think much of it.

7 Said later -- they left, and later that night, they
8 were coming back by the park, and they noticed that the
9 vehicle was still there. Ms. Mitchell said her husband
10 wanted to stop and check the vehicle to see if something
11 was wrong. So they pulled in, and Ms. Mitchell told her
12 husband just to call 911 and have us check it.

13 When we arrived, after speaking to Ms. Mitchell, we
14 observed the vehicle. I approached on the driver's side
15 and found a black male in the driver's seat, slouched
16 backwards, seemed to be having blood coming from his ear.
17 Corporal Meggs went to the passenger side and observed
18 that he had blood coming from the backside of his head.
19 Seemed to have a gunshot wound to the head.

20 At that time, we backed out. I taped off the scene,
21 and Corporal Meggs called for investigators.

22 Q Now -- and was that the extent of your involvement
23 in this case?

24 A I believe, other than just calling for a tow truck
25 to come, that was it.

1 Q Okay. And you mentioned previously passenger seat.
2 But when you got there, the individual who was deceased
3 was in the driver's seat; is that correct?

4 A Yeah. He was in the driver's seat of the vehicle.

5 MR. WHITE: Beg the Court's indulgence one moment.

6 BY MR. WHITE:

7 Q Well, I will ask you just one question. When you
8 got out there, was it a very dark area?

9 A Yeah, it was nighttime. There was very little
10 light, other than just the light from our vehicle and
11 flashlights that we had in our hand, looking in the
12 vehicle. But other than that, it was pretty dark.

13 Q Thank you, Deputy Hardee. Please answer any
14 questions the defense may have.

15 MR. WILSON: May it please the Court, Your Honor?

16 CROSS-EXAMINATION

17 BY MR. WILSON:

18 Q Just really briefly. When you guys arrived at the
19 scene, did you look for -- and I don't know if you were
20 responsible for this, but did y'all secure the scene?

21 A Yeah. Once we saw the individual was bleeding, we
22 backed out. I taped off the scene with crime scene tape,
23 and we stayed there on the scene until the Investigations
24 and Forensics got there.

25 Q Okay. And so -- and then y'all would have secured

1 that scene so no other folks would have been allowed to go
2 inside that vehicle; correct?

3 A No, sir.

4 Q All right. Nobody was allowed to manipulate the
5 inside --

6 A No, sir.

7 Q -- turn the ignition, or nothing like that?

8 A No, sir.

9 MR. WILSON: No further questions, Judge.

10 THE COURT: Anything further?

11 MR. WHITE: No, sir. I'd just ask that Deputy
12 Hardee be released from his subpoena, Judge.

13 MR. WILSON: Without objection, Your Honor.

14 THE COURT: Thank you, Deputy Hardee. Appreciate
15 you being here.

16 MR. WHITE: With the Court's permission, I'd ask for
17 a brief five-minute recess.

18 THE COURT: All right, ladies and gentlemen. We're
19 going to take -- generally, with 14 of y'all and the rest
20 of us, five minutes is not really reasonable, but maybe
21 about 10 minutes so everybody can use the restroom if they
22 need to or do whatever it is that we might have to do.

23 So we'll be back about 10:30, and we'll resume
24 testimony at that time. Thank you so much. Please don't
25 discuss this case. You can talk about anything else, but

1 just -- you can't talk about this case.

2 (The jury exited the courtroom at 10:18 a.m.)

3 THE COURT: All right. We'll be at recess.

4 (A recess was taken from 10:18 a.m. to 10:35 a.m.)

5 THE COURT: Are you ready to resume?

6 MR. WHITE: Yes, sir, Judge. The only potential
7 issue -- we have three witnesses we're going to put up,
8 and then our fourth witness cannot be here, along with
9 some other witnesses, until the afternoon session. So I
10 would -- it would be my suggestion, if the Court is
11 amenable to it, to put up these three and then take a
12 lunch break, if that's all right with you and the defense.

13 THE COURT: I don't have any issue.

14 Is that fine with you, Mr. Wilson?

15 MR. WILSON: Three and then lunch sounds good,
16 Judge. No objection.

17 THE COURT: All right. Can we have the jury? Thank
18 you.

19 (The jury entered the courtroom at 10:37 a.m.)

20 THE COURT: All right. Mr. White?

21 MR. WHITE: Thank you, Judge. At this time, the
22 State would call Andrew Clendenin.

23 THE CLERK: Sir, if you'll please step up to the
24 stand and place your left hand on the Bible and raise your
25 right hand.

1 ANDREW CLENDENIN,
2 after having been duly sworn, was examined and
3 testified to as follows:

4 THE CLERK: Please be seated and state your full
5 name for the record.

6 THE WITNESS: Andrew Robert Clendenin.

7 DIRECT EXAMINATION

8 BY MR. WHITE:

9 Q Investigator Clendenin, if you could, tell us where
10 are you employed.

11 A For the Florence County Sheriff's Office.

12 Q And how long have you been employed there?

13 A The last 23 years.

14 Q And in what capacity are you currently employed?

15 A I'm currently lieutenant over the Crime Scene Unit.

16 Q And how long have you been in Crime Scene?

17 A I have been with Crime Scene since 2005.

18 Q And so, back in 2019, December 28th, you would have
19 been in Crime Scene at that time?

20 A That is correct.

21 Q Could you tell us, what are some of your duties and
22 responsibilities when you arrive on a scene such as the
23 one you encountered on December 28th, 2019?

24 A We arrive on-scene. We do documentation of the
25 scene using digital photographs or written, drawn maps of

1 the area. We also collect any evidence that may be around
2 the area that we're looking at.

3 Q So you're concerned with documentation and retrieval
4 of evidence; is that right?

5 A That is correct.

6 Q And was that your role when you arrived,
7 December 28, 2019?

8 A That is correct.

9 Q And were you called to the Greenwood Athletic Park
10 in Florence County?

11 A I'm sorry?

12 Q Were you called to the Greenwood Athletic Park?

13 A Yes, I was.

14 Q And is that in Florence County?

15 A Yes, it is.

16 Q And is that a ball field for kids?

17 A It's a recreational area, yes.

18 Q Okay. And what did you find when you arrived
19 on-scene?

20 A I observed a vehicle parked at the western end of
21 the parking lot in the rear. It was backed in between two
22 parking spots, and it was surrounded by yellow crime scene
23 tape.

24 Q Investigator Clendenin, if you bear with me, I'm
25 going to ask you to step down in just a minute, but I'm

1 going to show you a map and ask you if you're familiar
2 with this area before I show it to the jury. And this is
3 State's Exhibit --

4 MR. WHITE: Did we mark that one yet?

5 COURT REPORTER: Not yet.

6 MR. WHITE: I'm sorry.

7 (State's Exhibit No. 68, Map of Area, was marked for
8 identification.)

9 MR. WHITE: 68. I'm referring to State's Exhibit
10 68, Judge.

11 BY MR. WHITE:

12 Q Investigator Clendenin, could you tell me if you
13 recognize this area?

14 A I do.

15 Q And is that the Greenwood Athletic Park?

16 A It is.

17 Q Is that the scene that you arrived to on December
18 28th -- or December 29th, 2019?

19 A Yes, it is.

20 MR. WHITE: Judge, I move State's Exhibit 68 into
21 evidence.

22 MR. WILSON: If you can turn it around just briefly.

23 MR. WHITE: Yes.

24 MR. WILSON: Your Honor, without objection.

25 THE COURT: All right. 68 is in evidence.

1 (State's Exhibit No. 68 was received into evidence.)

2 MR. WHITE: Permission to publish, Judge.

3 THE COURT: Yes, sir.

4 BY MR. WHITE:

5 Q Investigator Clendenin, I'm going to ask you to hop
6 down, with the Court's permission, for just one minute.
7 And if you could come down and show us where this crime
8 scene was located. And just give us a general orientation
9 of the Greenwood Athletic Park.

10 A This area would be Pamplico Highway. This is going
11 towards the town of Pamplico. This is going towards the
12 town of Florence. And this is entry into the park. And
13 it was on the western end of the park in the rear of the
14 parking lot.

15 Q And you said this is a recreation facility. Are
16 these ball fields and I believe that's a playground there
17 as well?

18 A Yes, sir.

19 Q Thank you, Investigator Clendenin.

20 Now, you mention that a part of your duties is
21 documentation, and I think you also mentioned that they
22 was photographing the scene as you encounter it; is that
23 right?

24 A That's correct.

25 Q I'm going to show you State's Exhibit 1 through 67.

1 If you can flip through these photographs and tell me if
2 you recognize them.

3 THE COURT: While he's doing that, can the lawyers
4 approach for just a minute?

5 COURT REPORTER: Do you want this on the record?

6 THE COURT: No, that's all right.

7 BENCH CONFERENCE

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

10 (Witness reviewing documents.)

11 BY MR. WHITE:

12 Q And I apologize, Investigator Clendenin. I know
13 that can be a little monotonous.

14 A I do recognize every one of them.

15 Q And do you recognize these photographs because these
16 are photographs you took that evening?

17 A That is correct.

18 Q Is it a fair and accurate depiction of the crime
19 scene as you encountered it?

20 A Yes, it is.

21 MR. WHITE: Judge, I'd move State's Exhibit 1
22 through 67 into evidence and ask for permission to
23 publish.

24 MR. WILSON: Your Honor, without objection.

25 THE COURT: All right. 1 through 67 are into

1 evidence, and certainly you can publish them as you see
2 fit.

3 MR. WHITE: Thank you, Judge.

4 (State's Exhibit Nos. 1 through 67 were received
5 into evidence.)

6 BY MR. WHITE:

7 Q Investigator Clendenin, now I'm going to ask you to
8 do another monotonous task and walk us through these
9 photographs and tell us about the crime scene as you
10 encountered it, starting with State's Exhibit 1. What are
11 we looking at here?

12 A You're looking at the victim's vehicle as it was
13 parked that night.

14 Q And, again, just to orient us, you testified
15 previously that it was on the western end of the parking
16 lot; is that correct?

17 A That's correct.

18 Q And this is the vehicle the deceased was discovered
19 in; is that correct?

20 A That is correct.

21 Q State's Exhibit 2?

22 A Showing the driver's side of the victim's vehicle
23 where it was parked at in the corner.

24 Q State's Exhibit 3?

25 A Again, the driver's side of the victim's vehicle.

1 Q And, again, if it's backed in here, then the
2 driver's side door would have been facing the entrance; is
3 that correct?

4 A The front of the vehicle was facing outwards towards
5 Pamplico Highway. The driver's side door would be facing
6 towards the center of the parking lot.

7 Q Okay. Gotcha.

8 State's Exhibit 4 and State's Exhibit 5, all showing
9 the back of the vehicle; is that right?

10 A That is correct.

11 Q State's Exhibit 6? Let me ask you a question before
12 you tell us about State's Exhibit 6, when you arrive, you
13 don't know what you're looking for, do you?

14 A I do not.

15 Q Are you trying to photograph all aspects of the
16 vehicle and its surroundings?

17 A It's a 360 of the actual vehicle scene itself and
18 then all items pertaining as I see it, as I go.

19 Q State's Exhibit 7, is that a license plate?

20 A License plate of the victim's vehicle.

21 Q Now, State's Exhibit 8, we're on the other side of
22 the vehicle; is that correct?

23 A That's correct. The passenger side of the vehicle.

24 Q And then you evenly photograph the inside of the
25 vehicle. Do you first approach from this angle?

1 **A** That's correct, from a 360-degree angle, front,
2 back, sides.

3 **Q** And I think the next photograph shows you enter the
4 vehicle.

5 I want to warn the jury. This is a bit graphic.

6 State's Exhibit 9, is that a photograph of the
7 inside of the vehicle?

8 **A** Yes, it is.

9 **Q** And is that the deceased, Rashad Jones, in the
10 driver's side?

11 **A** Yes.

12 **Q** State's Exhibit 10, can you tell us what did you
13 notice when you were photographing and taking a look at
14 the crime scene, what did you know about or notice about
15 the victim's pants?

16 **A** His zipper was undone. His fly was open.

17 **Q** State's Exhibit 11.

18 **A** That is the rear passenger side door, and I opened
19 it to photograph it.

20 **Q** And just to orient everybody, that's just behind the
21 door that you previously had open, the front passenger
22 door?

23 **A** That's correct.

24 **Q** State's Exhibit 12.

25 **A** The floorboard --

1 Q Is that kind of walking up and getting closer to the
2 inside of that vehicle?

3 A Yes.

4 Q And is that a child's seat that's in the backseat of
5 the vehicle?

6 A Yes, it is.

7 Q State's Exhibit 13, is that on the -- I know it
8 might sound like an obvious question, but is that -- the
9 red material that's coming down the back of the driver's
10 side seat, does that appear to be blood?

11 A Yes, it is.

12 Q State's Exhibit 14, is that a close-up of more of
13 the same?

14 A Yes, it is.

15 Q And State's Exhibit 15, again, just -- are you
16 trying to capture the entirety of the crime scene?

17 A Yes, and the gravitational flow of the blood.

18 Q State's Exhibit 16, what do you notice in this
19 photograph?

20 A There is a jar of Vaseline behind the front
21 passenger seat in the floorboard.

22 Q State's Exhibit 17, is that another picture of the
23 same?

24 A Another closer shot of the Vaseline laying in the
25 floorboard.

1 Q So if I'm understanding you correctly, you go 360
2 around the vehicle and then you start with the front
3 passenger door and you go in and then back out, and then
4 you go to the next door and in and back out. Is that what
5 you're doing?

6 A That's correct. We take overall shots, intermediate
7 shots, and close-up shots.

8 Q So this is you backing back out of the vehicle,
9 State's Exhibit 18; is that correct?

10 A That's correct.

11 Q State's Exhibit 19. And then you make your way
12 around to the other side of the vehicle on State's Exhibit
13 20. Which door are we looking at here?

14 A That is the driver's side's rear passenger door.

15 Q And is that the deceased, Rashad Jones, pictured in
16 the front passenger -- or, excuse me, front driver's side?

17 A Yes, it is.

18 Q State's Exhibit 21. Going to show you in succession
19 with State's Exhibit 22, State's Exhibit 23, State's
20 Exhibit 24. Other than denoting the blood as you observed
21 it in that angle, was there anything of note in that
22 series of photographs?

23 A No, there's not.

24 Q State's Exhibit 25, what are we looking at here?

25 A You're looking at the rear of the driver's side and

1 the passenger seat where the victim's head came to rest.

2 Q State's Exhibit 26?

3 A The VIN number of the vehicle.

4 Q And then I think you moved to the front driver's
5 side, State's Exhibit 27.

6 A Driver's side door.

7 Q And that's the victim? You can see his sandals in
8 the photograph; is that right?

9 A Yes.

10 Q State's Exhibit 28. And then State's Exhibit 29.
11 State's Exhibit 30. State's Exhibit 31, 32.

12 State's Exhibit 32 shows a little bit better the
13 zipper; is that right?

14 A Yes.

15 Q And State's Exhibit 33, I believe you can -- and
16 34 -- you can tell -- and I guess even 35 -- you can tell
17 that his zipper is down; is that right?

18 A That is correct.

19 Q Now, I notice there is a condom in the center
20 console; is that correct?

21 A That is correct.

22 Q Did you also find -- and we'll get into it in just a
23 minute but I want to get to go ahead and ask about it now.
24 Did you also find a condom outside the vehicle?

25 A I did. Also a condom wrapper outside the vehicle.

1 Q Was it some distance away from the vehicle?

2 A It was just outside the driver's side, laying in the
3 parking lot.

4 Q Now, this condom brand, is it a common condom brand?

5 A It's a fairly common brand.

6 Q Are you aware that DHEC commonly gives out this
7 brand of condom?

8 A I know they give out bags of condoms upon request.

9 Q State's Exhibit 36, State's Exhibit 37, and State's
10 Exhibit 38. I notice you're zooming in on Mr. Jones's
11 head, and you mentioned earlier blood flow or the
12 direction of the blood. Is that what you're trying to
13 document?

14 A Yes, sir.

15 Q State's Exhibit 39, where are we here?

16 A That is the underneath the driver's side seat.

17 Q And is that because you're trying to look at all
18 angles and all crevices?

19 A All crevices, plus if you -- kind of hard to see,
20 but if you look back in the picture towards the center
21 top, you'll see the victim's wallet that was wedged in
22 between the console and the driver's seat, laying on the
23 floorboard.

24 Q So in between the console and the driver's seat, you
25 discovered the victim's wallet; is that correct?

1 A That's correct.

2 Q And what kind of wallet was it? Well, you've got a
3 photograph of it. It was a bi-fold wallet?

4 A It was a bi-fold wallet.

5 Q Was it closed or was it open?

6 A It was closed.

7 Q And when you photograph it, do you leave it closed
8 or do you open it up?

9 A I open it up.

10 Q Now, you're obviously -- did you have information
11 when you arrived that you're dealing with a potential
12 murder and a gunshot?

13 A Yes, I did.

14 Q And what is one piece of evidence that you're
15 searching for that might make you want to look underneath
16 the seat?

17 A Any kind of shell casings, projectiles, anything
18 that was left behind at the scene.

19 Q Did you recover a shell casing?

20 A No, I did not.

21 Q Show you State's Exhibit 40, 41, 42, 43, and 44.
22 Are you documenting now -- so you made it around -- you
23 made a 360, and you have done kind of zoom in and zoom out
24 on each door. Now, you're going back and specifically
25 documenting particular areas of interest?

1 **A** Yes.

2 **Q** These denoting blood?

3 **A** Yes.

4 **Q** Or at least potential blood; is that right?

5 **A** That is correct.

6 **Q** State's Exhibit 45, State's Exhibit 46, State's
7 Exhibit 47. And, again, during your sweep, you did not
8 find a shell casing, did you?

9 **A** No, I did not.

10 **Q** State's Exhibit 48, is this the wallet that you
11 mentioned previously?

12 **A** That is correct.

13 **Q** And it had -- did it have identifying information
14 belonging to Rashad Jones?

15 **A** It did.

16 **Q** And was that one such item?

17 **A** That's the victim's driver's side I pulled out of
18 the wallet.

19 **Q** All right. I'm going to show you State's Exhibit
20 50. We see these little yellow markers that we kind of
21 see sometimes on television. What are those markers?

22 **A** You'll see markers 1 and 2. That was marking the
23 condom -- the used condom, and the second one was the
24 wrapper of the condom.

25 **Q** And why do you do that? Why do you use a marker?

1 **A** To show exactly the location of where it was found
2 on the parking lot.

3 **Q** State's Exhibit 51, is that a zoomed-in picture of
4 the same?

5 **A** Yes. That's an intermediate shot of the...

6 **Q** State's Exhibit 52, is that the condom in question?

7 **A** Yes, it is.

8 **Q** And State's Exhibit 53, is that the condom wrapper?

9 **A** That's the condom wrapper.

10 **Q** I want to show you State's Exhibit 54 and then
11 State's Exhibit 55. It denotes that this is a tag placed
12 by the Office of the Coroner; is that right?

13 **A** That is correct.

14 **Q** Does the coroner's office work in conjunction with
15 the sheriff's office or any law enforcement entity when a
16 murder or any kind of death takes place?

17 **A** That is correct.

18 **Q** Were they present on the scene?

19 **A** They were.

20 **Q** And was specifically Deputy Coroner Bo Myers
21 assigned to this case?

22 **A** He was.

23 **Q** Was he out there with you?

24 **A** He actually arrived on the scene right before
25 myself.

1 Q Okay. And does he also photograph the scene?

2 A He does.

3 Q All right. So he is conducting his own
4 investigation; is that right?

5 A That's correct.

6 Q And then, at some point, did he remove the body?

7 A He did.

8 Q And is that typical in a case like that?

9 A That is correct.

10 Q And once the body is removed, do you go back and
11 photograph more?

12 A I do.

13 Q State's Exhibit 56 and 57. And I'll stop there and
14 ask you: Is that the area where you found that wallet in
15 between the center -- am I understanding that correctly?

16 A If you look at the seatbelt latch, it would be just
17 south of that.

18 Q And it was down below the seatbelt latch?

19 A It was down below the seatbelt latch, laying in the
20 floor.

21 Q State's Exhibit 58. Is that a better angle of where
22 you recovered the wallet from?

23 A That and also where the victim was once laying.

24 Q State's Exhibit 59.

25 A The console of the victim's car.

1 Q State's Exhibit 60. And we're almost done here.

2 A The floorboard of where the victim's feet were
3 resting.

4 Q State's Exhibit 61.

5 A The center console.

6 Q State's Exhibit 62.

7 A Center console and the edge of the driver's seat.

8 Q 63. And then 64 shows the opposite angle and where
9 the blood -- without the victim's head present; is that
10 right?

11 A That's correct. It's redocumented once the victim
12 has been removed in case there's anything underneath the
13 victim.

14 Q The last three: 65, 66, and then 67, the last
15 photograph.

16 Now, the condom and the condom wrapper, what, if
17 anything, did you do with it?

18 A They were sent to the lab in South Carolina Law
19 Enforcement Association.

20 Q Do you have any dealings with testing once the
21 item -- any item of evidence leaves your possession?

22 A No. It's collected, and then further testing is
23 done by the lab in SLED.

24 Q When it's awaiting transport to SLED, do y'all,
25 obviously, store it at the sheriff's office?

1 **A** That's correct. It's stored in our evidence room.

2 **Q** And is that a locked facility?

3 **A** It is.

4 **Q** Now, were those the only items of evidence that you
5 sent off for testing?

6 **A** Those and some swabs that I collected from the
7 victim itself.

8 **Q** What are swabs?

9 **A** It's a cotton tip, which is a swab that we use
10 deionized water. We'll take samples of the blood, any
11 area that may be touched by either the suspect, and we'll
12 take swabs of it.

13 **Q** And those are sent off for testing for DNA purposes;
14 is that right?

15 **A** That is correct.

16 **Q** And they're stored there at the sheriff's office
17 before they're sent to SLED?

18 **A** That is correct.

19 **Q** But you're not involved in testing; is that correct?

20 **A** No, I'm not.

21 **Q** Now, is it abnormal for you to swab a crime scene
22 and it not turn over DNA?

23 **A** It's not abnormal.

24 **Q** Does it happen often?

25 **A** It happens a lot of the times.

1 MR. WHITE: Beg the Court's indulgence for one
2 moment.

3 (Co-counsel conferring off the record.)

4 BY MR. WHITE:

5 Q That's a good point Deputy Tucker brings up. I
6 asked about the shell casing, but oftentimes, you said
7 that you're looking for bullet fragments; is that right?

8 A That's correct.

9 Q Now, sometimes bullet fragments might be on the
10 crime scene; is that correct?

11 A That's correct.

12 Q But, oftentimes, they are recovered during autopsy?

13 A That's correct.

14 Q And what does that mean? And a pathologist is going
15 to come and tell the jury. But does that mean the bullet
16 fragment is actually lodged somewhere in the victim's
17 body?

18 A It's still inside the victim, so the pathologist
19 would retrieve that.

20 Q Is that what occurred here? Is that what occurred
21 in this case?

22 A That's what occurred in this case.

23 MR. WHITE: Okay. Beg the Court's indulgence one
24 moment.

25 (Co-counsel confer off the record.)

1 BY MR. WHITE:

2 Q And that was taken to SLED for analysis; right?

3 A That's correct. We go to autopsy with the victim,
4 and then all evidence is transferred to us, brought back
5 to our sheriff's office where it's repackaged and then
6 sent to SLED for further testing.

7 Q Thank you, Investigator Clendenin. I appreciate it.
8 Please answer any questions Defense may have.

9 CROSS-EXAMINATION

10 BY MR. WILSON:

11 Q Good morning, Investigator. How are you doing?

12 A I'm doing well.

13 Q I just have a few questions for you.

14 MR. WILSON: Court's indulgence, Judge.

15 THE COURT: Yes, sir.

16 BY MR. WILSON:

17 Q And I apologize. I need to go through these -- the
18 State's exhibits. There's just a few things I just want
19 to ask you about.

20 The State just entered multiple pictures without
21 objection from the defense. And these are pictures that
22 you took; is that correct?

23 A That is correct.

24 Q And there's no doubt about that?

25 A There's no doubt.

1 Q Let me ask you about this one. Now, when you --

2 THE COURT: And that's State's 47 for the record.

3 MR. WILSON: I apologize, Your Honor. My apologies,
4 Judge.

5 THE COURT: No problem.

6 MR. WILSON: For the record, this is State's 47
7 exhibit. My apologies. Apologies to the jury.

8 BY MR. WILSON:

9 Q This is a picture you took; is that correct?

10 A That's correct.

11 Q No one had manipulated the body at this point in
12 time, to your knowledge?

13 A Not that I'm aware of.

14 Q Okay. Where is his arm located -- his right arm in
15 this picture?

16 A Right arm is located down by his side.

17 Q All right. And in his picture, do you see keys in
18 the ignition?

19 A Yes, I do.

20 Q Now, in the center console, what do you see?

21 A There is a water bottle, ashtray, and there's a
22 one-dollar bill.

23 Q Just a one-dollar bill?

24 A Yes.

25 Q All right. This picture is pretty much the same;

1 correct?

2 A That is correct.

3 Q Thank you so much.

4 Now, if you could tell me -- and I know this is
5 difficult -- but do you see blood spatter in this picture
6 around that dollar bill that's in there?

7 A Yes, I do.

8 Q Okay. Now, the State did introduce this picture,
9 but did you take a picture of a wallet that had \$40 in it?

10 A I took a picture of the victim's wallet.

11 Q Was there \$40 that you also took a picture of?

12 A I didn't take a picture of the inside contents, no.
13 Just the driver's license for identity.

14 MR. WILSON: Your Honor, may I approach to refresh
15 the witness?

16 THE COURT: Yes, sir. Just refer to the exhibit.

17 MR. WILSON: It's not an exhibit, Judge. They
18 didn't put this in.

19 THE COURT: Okay.

20 MR. WILSON: I just want to know if he took the
21 picture.

22 THE COURT: Okay.

23 A Oh, yeah. Now, that picture, I did take, but I
24 didn't take -- that was part of the coroner's
25 investigation.

1 BY MR. WILSON:

2 Q Okay. But you did take this picture?

3 A Yeah, I took the picture.

4 Q And the wallet itself had \$40 in it; right?

5 A That's correct.

6 Q Okay. But the State didn't put that in. Did you go
7 through that when the State went through all those
8 pictures?

9 A That was not --

10 Q That was not presented; correct?

11 A That was not in there.

12 Q Okay. Now, this is State's Exhibit 48; correct?

13 A That's correct. That's my photograph.

14 Q And this is a picture without the \$40 in the
15 picture; correct?

16 A Correct.

17 Q All right. And this is a picture of Rashad Jones's
18 wallet?

19 A That's correct.

20 Q As it was that day?

21 MR. WHITE: And, Judge, just for the record, I have
22 got no problem with the defense moving that picture into
23 the evidence so the jury can see it.

24 THE COURT: That's up to the defense.

25 MR. WHITE: No objection.

1 THE COURT: All right. Continue, Mr. Wilson.

2 MR. WILSON: Thank you, Your Honor. Thank you so
3 much.

4 BY MR. WILSON:

5 Q Now, I want to ask you about this picture in
6 general; specifically about his left hand. Where is his
7 left hand located?

8 A Resting on his lap.

9 Q Okay. And not to be vulgar, but it's near his
10 private area; correct?

11 A Close to, yes.

12 Q Now, when you go to the crime scene -- and I know --
13 I've known about your work for years. You do good work.
14 I understand that.

15 What I'm asking you is this: The crime scene was
16 secured when you got there; correct?

17 A Correct.

18 Q All right. And then your job would be not to
19 necessarily test for any sort of evidence of DNA but to
20 collect the actual swabs or use the tools that you guys go
21 and use, just like on CSI almost and kind of swab an area?

22 A That's correct.

23 Q Okay. And the reason that you do that for, tell the
24 jury why it is that you do that.

25 A For possible identity to see who was there at the

1 scene.

2 Q All right. And in your years of doing this -- how
3 many years have you been doing this?

4 A I have been doing this since 2005.

5 Q Okay. So 18 years, roughly?

6 A Yes.

7 Q When you process these crime scenes and you're
8 looking for DNA, it's easy to transfer DNA to an area; is
9 that fair?

10 A It is. If you're ungloved, you will be transferring
11 your DNA to a scene, yes.

12 Q Did you find any gloves in the car?

13 A No, I did not.

14 Q Did you find any other material, fabrics, that might
15 be similar to that of a mask?

16 A No, I did not.

17 Q And did you look for fingerprints?

18 A I did.

19 Q Through the vehicle?

20 A Yes, in the vehicle.

21 Q Did y'all find any fingerprints?

22 A Fingerprints were found more on the driver's side
23 door, but they were inconclusive. I could not make a
24 comparison to the victim's or anybody else's.

25 Q Okay. Thank you.

1 Now, question about the condom --

2 MR. WILSON: Court's indulgence, Your Honor. My
3 apologies to the Court, Judge, and my apologies to the
4 jury.

5 BY MR. WILSON:

6 Q This is the condom wrapper that you found outside on
7 the ground?

8 A That's correct.

9 Q And this was next to the driver's side vehicle;
10 right?

11 A Yes.

12 Q To the driver's door?

13 A Yes.

14 Q And this is the condom wrapper -- I mean, excuse me,
15 this is the actual condom itself?

16 A That's correct.

17 Q Okay. Now, this is the condom package you found
18 inside the vehicle?

19 A That's correct.

20 Q All right. This packet was unopened; correct?

21 A Correct.

22 Q Now, I have a question: The brand of condom that
23 was in State's Exhibit 53, is it the same brand of condom
24 that was in State's Exhibit's 66?

25 A That's correct. Both of them were Magnums.

1 MR. WILSON: No further questions, Your Honor. And
2 I apologize about the pictures, Judge.

3 THE COURT: No problem. Take your time.

4 Mr. White, anything further?

5 MR. WHITE: Just briefly.

6 REDIRECT EXAMINATION

7 BY MR. WHITE:

8 Q Two questions, Investigator Clendenin, and I'll get
9 you out of here. Just two more questions for you.

10 First, I think you testified to it earlier, but
11 those condoms, is that a commonly used condom?

12 A I see a lot of them, yes.

13 Q I think you also testified that those are the type
14 of condoms that are given out at DHEC; is that right?

15 A I know DHEC gives out bags of condoms, so it's a
16 good possibility because I run across them a lot.

17 Q Now, in your many years of law enforcement
18 experience, when you investigate a murder case, would you
19 expect a defendant, who is wearing gloves when he kills
20 somebody, to take the gloves with him, or would he leave
21 them there on the crime scene?

22 A They'll usually take them with them unless
23 accidentally dropped.

24 Q Thank you very much.

25 THE COURT: Anything further, Mr. Wilson?

1 MR. WILSON: If Your Honor could -- if I could
2 briefly.

3 THE COURT: Sure.

4 RECROSS-EXAMINATION

5 BY MR. WILSON:

6 Q Sir, you are the crime scene investigator; right?

7 A That's correct.

8 Q You didn't find any gloves, did you?

9 A No, I did not.

10 Q In your investigation, had you even seen anything
11 about gloves in this matter?

12 A No, I did not.

13 Q Thank you so much.

14 THE COURT: All right. Is there any objection to
15 Officer Clendenin being released from his subpoena?

16 MR. WILSON: No objection, judge.

17 THE COURT: Any from the State?

18 MR. WHITE: No, sir, Judge.

19 THE COURT: Thank you, sir, for being here.

20 MR. WHITE: Judge, at this time, the State would
21 call James Allen.

22 THE CLERK: Sir, if you will please place your left
23 hand on the Bible and raise your right hand.

24 JAMES ALLEN,

25 after having been duly sworn, was examined and

1 testified to as follows:

2 THE CLERK: Thank you, sir. Please have a seat, and
3 be careful walking around that corner. And once you're
4 seated, if you'll state your full name for the record.

5 THE WITNESS: James Jay Allen.

6 DIRECT EXAMINATION

7 BY MR. WHITE:

8 Q Mr. Allen, I'm going to ask you a few questions.
9 Just answer the best you can. I know you've got some
10 vision problems, Mr. Allen, but if you need anything, you
11 just let me know. Okay?

12 A Yes, sir.

13 Q Mr. Allen, where are you from? Where do you live?

14 A I live in Mullins, South Carolina.

15 Q And how long have you lived there?

16 A All my life. Well, I have been living in Marion
17 with me and my wife and mother. Me and her got married,
18 and we stay in Mullins.

19 Q You nodded in the direction of your wife. Who is
20 your wife?

21 A Vivian, over there.

22 Q And how long have y'all been married?

23 A As a matter of fact, we got an anniversary coming up
24 in a couple more days. 35 years.

25 Q Congratulations on your anniversary.

1 How many children do y'all have together?

2 A We had four.

3 Q You said "had."

4 A Yes.

5 Q One of those Rashad Jones?

6 A Yes, sir.

7 Q Back in December of 2019, where was Rashad living?

8 A He was living with us, with me and my wife. And his
9 son was staying with us too.

10 Q Okay. He had a son?

11 A Yes.

12 Q What was his son's name?

13 A Rameare (ph) Jones.

14 Q And it was the four of y'all living there?

15 A Yes, sir.

16 Q At that time, were you working?

17 A I was disabled.

18 Q And is that because of your vision?

19 A Yes, sir.

20 Q All right. And was Rashad -- was he working?

21 A He was working. He always worked, yes, sir.

22 Q Okay. And where was he working?

23 A For BM -- DP -- I really -- I forgot the --

24 Q Is it BBCI?

25 A Yes. Yes, sir.

1 Q And was that schedule -- did that keep him working
2 Monday through Friday?

3 A Yes, sir.

4 Q And did he leave in the morning and come home in the
5 evening?

6 A Yes, sir.

7 Q And his child was living there; is that right?

8 A Yes, sir.

9 Q So, in the afternoons, was he tending to the child?

10 A Yes, sir. He'd come in, take care of his child.

11 Q Was he helping out around the house?

12 A Yes, sir. Yes, sir. He helped me and my wife pay
13 some bills.

14 Q I know it's difficult.

15 December 27th, 2019, I believe that would have been
16 a Friday. Just a few days after Christmas. Was that the
17 last time you saw Rashad?

18 A Yes, sir.

19 Q And was that just a normal day up until then?

20 A It felt strange, but it was a normal day. Just felt
21 strange.

22 Q And when he knocked off of work and got home, was it
23 normal as far as his interactions with y'all and the baby
24 and that sort of stuff?

25 A Yes.

1 Q Was he usually the person that was put the child to
2 sleep?

3 A Yes, sir.

4 Q And did he do that that evening?

5 A Yes, sir. I heard him back there playing with the
6 child, getting him to go to sleep, trying to get him to go
7 to sleep. And then I heard him playing, laughing, and was
8 just so happy. He was just so happy.

9 Q I know putting a child to bed can be a difficult
10 thing; sometimes they don't want to go to sleep. But,
11 ultimately, he got the child to sleep?

12 A He got him to go to sleep. I heard him talking on
13 the phone to somebody.

14 Q Okay. And did he ultimately -- once he got his son
15 to sleep, did he leave the house?

16 A Yes, sir.

17 Q Do you recall -- and I know you probably weren't
18 looking at your watch, but do you recall about what time
19 that was?

20 A It was about between 10:00 and 11:00.

21 Q Okay. And he left out. And he had his phone with
22 him?

23 A Yes, sir. He had his phone with him. He always
24 stayed on that phone.

25 Q Like a lot of us do, stay on the phone. But he kind

1 of had that thing attached to him?

2 A Yes, sir.

3 Q And he left out of his house about 10:00 or 11:00
4 with his phone?

5 A Yes, sir, with his phone.

6 Q After tucking his son in?

7 A Yes, sir.

8 MR. WHITE: Beg the Court's indulgence for one
9 moment.

10 (Co-counsel confer off the record.)

11 BY MR. WHITE:

12 Q That's all I have for you, sir. I appreciate it.
13 You do have to answer any questions Defense may have.
14 Okay?

15 A Yes, sir.

16 THE COURT: Mr. Wilson?

17 MR. WILSON: If it please the Court, Your Honor?

18 CROSS-EXAMINATION

19 BY MR. WILSON:

20 Q Just very briefly, sir. Mr. Allen, you said that he
21 was in a rush to get out of the house because he got a
22 call from --

23 A No, I didn't say that. I said he was talking on his
24 phone, and he -- to me, it seemed like he was in a rush to
25 leave out the house.

1 Q Okay. So he was talking on his phone around that
2 time to somebody on the phone. You don't know who it was;
3 correct?

4 A No.

5 Q But that was between the hours of 10:00 and 11:00?

6 A Somewhere in between there.

7 Q Okay. And then you said that you believed that,
8 based on your observations of your son, that he was in a
9 rush to get out of his house at that point in time?

10 A It seemed that way to me.

11 MR. WILSON: No further questions, Your Honor.

12 THE COURT: Thank you, Mr. Jones.

13 Or is there anything further?

14 MR. WHITE: Yes, sir, just briefly.

15 REDIRECT EXAMINATION

16 BY MR. WHITE:

17 Q And I know I've covered it, but I just want to make
18 sure we're clear. That's just kind of your estimate of
19 when he left?

20 A That's just my -- that's just my estimate, yes, sir.

21 Q Yes, sir.

22 A I don't really know.

23 Q Thank you. Yes, sir. I appreciate it very much.

24 A Yes, sir.

25 THE COURT: Thank you, Mr. Jones.

1 THE WITNESS: Yes, sir.

2 MR. WHITE: And I would ask that he be released from
3 his subpoena, Judge.

4 MR. WILSON: Your Honor, without objection.

5 THE COURT: All right.

6 MR. WHITE: Judge, at this time, we'd call Vivian
7 Allen.

8 THE COURT: All right.

9 THE CLERK: Ma'am, if you'll please step up to the
10 stand. Place your left hand on the Bible and raise your
11 right hand.

12 VIVIAN JONES,
13 after having been duly sworn, was examined and
14 testified to as follows:

15 THE CLERK: Please be seated and then state your
16 full name for the record.

17 THE WITNESS: Vivian Allen Jones.

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q Ms. Vivian, I'm just going to ask you a few
21 questions and we'll get you back down. Okay?

22 A Okay. All right.

23 Q Was that your husband who just testified?

24 A Yes, it was.

25 Q And do y'all live together over there in Mullins?

1 A Yes, sir.

2 Q And he mentioned you have four kids together; is
3 that right?

4 A Mm-hmm.

5 Q One of those being Rashad?

6 A Rashad. He's my baby boy.

7 Q And back in December and really in 2019, for a large
8 portion of that time, was he living there at the home with
9 you?

10 A Yes, he was.

11 Q Who else was living there with y'all?

12 A It was him and his son, Rameare, and me and my
13 husband, yes.

14 Q And your husband testified to kind of roughly his
15 schedule. He'd go to work, come home, and take care of
16 Rameare; is that right?

17 A That's right.

18 Q He put Rameare to bed every night?

19 A Oh, yeah.

20 Q And that Friday night, December 27th, 2019, was that
21 more of the same? Did he put Rameare to bed that evening?

22 A Mm-hmm.

23 Q After he put Rameare to bed on the weekends, would
24 he go out and see friends?

25 A Yeah. Oh, yeah. Sometimes he'd stay at home and,

1 you know, we'd go off somewhere, yes, and have a little
2 family outing, yeah.

3 Q But on the -- some occasions where he would go out
4 alone --

5 A Oh, yeah.

6 Q -- when you woke up the next morning, was he always
7 there?

8 A He was always there.

9 Q So when you woke up that next morning on December
10 28th, did you find it odd that he had not returned?

11 A Yes, it was odd.

12 Q And did that stick out to you?

13 A Oh, yeah.

14 Q What did you do?

15 A I went calling around, you know, his cousins and --
16 you know, he usually hangs out with. I called them and
17 asked them did they see him. You know, everybody, no,
18 they hadn't seen him. So it had me worried, so...

19 Q Did you speak to his son that morning?

20 A Yeah.

21 Q Okay. And did you -- was he worried?

22 A Yeah, he was sort of worried. I was like, "Oh,
23 Rameare, where is your daddy? We're going to get him.
24 Where's your daddy?"

25 I don't know. He probably came to me that night and

1 said he said, "Well, Mommy, he's -- he's gone." I don't
2 know.

3 Q Did that give you chills?

4 A Oh, yeah.

5 Q And did you ever see your son again?

6 A I never seen him again.

7 MR. WHITE: Judge, I have nothing further.

8 MR. WILSON: No questions, Your Honor.

9 THE COURT: All right, ma'am. Thank you for being
10 here. You're certainly welcome to step down.

11 THE WITNESS: Okay. Thank you.

12 MR. WHITE: I'd ask that she be released from her
13 subpoena.

14 MR. WILSON: Without objection, Your Honor.

15 MR. WHITE: Judge, this may be the appropriate time
16 to break for lunch.

17 THE COURT: All right. Ladies and gentlemen, due to
18 witnesses' schedules and what they have lined up, we're
19 going to go ahead and break for lunch at this time. Let
20 me ask the lawyers to approach just a moment.

21 BENCH CONFERENCE

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

24 THE COURT: All right, ladies and gentlemen. Again,
25 due to there's witnesses that are coming in from out of

1 town this afternoon and their schedules, we're going to
2 start back at 1:30. And I apologize. You know, a
3 two-hour lunch break. But I don't want you sitting here
4 with nothing to do, if there's something that you can go
5 out and take care of. We don't want to waste any of your
6 time.

7 We appreciate your patience, your attention, and
8 your time so far. Please don't discuss this case amongst
9 yourselves or with anyone else. I'll let you know when
10 you can do that, and it will be at the conclusion of this
11 trial. Okay?

12 So if you would just go out and, you know, do
13 whatever it is you need to do, be back here about 1:15 or
14 so, and we'll get started at 1:30. Thank you so much.

15 (The jury exited the courtroom at 11:27 a.m.)

16 THE COURT: All right. Is there anything before we
17 break for lunch?

18 MR. WHITE: Not on behalf of the State, Judge.

19 MR. WILSON: Nothing from the defense, Your Honor.

20 THE COURT: Y'all have a good lunch, and we'll see
21 you about 1:30.

22 (A lunch recess was taken at 11:28 a.m. to 1:30 p.m.)

23 (State's Exhibit Nos. 69-97, Scene Photographs,
24 marked for identification.)

25 (State's Exhibit Nos. 98-103, Dating App Screen

1 Shots, marked for identification.)

2 (State's Exhibit No. 104, Item #20
3 Projectile/Bullet, marked for identification.)

4 THE COURT: Do we have everybody we're looking for
5 to get started?

6 MR. WHITE: Yes, sir. I think we're good. I just
7 want to bring up two things, if I could, Judge.

8 Our first witness this afternoon will be former
9 Deputy Coroner Bo Myers. I think I'd like for him to
10 testify as an expert. He's been qualified as an expert in
11 blood spatter and crime scene reconstruction before. I
12 just wanted to bring that to the Court's attention. I do
13 want to see about qualifying him as an expert.

14 I don't think it's anything that will, you know,
15 necessarily benefit or, you know, one way or the other. I
16 think what he'll testify to is that, in his opinion, the
17 head of the victim is in an upright position, which would
18 cause the blood to initially flow down the face. And then
19 he's of the opinion that the natural release of gas after
20 death and that sort of thing would have led to the head
21 then rolling back.

22 The other thing that he would testify to is that he
23 believes -- and I think the defense would probably not
24 refute this -- is that the blood -- one of the items of
25 evidence on the door, the blood there would have been from

1 a smear. It wouldn't have been spatter. It would have
2 been someone who transferred that blood to the door, i.e.
3 the suspect.

4 So those are the two things that he would testify
5 to. I'm going to move those photographs into evidence.
6 I'm not going to show all of them, but I just wanted to
7 bring that to the Court's attention.

8 THE COURT: Mr. Wilson?

9 MR. WILSON: Your Honor, this is unusual. Normally,
10 the coroner doesn't testify as an expert, but based on his
11 report, if Your Honor is inclined to allow him to testify
12 as an expert, we'll take it.

13 THE COURT: Well, I mean -- and certainly, you can
14 either -- you know, we're going to have to hear the voir
15 dire and see where he gets with it, and then it's going to
16 be up to you whether or not you object.

17 MR. WILSON: I promise you, I will not object.

18 THE COURT: Okay. Well -- and if you want to
19 stipulate to him being an expert, I mean, we can do that
20 as well. However it plays out.

21 MR. WILSON: Yes, sir, I'll stipulate.

22 MR. WHITE: Thank you, Judge.

23 JUROR ISSUE

24 MR. WHITE: The next issue is an unusual issue I
25 have never had before. I am going to make a motion to

1 seat an alternate. And I waited until now -- I wanted to
2 talk to some people in my office to make sure that they
3 were seeing the same thing.

4 Judge, I believe the first juror that we picked -- I
5 think his name is Mr. Smith. He's seated right here on
6 the first seat on the front. He keeps making audible
7 noises. He did it during my opening. He did it several
8 times during direct and cross. He's very animated.

9 You made one comment, Judge, when we were sending
10 the jury out, to not discuss the case, and he became
11 audibly, you know, like, animated and he was mouthing
12 something.

13 And if I'm seeing it and members of my office are
14 seeing it, I'm sure the jury is seeing it. In fact, there
15 was a lady behind him, was looking at him kind of with a
16 quizzical look on her face.

17 So I don't know what he's got going on, but he's
18 definitely -- he's distracting me. I don't know what
19 issue he's taken with what's being said from Your Honor or
20 from me or the defense, but I think, out of an abundance
21 of caution, I'm going to ask that an alternate be sat.

22 THE COURT: Mr. Wilson?

23 MR. WILSON: Judge, I have been busy. I haven't
24 paid attention to the jurors that much. I mean, I have
25 seen him do some strange things, but I see jurors do

1 strange things all the time when they look around and they
2 have these reactions.

3 Now, the one thing that counsel did say that I'm
4 concerned about are these muttering or saying words back
5 to the jury. That concerns me, obviously. I don't know
6 what his position is, but he's been acting differently. I
7 can agree with that.

8 MR. WHITE: I mean, I can't -- I mean, he's been
9 acting strange on both accounts, when Your Honor is
10 speaking, when Defense is speaking, and I'm speaking. And
11 I'm kind of echoing what Mr. Wilson said. He's saying
12 things that I can't -- it's audible, I can't tell what
13 he's saying, but other members of the jury are hearing it,
14 and he's doing it during the actual case while it's going
15 on. So I don't know what the young man's got going on,
16 but I think there are probably better places for him to
17 be.

18 MR. WILSON: If I may, Judge?

19 THE COURT: Yes, sir.

20 MR. WILSON: May we approach briefly?

21 MR. WHITE: Yes.

22 COURT REPORTER: Did you want this on the record?

23 THE COURT: Do y'all want this on the record?

24 MR. WILSON: Yes, please.

25 COURT REPORTER: Okay. Just a moment.

1 BENCH CONFERENCE

2 (The following bench conference was held outside of
3 the hearing of the jury and others:)

4 MR. WILSON: One of my paralegals believes that he
5 may be autistic. She's had some training with that
6 before. That's what she was saying. I don't know what it
7 is. I agree, I have seen it.

8 MR. WHITE: Yeah.

9 MR. WILSON: But she's noticed it as well, Judge.

10 MR. WHITE: And I certainly sympathize with that.

11 THE COURT: Well, I'll add this: We can ask the
12 bailiff, but I received a note from the bailiff wanting to
13 know when they could talk about this case, which I thought
14 was a little bit unusual.

15 MR. WILSON: That is unusual.

16 THE COURT: I don't know. And I'll address it the
17 next time I talk to them --

18 MR. WILSON: Wow.

19 THE COURT: -- that you can't talk about this case
20 until --

21 MR. WILSON: Right, yeah.

22 THE COURT: But I don't know if that came from that
23 juror or not. Would you like to --

24 MR. WHITE: Sure.

25 MR. WILSON: Can we voir dire him, question him

1 about that?

2 THE COURT: I like that.

3 [Open court resumes:]

4 THE COURT: Ms. Mary, do you know who initiated that
5 question?

6 THE BAILIFF: I know what he has on, but I don't
7 know his name. I recognize him. The one that asked me
8 the question?

9 THE COURT: Yes, ma'am.

10 THE BAILIFF: Yes, sir.

11 THE COURT: What did he look like?

12 THE BAILIFF: He was dressed in all black.

13 MR. WHITE: That's him.

14 THE BAILIFF: I think he was sitting on the back
15 row, dressed in all black.

16 MR. WILSON: I apologize, madam.

17 BENCH CONFERENCE

18 (The following bench conference was held outside of
19 the hearing of the jury and others:)

20 MR. WILSON: She says he may have also Tourette's.
21 They're not sure. Maybe we should question him before we
22 take him off.

23 MR. WHITE: Well -- and I certainly don't want to
24 kick anybody off because they have it, but he's still --
25 you know, he's making noises. I don't know. I have never

1 run into this issue before.

2 MR. WILSON: I have never run into that. I've run
3 into some craziness, but not this. This is different.

4 THE COURT: Well, do you agree to remove him from
5 the jury?

6 MR. WILSON: I would agree to remove him from the
7 jury especially in light of the fact that I think he's
8 distracting. And I have seen it when I've been up. I've
9 seen it when Your Honor has been talking. Counsel is
10 right, when he's been up. But, also, I have seen it also
11 when we're not doing anything. So, I mean, again, I don't
12 -- but I --

13 THE COURT: Do we think that it's the same
14 individual that she's -- the bailiff is talking about?

15 MR. WHITE: Now, the individual that I'm referring
16 to is sitting on the front. He is wearing all black.

17 MR. WILSON: He was wearing all black the other day.
18 Same thing.

19 THE CLERK: White male? Black male?

20 MR. WHITE: White male. I think he may have, like,
21 blond hair.

22 THE CLERK: I was making sure hers was the same,
23 too.

24 [Open court resumes:]

25 THE COURT: Juror 147. All right.

1 Well, I have noticed some unusual behavior from him
2 as well, and given the fact that it's a joint request at
3 this point -- is that right?

4 MR. WILSON: That's correct.

5 MR. WHITE: Yes, sir.

6 THE COURT: Then, certainly, we'll replace him with
7 an alternate. But what we need to do, in a criminal case,
8 is randomly select the alternate from the two.

9 MR. WILSON: And, Judge, I'll consent on the record,
10 just so the Court is aware.

11 MR. WHITE: Sounds good. Thanks, Ralph.

12 THE COURT: So I have the two alternates as being
13 No. 74 and No. 70.

14 MR. WILSON: Yes, sir.

15 THE CLERK: Do you have a cup up there?

16 THE COURT: Sure.

17 Mr. Wilson, would you like to select the alternate
18 or do you have any position?

19 THE CLERK: I have got it on paper, if somebody
20 wants to draw a number.

21 MR. WILSON: Counsel may have an objection.

22 MR. WHITE: I have no objection.

23 MR. WILSON: I'll pick.

24 THE COURT: All right, sir.

25 MR. WILSON: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 MR. WILSON: I wish this was a real lottery.

3 THE CLERK: All right.

4 MR. WILSON: Thank you, ma'am.

5 THE CLERK: It's No. 70.

6 THE COURT: Okay. No. 70.

7 THE CLERK: Christopher Frasier.

8 THE COURT: Mr. Frasier.

9 All right. I'll ask the bailiff if she'll bring
10 Juror No. 147, Mr. Smith, and just bring him out.

11 Well, I tell you what --

12 MR. WHITE: I definitely don't want to embarrass
13 this young man.

14 THE COURT: I'll tell you what, I'll just go speak
15 with him in the hallway, if there's no objection.

16 MR. WHITE: No objection from the State, Judge.

17 MR. WILSON: None from the defense, Judge.

18 THE COURT: All right. We'll be in recess for just
19 a moment.

20 (Pause in the proceedings.)

21 THE COURT: All right. We took care of that.

22 While we have this opportunity, I just want -- and
23 there's been no issue at all, but anybody that's in this
24 courtroom has got a right to be in this courtroom,
25 obviously. This is a public place, but it's important

1 that nobody reacts to any testimony. I just want to just
2 let everybody know that because -- in any event or anyway
3 somebody might react to certain testimony could influence
4 the jury, and that's not proper. So I just want to let
5 everybody know that.

6 MR. WHITE: And, Judge, real quick that reminds
7 me -- I'm sorry. We have, I think, possibly one lay
8 witness who is going to testify this afternoon. Am I
9 right in assuming that, once he's released from his
10 subpoena, that he's no longer under the motion to
11 sequester and can sit with the family?

12 THE COURT: That's my understanding.

13 MR. WILSON: Yes, Your Honor.

14 THE COURT: All right. So having said that, if we
15 could have the jury, please.

16 (Pause in the proceedings.)

17 THE BAILIFF: Waiting for somebody to come out the
18 restroom.

19 THE COURT: Okay. Thank you.

20 (Pause in the proceedings.)

21 (The jury entered the courtroom at 1:49 p.m.)

22 THE COURT: Is that Juror No. 70? Yeah, you can
23 take that other seat. I tell you what, it doesn't matter
24 where y'all sit. You'll be fine. Thank you.

25 I appreciate everybody's patience and attention. We

1 had to address one matter, and Juror No. 70 has now been
2 instated instead of an alternate as a seated member of the
3 jury. Okay?

4 Now, is the State ready to proceed?

5 MR. WHITE: Yes, sir, Judge.

6 THE COURT: All right. Please call your next
7 witness.

8 MR. WHITE: Thank you, Judge. At this time, the
9 State would call Former Deputy Coroner Bo Myers.

10 THE CLERK: Sir, if you'll please place your left
11 hand on the Bible and raise your right hand.

12 THOMAS "BO" MYERS,
13 after having been duly sworn, was examined and
14 testified to as follows:

15 THE CLERK: Please be seated and state your full
16 name for the record.

17 THE WITNESS: My name is Thomas Myers.

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q Now it's Mr. Myers, and that sounds strange to me.
21 It used to be Deputy Coroner Myers. How long has it been
22 since you've left the coroner's office?

23 A Not quite a month.

24 Q And where are you currently employed?

25 A I'm employed with the Church at Sandhurst as the

1 missions pastor.

2 Q And prior to that, how long were you with the
3 coroner's office?

4 A Not quite eight years.

5 Q And that was in the role as deputy coroner?

6 A I was the deputy coroner.

7 Q And did you respond to the incident occurring in
8 this case on December 29th, 2019?

9 A I did.

10 Q And was that to a call for a deceased individual in
11 the driver's seat of his vehicle?

12 A That's correct.

13 Q Now, I want to back up just a little bit. Prior to
14 your time at the coroner's office, where were you employed
15 and what did you do?

16 A The City of Florence Police Department. I was
17 assigned to the Crime Scene Unit. I was employed with the
18 police department for 12-1/2 years. About nine of that
19 was with the Crime Scene Unit and the majority of that
20 time was as a supervisor of that unit.

21 Q Did you receive any specialized training in advanced
22 criminal techniques while you were with the City of
23 Florence?

24 A A number of training opportunities with fingerprint
25 analysis, marijuana testing and analysis, blood spatter,

1 crime scene reconstruction, photography. A variety of
2 those continued through my profession through the
3 coroner's office as well with just continuing education.

4 Most recently, I was certified with a national
5 certification from the American Board of Medical/Legal
6 Death Investigators, which is a national certification
7 just pertaining to multiple hours of training, hands-on,
8 resource, recognition, and just testing that was in depth
9 that really was just a culmination of all my years in this
10 career.

11 Q And have you ever been qualified as an expert in
12 crimes doing reconstruction and blood spatter?

13 A I have.

14 Q Is blood spatter, does that include blood flow,
15 blood pattern?

16 A Pattern. Pattern analysis. How it ends up on a
17 surface. How it looks. How it may just correlate to the
18 remainder of the scene.

19 MR. WHITE: Judge, at this time, I'd move Former
20 Deputy Coroner Bo Myers as an expert in the field of crime
21 scene reconstruction and blood spatter analysis.

22 MR. WILSON: Judge, we stipulate to his expertise in
23 these matters.

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, the Court is finding Mr. Myers as an expert in the

1 area of blood spatter and crime scene reconstruction.

2 Ordinarily, a witness can't testify to his opinions,
3 but when they're qualified by the Court as an expert, then
4 they can give their opinion in the subject matter that
5 they're qualified as an expert. So please pay attention.

6 MR. WHITE: Thank you, Judge.

7 BY MR. WHITE:

8 Q When you arrive on-scene -- this scene and really
9 any scene like this, what are your duties? What are your
10 roles when you arrive?

11 A To meet with investigators that are already
12 on-scene, responding officers, EMTs, paramedics, if
13 they're still on-scene. Crime scene investigators are
14 there to get -- gather their information and make my own
15 assessment of the scene. And just, again, based on my
16 previous years and what I understand from that and my
17 training and the combination of receiving information from
18 them, and then I tend to do that prior to even making any
19 assumptions or decisions about what's happened or what's
20 going on currently?

21 Q And is one of your roles to photograph a scene?

22 A It is.

23 Q Now, because you're photographing the scene and
24 Crime Scene is photographing the scene, are sometimes the
25 photographs all similar or duplicate?

1 A Sure, they should be.

2 Q I'm going to show you what's been marked, if I
3 could, as State's Exhibit 69 through 97. And tell me if
4 you recognize those photographs, Mr. Myers.

5 A These look like photos that I would have taken of
6 this particular scene.

7 Q Are they a fair depiction of the crime scene as you
8 encountered it that evening?

9 A I believe they are.

10 MR. WHITE: And, Judge, I move those particular
11 exhibits into evidence and ask for permission to publish
12 them.

13 THE COURT: Mr. Wilson?

14 MR. WILSON: May I briefly, Judge?

15 THE COURT: Sure.

16 MR. WHITE: Oh, I'm sorry, Mr. Wilson.

17 MR. WILSON: That's okay.

18 Yes, Your Honor, without objection.

19 THE COURT: All right. 69 through 97 is in
20 evidence.

21 (State's Exhibit Nos. 69 through 97, Photograph,
22 were received into evidence.)

23 BY MR. WHITE:

24 Q Now, I'm not going to go through every one of these
25 photographs, like I mentioned before or you mentioned

1 before. A lot of these are duplicates, but I'm going to
2 direct your attention to a few of them and ask you some
3 questions, if that's all right, Mr. Myers.

4 A Okay.

5 Q Starting with State's Exhibit 70 -- I just want to
6 make sure that's on the jury's screen and they can see it
7 okay. Is that the crime scene that you responded to that
8 evening?

9 A It is. This depicts the driver's side of the
10 vehicle.

11 Q And now I'm going to skip around and kind of jump
12 right into it. I want to ask you about the pattern and
13 the flow of blood from Mr. Jones's head in State's Exhibit
14 78. And I have a series of photographs here, 78, 79 and
15 80, I'll show you.

16 A Okay.

17 Q Starting with 78, and then I'm going to go to 79,
18 ending with 80. And, in your opinion, Mr. Myers, what
19 does the flow of blood on the right side of his head
20 indicate to you?

21 A The thicker line that kind of goes -- as we're
22 looking at the photo that tracks horizontally would be the
23 primary flow of blood from the initial injury indicating
24 that his head was in an upright position for, really, I'd
25 say up to two, three hours. And just -- you know, the

1 placement of his head is where it was when I arrived.

2 You know, obviously, things flow downhill, but the
3 thinner line from the picture that flows in a downward
4 motion would indicate to me that, at some point over an
5 amount of time, that the head rested in this position, and
6 there was still enough -- forgive me -- wet blood to cause
7 that more recent flow to go what we're looking at
8 currently downward. But the original horizontal line, the
9 thicker line, would have been the original downward
10 pattern.

11 Q And so you're testifying that, at the time that he
12 was shot, he was upright, and then after some time had
13 passed, he then lands in a position that you found him.

14 A I believe that would be the case.

15 Q And, in your opinion, could that have occurred from
16 natural causes?

17 A It would. Just the design of the head on the neck
18 muscles would have -- as the decomposition process takes
19 place, the neck muscles would change in their strength,
20 and the positioning of the head on the headrest would
21 naturally have just kind of fallen -- allowed the head to
22 fall back in that position because of the lack of support
23 and the potential of the release of the neck muscles. So
24 that would have been a natural flow for his head to have
25 fallen in that position.

1 Q And that would account for the two different blood
2 flow patterns that we see on the side of his head?

3 A Correct. The primary and secondary pattern.

4 Q Now, I'm going to ask you about blood on the right
5 side of the vehicle. State's Exhibit 87, State's Exhibit
6 88, and State's Exhibit 89. What is your opinion on the
7 substance that was on the right side of the vehicle?

8 A I believe the first picture looked like the edge of
9 the seat, and the other two are the door panel. And those
10 would have both been on the passenger side, which were
11 furthest away from the decedent, which, to me, wouldn't
12 have had any -- I wouldn't consider that spatter or
13 blow-back. That, to me, is what we call a transfer
14 pattern, meaning that something would have had to
15 physically carry it to this location. It wouldn't have
16 been airborne. It would have had to -- something that
17 would have come in contact with the liquified blood and
18 moved it to this location.

19 Q And I think you explained it, but I want you to
20 elaborate just a little bit. What's the difference
21 between blood spatter and transfer?

22 A Spatter would just be moved by the air. So if --
23 everybody can imagine a pool of water or milk, and if you
24 hit your hand in it, the splash that takes place would be
25 the casting of the droplets. In blood, we call that

1 spatter. That would be the pattern that that makes.
2 Whereas, if I took my hand and put it in water -- or, in
3 this case, blood -- and then touched another surface, then
4 what was on my hand and got transferred to another surface
5 would then be the smear or the transfer. And that would
6 be the difference between the two.

7 Q And these items, these areas, you believe that
8 that's transfer rather than spatter?

9 A I would.

10 Q I'm going to ask, in your opinion, if the assailant
11 would have been wearing gloves, could he have still
12 transferred blood from one location to where these
13 ultimately landed?

14 A It would be very possible with or without gloves.
15 Transfer can actually take place on any item. Clothing,
16 hair. Any item that collects the blood and then touches
17 another surface can be the conduit of the transfer.

18 Q Now, I'm going to jump ahead to State's Exhibit 95.
19 Kind of skip around a little bit. I'm going to show you
20 95 and 97.

21 Are you aware that Investigator Clendenin retrieved
22 or found a wallet belonging to the victim inside the
23 vehicle?

24 A Yes.

25 Q Is it typically the duty of the coroner's office to

1 take possession of such items and then turn those over to
2 the family?

3 A Generally it is unless there's specific reason that
4 the law enforcement agency needs to continue to
5 investigate those items for more of a robbery situation or
6 anything like that. I don't believe that was the case
7 here, so I would have collected that.

8 Q Show you State's Exhibit 95. Is that the wallet in
9 question?

10 A It is.

11 Q And then I'm going to show you State's Exhibit 97,
12 the final picture in your series. Was this amount of cash
13 recovered from inside the wallet?

14 A That would have been the contents from within the
15 wallet.

16 Q Now, once you wrap up your duties there on the
17 scene, what, if anything, do you do?

18 A In a case like this where we presume it's a homicide
19 or any questionable death, I would order an autopsy, which
20 was done in this case. The body is then collected by our
21 transport company secured for that scheduled autopsy, and
22 we use the Medical University of South Carolina in
23 Charleston to perform those autopsies for us.

24 Q And that was done in this case?

25 A It was.

1 Q And is that to determine the manner and cause of
2 death?

3 A Generally, it's a tool for us. The final
4 determination of cause and manner is our responsibility,
5 but we do rely on the pathology group to assist us in that
6 area.

7 MR. WHITE: Beg the Court's indulgence one moment.

8 (Co-counsel conferred off the record.)

9 BY MR. WHITE:

10 Q Mr. Myers, Former Deputy Coroner Myers, please
11 answer any questions the defense may have. Okay?

12 A Thank you.

13 THE COURT: Mr. Wilson?

14 MR. WILSON: If it please the Court, Your Honor?

15 THE COURT: Yes, sir.

16 MR. WILSON: May I approach the witness, Your Honor?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. WILSON:

20 Q Good morning, sir. How are you doing?

21 A Well. You?

22 Q Doing well. Doing well.

23 MR. WILSON: Court's indulgence, Your Honor.

24 THE COURT: Yes, sir.

25

1 BY MR. WILSON:

2 Q All right. I have with me State's Exhibit 86, 87,
3 88, 89 already entered into evidence that you reviewed.
4 And I want to ask you some questions for the jury for
5 their edification so they understand more about these
6 contact points.

7 In this particular picture, tell the jury how you
8 believe this blood was taken from the victim to this
9 point.

10 A My opinion is that there would be -- I would assume
11 that there was an assailant in the vehicle as well, and
12 whatever device would have been used -- either a hand or
13 clothing or any -- really any other object because there's
14 no definitive pattern on this that would have touched
15 the -- any bloody area of the defendant's body and then
16 transferred it to here. I don't recognize a pattern to be
17 able to identify what that item might have been.

18 Q And just to remind the jury, you're also an expert
19 in reconstruction; correct?

20 A Yes, sir.

21 Q And you have been doing this for years?

22 A Yes, sir.

23 Q All right. This picture is similar -- the same;
24 correct?

25 A Same -- yes, sir, similar, close up.

1 Q Very good.

2 And, again, these smears would have been put there
3 by someone other than the decedent; correct?

4 A I believe so, yes.

5 Q Now, can you explain to the jury what blood smearing
6 is?

7 A Essentially just a transfer of wet blood to a
8 surface -- to another surface that's unrelated to the
9 original source.

10 Q Now, you also generated a report; right?

11 A Yes, sir.

12 Q And as an expert in this area of crime scene
13 reconstruction, in your report --

14 MR. WILSON: Your Honor, may I approach the witness?

15 THE COURT: Yes, sir.

16 BY MR. WILSON:

17 Q In your report, you concluded that there appeared to
18 be no struggle that had taken place.

19 A I have got it.

20 Q Okay. My apologies.

21 You concluded in your report that there appeared to
22 be no struggle; correct?

23 A That's what I believe, yes.

24 Q Okay. All right. And you also talked about the \$40
25 in cash that was found in the wallet; right?

1 A Correct.

2 Q And then you also indicated that there was a
3 presence of ethanol and THC -- I apologize; I was about to
4 say HTC. But you said THC and ethanol were present in his
5 body; correct?

6 A In the blood, yes, sir.

7 Q Tell the jury what ethanol and THC means in the
8 blood at the time of death.

9 MR. WHITE: And, Judge, I'm going to object just
10 because the pathologist is going to testify to that. She
11 would be more inclined to testify to the effect on the
12 body. But she's certainly going to come and testify to it
13 tomorrow. Or he, rather.

14 THE COURT: Mr. Wilson, what's your -- I tell you
15 what, I'm going to allow the witness to answer the
16 question, if you know the answer to the question.

17 A THC is the derivative of marijuana. That's what
18 shows up in -- it's tetrahydrocannabinol. It is the -- it
19 is what shows up in a toxicology report for marijuana. It
20 is what it is. It is what is present.

21 Ethanol is essentially an alcohol level. There is a
22 -- that can be a distortion postmortem for ethanol
23 because, as the body decomposes, it actually, at some
24 point, generates ethanol. The numbers here -- I'm not a
25 toxicologist, so I could not say whether this level is

1 postmortem or antemortem, which is before death.

2 Q I want to back up a minute regarding your conclusion
3 that there was no struggle. In your estimation, if you
4 had seen signs of a struggle, you would have put that in
5 your report; correct?

6 A Yes, sir.

7 Q And there are times when you go to crime scenes and
8 you can denote that, "Hey, there's a struggle going on
9 here"; right?

10 A I would.

11 Q Okay. So, counsel asked you earlier about gloves
12 being used; right? And you said, well, you can transfer
13 blood from a glove to another surface; correct?

14 A Correct.

15 Q So if, in this crime scene -- and you're a crime
16 scene reconstruction expert -- the person had on a mask
17 and a glove, would there have been some evidence of a
18 struggle?

19 A Mask or gloves or without, may not have changed
20 the --

21 Q If I'm in -- what I'm saying to you is this: If I'm
22 in a mask and a glove right now and I get in your car and
23 I pull out a gun on you, is there going to be a struggle
24 or do you think you would find evidence of a struggle?

25 A For me, there would be a struggle.

1 MR. WILSON: No further questions, Judge.

2 THE COURT: All right. Mr. White, is there anything
3 further?

4 MR. WHITE: Judge, just briefly.

5 REDIRECT EXAMINATION

6 BY MR. WHITE:

7 Q The ethanol level was below the legal limit; is that
8 right?

9 A That's correct. .08 is the legal limit.

10 Q And the way that blood can be transferred, one way,
11 is that blood spatter gets on something and then it's
12 transferred; is that right?

13 A It can.

14 Q So it could have gotten on the assailant and then
15 transferred?

16 A Absolutely.

17 Q And this individual, he may have been wearing a
18 mask, he could not have been wearing a mask, but he could
19 have opened the door and fired; correct?

20 A Any -- yeah. Any variables could have fallen into
21 place on that.

22 Q Okay. Thank you, Mr. Myers. I appreciate you.

23 THE COURT: Anything further?

24 MR. WILSON: Just briefly.

25

RECROSS-EXAMINATION

BY MR. WILSON:

Q If someone opened the door of this Yukon, which is a fairly big truck; right?

A Yes.

Q All right. If someone opened a door and they fired into the vehicle, how do you get close to stippling on the side of the head of the individual that we know that's passed away?

A I would say it was fairly close range.

Q Thank you so much.

MR. WHITE: Just a last question, Judge.

REDIRECT EXAMINATION

BY MR. WHITE:

Q Was it dark out there when you arrived? Was it a dark area?

A It was one-something in the morning when we arrived. And it was a dimly lit parking lot.

Q Okay. Thank you, sir.

THE COURT: All right. Mr. Myers, appreciate you being here.

Is there any objection to him being released from his subpoena?

MR. WILSON: No, Your Honor.

THE COURT: Mr. White?

1 MR. WHITE: No, sir, Judge.

2 THE COURT: All right. Thank you, sir.

3 Mr. White?

4 MR. WHITE: The State would call Paul Greer, Judge.

5 THE COURT: All right.

6 THE CLERK: Sir, if you'll please approach the stand
7 over there. Place your left hand on the Bible and raise
8 your right hand.

9 PAUL GREER,

10 after having been duly sworn, was examined and
11 testified to as follows:

12 THE COURT: Please be seated and state your full
13 name for the record.

14 THE WITNESS: My name is Paul Greer, G-r-e-e-r.

15 DIRECT EXAMINATION

16 BY MR. WHITE:

17 Q Mr. Greer, thanks for being here with us. If you
18 could, tell us where you're employed.

19 A Yes, sir. I'm employed at the South Carolina Law
20 Enforcement Division, which is commonly known as SLED.

21 Q How long have you been employed there?

22 A I have been employed at SLED approximately nine
23 years and several months.

24 Q And in what capacity are you currently employed?

25 A I am a firearms examiner or forensic scientist

1 within our forensic services laboratory.

2 Q And do you have to have specialized training and
3 education to achieve a position like that?

4 A Yes, sir, you do.

5 Q And what kind of training do you have?

6 A I received a bachelor of science in biological
7 sciences from the University of South Carolina. Upon my
8 appointment at SLED, I began the SLED firearm and tool
9 mark course of instruction. This is an apprenticeship
10 style of training program that's conducted at SLED under
11 the supervision of other court-qualified examiners.

12 During this time -- it was approximately three years
13 of training -- I completed multiple written and practical
14 examinations. I conducted many microscopic comparisons.
15 And I assisted other examiners to prep their cases for
16 court.

17 I was given a multi-part comprehensive final exam at
18 the end of that training period and successfully completed
19 that, and I was able to begin casework on my own at that
20 time.

21 Q And you guys are busy up there at the firearms
22 department. How many things are you testing per week, do
23 you think?

24 A It really just depends. At this point in my career,
25 I have looked at hundreds or thousands of pieces of

1 evidence. Each case is a little different that we're
2 looking at and what we do each week, but I have looked at
3 hundreds of thousands of pieces of evidence.

4 Q Have you ever been qualified as an expert before?

5 A Yes, sir, I have.

6 Q In what field?

7 A In firearms identification.

8 Q And about how many times do you think you have been
9 qualified as an expert?

10 A Approximately 40 times.

11 MR. WHITE: Judge, I'd move Mr. Greer as an expert
12 in the field of firearms identification.

13 THE COURT: Is there any objection?

14 MR. WILSON: Your Honor, the defense is well aware
15 of his qualification and his work. Stipulate as to his
16 expertise.

17 THE COURT: All right. Thank you.

18 The Court finds that Mr. Greer is an expert in
19 firearms identification.

20 Mr. White?

21 MR. WHITE: Thank you, Judge.

22 BY MR. WHITE:

23 Q And were you asked to analyze a particular piece of
24 evidence in this case?

25 A Yes, sir, I was.

1 Q And is that SLED No. L20-00358?

2 A Yes, sir. That's correct. That's the SLED lab
3 number.

4 Q And what was the item of evidence you were asked to
5 analyze?

6 A I was asked to analyze which was SLED No. 6, and
7 that was one fired bullet.

8 Q And is that commonly referred to as a projectile?

9 A Yes, sir. You may hear that referred to as a
10 projectile.

11 Q And is this projectile a projectile that was
12 recovered from the victim's body at autopsy?

13 A Per our submission paperwork, as it was submitted to
14 the SLED laboratory, it was listed on that paperwork as
15 from autopsy.

16 Q And I'm going to show you what's been marked as
17 State's Exhibit 104. And, if you could, tell me if you
18 recognize this particular item, Mr. Greer.

19 A Yes, sir, I do recognize that. This is SLED Item 6
20 that's in the package, what I determined to be one fired
21 bullet. It is marked in the heat-sealed pouch here with
22 our SLED lab number, and it is still sealed with my
23 initials and seal date on it.

24 Q And is that, indeed, the projectile you tested in
25 this case that was sent to you by way of the autopsy?

1 A Yes, sir, it is.

2 MR. WHITE: Judge, I move State's Exhibit 104 into
3 evidence.

4 MR. WILSON: Without objection, Your Honor.

5 THE COURT: All right. State's 104 is into
6 evidence.

7 (State's Exhibit No. 104 was received into
8 evidence.)

9 BY MR. WHITE:

10 Q And, Mr. Greer, if you could, just tell us what did
11 you find when you analyzed that projectile?

12 A Yes, sir. I physically and microscopically examined
13 the Item 6 fired bullet. Based on its observable physical
14 characteristics, I determined that it was most consistent
15 with a bullet that was loaded into some .45 auto or .45
16 gap caliber cartridges. Based on some marks that I saw
17 within those rifling impressions on that bullet, I found
18 that it may be suitable for comparison for identification
19 with other firearms-related evidence if that were to be
20 submitted.

21 Q Thank you, Mr. Greer. That's all I have for you.
22 Please answer any questions the defense may have.

23 A Yes, sir.

24 MR. WILSON: If it please the Court, Your Honor?

25 CROSS-EXAMINATION

1 BY MR. WILSON:

2 Q Just very briefly. This bullet that you analyzed,
3 did you denote in your report that it was a hollow point
4 or was this a solid projection -- projectile?

5 A Those were some notes that would be in my case file,
6 if I may refer to that.

7 Q Yes, sir, please.

8 A In my notes, I noted it was consistent with being a
9 copper jacketed hollow point-style bullet.

10 Q Thank you very much.

11 MR. WILSON: No further questions, Your Honor.

12 THE COURT: Yes, sir.

13 Is there any further questions, Mr. White?

14 MR. WHITE: No, sir, Judge.

15 THE COURT: Is there any objection to releasing
16 Mr. Greer?

17 MR. WILSON: No objection, Your Honor.

18 THE COURT: All right, Mr. Greer. Thank you for
19 being here. Appreciate it.

20 THE WITNESS: Thank you.

21 MR. WHITE: At this time, I'd call Catherine Leisy
22 to the stand.

23 THE COURT: Ma'am, thank you for being here.

24 CATHERINE LEISY,

25 after having been duly sworn by the Court, was

1 examined and testified to as follows:

2 THE COURT: Thank you so much. If you will please
3 be seated and state your name for the record.

4 THE WITNESS: Catherine Leisy, L-e-i-s-y.

5 DIRECT EXAMINATION

6 BY MR. WHITE:

7 Q Ms. Leisy, where are you employed?

8 A I work for the South Carolina Law Enforcement
9 Division.

10 Q And how long have you been employed there?

11 A 17 years.

12 Q In what capacity?

13 A I am a forensic scientist assigned to the DNA case
14 work department.

15 Q What kind of education, training, and experience do
16 you have to have to achieve that position?

17 A I have a bachelor of science degree in genetic
18 engineering from Cedar Crest College in Allentown,
19 Pennsylvania. I have been trained by other
20 court-qualified analysts at SLED for all the different
21 types of testing analyses that I'm required to perform. I
22 have to pass competency tests showing that I am able to
23 perform these tests correctly before I can go online and
24 begin actual testing.

25 I'm required to participate in continuing education,

1 which consists of training or readings that keep us up to
2 date with the current topic and most readily available
3 techniques to us.

4 I perform proficiency tests on an annual basis
5 showing that I'm capable of performing the test that I'm
6 required as part of my job. I also have approximately
7 four years of experience as a forensic DNA analyst at a
8 private testing facility that was known as Orchid Cellmark
9 in Germantown, Maryland.

10 Q And have you ever been qualified as an expert
11 before?

12 A I have.

13 Q About how many times?

14 A At this point, over 100 times.

15 MR. WHITE: Judge, at this time, I'd move --

16 BY MR. WHITE:

17 Q And what field is that? DNA analysis?

18 A Typically, in forensic DNA testing, sometimes in
19 forensic serology, which is the identification of bodily
20 fluids. It just depends on the case type.

21 MR. WHITE: Judge, at this time, I move Ms. Leisy as
22 an expert in the field of forensic DNA analysis.

23 MR. WILSON: We stipulate, without objection.

24 THE COURT: All right. So Ms. Leisy is recognized
25 as an expert in DNA forensic analysis.

1 BY MR. WHITE:

2 Q Now, Ms. Leisy, were you the DNA analyst who
3 performed this testing?

4 A I was not.

5 Q Despite that, have you reviewed this case and these
6 results?

7 A Yes, sir, I have.

8 Q And do you agree with the determination?

9 A I do.

10 Q Now, there were several items -- and I guess let's
11 back up. What are we dealing with here? What kind of
12 things do you analyze in the DNA department?

13 A Typically what we're looking for are biological
14 materials, such as blood, semen, saliva, or touch DNA that
15 has been transferred through physical contact. And our
16 goal really is to develop a DNA profile from the
17 biological materials we may find on an item of evidence or
18 a crime scene and then compare that to the DNA profile of
19 a known individual whose standard has been submitted for
20 comparison to try and determine whether or not that
21 individual could have contributed to the biological
22 material found on the evidence.

23 Q And the Department was asked to do that in this
24 particular case; is that right?

25 A Yes, sir.

1 Q And was that through swabs that were provided
2 through the Florence County Sheriff's Office?

3 A There were several different items and item types
4 that were submitted, but there were swabs submitted from
5 inside the vehicle.

6 Q Now, I want to ask you just generally, if there were
7 to be DNA, you guys can't ever say definitively that a
8 person's DNA is definitely on an item. How do you guys
9 work?

10 A The type of comparison and statistical calculation
11 that we perform is called a likelihood ratio. So if we
12 are able to develop a DNA profile from an item of
13 evidence, we compare it to the known profile of a
14 particular individual, and then we measure how many more
15 times likely it is that we would see this profile if this
16 individual is contributing than if they are not
17 contributing.

18 We can also potentially exclude an individual as a
19 contributor to a mixture, but we are not making an
20 identification. We're simply measuring how many times
21 more likely it is we are to see a particular profile given
22 a particular set of circumstances.

23 Q In this particular case, the defendant, Mr. Brayboy,
24 his DNA was not present at all; is that right?

25 A Correct. Mr. Brayboy was excluded as a contributor

1 to all of the DNA profiles that were developed.

2 Q Is that abnormal or does that happen often?

3 A It's a very typical result. It just depends on the
4 evidence that's been submitted and the profile that's
5 developed.

6 Q And these swabs that you tested or your department
7 tested were taken from the inside the vehicle. The fact
8 that his DNA did not turn up on the swabs, can you say
9 that means he was not in the vehicle?

10 A That doesn't definitely mean that an individual was
11 never in a particular location or had been in contact with
12 an item. It just means that they are excluded from the
13 profile that was developed. It could be that they didn't
14 leave enough DNA to be detected. It could be there was so
15 much DNA left from someone else that it basically masked
16 or covered up their DNA. It just means we're just
17 excluding them from the profile that was detected.

18 Q And one such way you cannot leave DNA behind would
19 be to wear a covering; right? Gloves, would that do the
20 trick?

21 A Gloves could potentially prevent that transfer.
22 Really any physical barrier preventing the physical
23 contact with a transfer of a body fluid could limit or
24 prevent the amount of DNA that would be present.

25 Q And you also just mentioned that the amount of other

1 people's DNA could contribute to you not being able to
2 find Mr. Brayboy's DNA; is that right?

3 A That's correct.

4 Q And would that be the case in vehicles -- family
5 vehicles?

6 A It could be. If particular individuals frequently
7 are in contact with a particular location in a car,
8 someone else sits in it briefly, there may not be as much
9 transfer from the individual who was briefly in the
10 vehicle as there is from someone who is frequently there.

11 But there are really quite a few factors that play
12 into that such as, again, how many times are you in
13 contact with the item, how long are you in contact with
14 it, are you sweating, how recently have you bathed. There
15 are a lot of different factors that go into whether or not
16 we can detect someone.

17 Q And you indicated on those swabs from inside the
18 vehicle that were mixtures of DNA. What is a mixture of
19 DNA?

20 A When we develop what we refer to as a mixture, it
21 simply means that there is DNA present from more than one
22 individual. So to perform the type of analysis that we
23 do, we designate the number of contributors to this
24 mixture that we believe to be present before we do any
25 comparisons to known individuals.

1 Q And that mixture could be from anybody, you said.
2 Anybody sitting in the vehicle -- family members, friends,
3 children. If they were to come in and out of the vehicle,
4 any of those folks could have left DNA behind; is that
5 correct?

6 A Correct. Anyone who has been in contact or left a
7 bodily fluid present at that location.

8 Q Am I understanding correctly that the more people
9 you have in and out of the vehicle, the less likely you
10 are to find, say, Mr. Brayboy's?

11 A It could potentially make it more difficult. Again,
12 it depends upon how much DNA they leave. If they were
13 covered up or wearing gloves or, you know, a coat or
14 something like that, that physical barrier could prevent
15 their DNA from being transferred. But, typically, the
16 more people you see contributing, the harder it can be to
17 sort of single out an individual or attempt to.

18 Q Now, just for the last time -- I swear; I'll ask you
19 this -- but just because there's no DNA present on those
20 swabs from Brayboy, that does not mean he was not inside
21 that vehicle on the evening of December 27/28, 2019; is
22 that correct?

23 A That's correct. I can't speak to that question.
24 All I can say is he is excluded as a contributor to the
25 profiles developed.

1 Q Now, you also or your department tested a condom and
2 a condom wrapper that were outside of the vehicle; is that
3 correct?

4 A Yes, sir.

5 Q And what were the results of that particular
6 analysis?

7 A There were two swabs that were taken from the condom
8 that was submitted. One swab was taken from the exterior
9 of the condom as it was received at the laboratory. The
10 other swab was collected from the interior of the condom
11 as it was received.

12 And the way that we document it is as submitted.
13 Basically, once you have collected a condom, put it in a
14 bag or some other container, you can't necessarily tell
15 which was the exterior side or interior side as it was
16 worn, so we frequently test both sides of the item.

17 And because there was some indication a presumptive
18 positive for semen and because of the type of item it was,
19 a differential extraction was performed. And a
20 differential extraction is a technique that allows us to
21 try to separate out sperm cells that may be present in
22 semen that might be present on the item from any non-sperm
23 cells.

24 So it leaves us with two fractions for each of the
25 items taken from that condom: the announced protraction,

1 where we're trying to isolate everything but the semen or
2 sperm calls, and the sperm fraction, where we're
3 attempting to isolate sperm cells found if there's semen
4 present.

5 So for SLED Item 9.1, which were swabs from the
6 exterior of the condom as submitted, in the non-sperm
7 fraction, the profile developed was suitable for
8 comparison. That profile was interpreted as a mixture
9 from two individuals.

10 The two possible explanations for that, in terms of
11 the likelihood ratio, would be either Rashad Jones or
12 Antonio Brayboy and an unidentified, unrelated individual
13 were contributing to the mixture, or that it's two
14 unidentified, unrelated individuals contributing. And it
15 was determined that both Rashad Jones and Antonio Brayboy
16 were excluded as contributors to this mixture.

17 And the sperm fraction from the swabs from the
18 exterior of the condom, it was determined to be a
19 single-source profile, meaning it's DNA from just one
20 individual. And in comparison with that profile, both
21 Rashad Jones and Antonio Brayboy were excluded.

22 And from both the non-sperm and sperm fractions of
23 the swabs from the interior of the condom, a single source
24 DNA profile was developed with both Mr. Jones and
25 Mr. Brayboy being excluded as the contributor.

1 There was also a hair that was identified on the
2 condom. DNA tests were performed on the root of the hair.
3 So when we test DNA, we're testing the root material that
4 is on that hair and potentially any bodily fluids that may
5 be present.

6 A DNA profile suitable for comparison was developed
7 from the hair. It was interpreted as a mixture
8 originating from two individuals, and both Rashad Jones
9 and Antonio Brayboy were excluded as contributors.

10 Q So the long and short of it is, you tested all
11 around this condom in this package?

12 A Correct, yes, sir.

13 Q And I found it interesting -- and I want to make
14 sure that the jury gets it -- not only was Brayboy
15 excluded but also Rashad Jones was excluded from that
16 condom and that package; is that correct?

17 A Yes, sir, that's correct.

18 Q And you said it was a mixture of two individuals on
19 the condom; is that right?

20 A For the non-sperm fraction of the swab from the
21 exterior and from the hair, the DNA profiles developed
22 were a mixture of two individuals.

23 Q And when you are testing condoms and contents
24 therein, is it typical to see two mixtures or a mixture of
25 two individuals, rather?

1 A It's not uncommon. Again, because of how the condom
2 is removed, because of how it's packaged, it's not unusual
3 for material from one side to be transferred to the other
4 so that, by the time we receive it, we may have mixtures
5 of multiple contributors on one or both sides of the
6 condom.

7 Q And, again, victim Rashad Jones and Mr. Brayboy were
8 excluded as contributors; is that correct?

9 A Yes, sir.

10 Q In your expert opinion, does that lead you to
11 believe that they did not come in contact with the condom
12 and the wrapper?

13 A Again, it's really just an indication that they are
14 excluded from those profiles. I can't necessarily speak
15 to whether or not they were ever in contact with those
16 items, but based on the profiles I developed, there's no
17 indication that they contributed to these mixtures.

18 MR. WHITE: Beg the Court's indulgence one moment.

19 (Co-counsel confer off the record.)

20 BY MR. WHITE:

21 Q Ms. Leisy, that's all I have for you. Thank you so
22 much. Please answer any questions the defense may have.

23 A Yes, sir.

24 CROSS-EXAMINATION

25

1 BY MR. WILSON:

2 Q Good morning, ma'am.

3 A Good afternoon, sir.

4 Q Good to see you again.

5 A Yes, sir.

6 Q All right. Just a few questions that I have.

7 When you get a known standard, a known subject,
8 right, that comes from law enforcement; correct?

9 A Yes, sir. It would be collected by typically the
10 submitting agency that we're working with.

11 Q Okay. And normal -- for the jury, tell the jury
12 what a buccal swab is.

13 A A buccal swab refers to a sterile cotton swab that
14 looks essentially just like a Q-tip. It's rubbed against
15 the inside of an individual's cheek, and it's used to
16 collect cells from the inside of the mouth. We then
17 develop a DNA profile from those swabs and use that
18 profile as that person's known standard or known profile.

19 Q And then your, basically, task then is to go in for
20 either law enforcement -- or whoever you're doing it for,
21 if you're working privately -- to then develop a profile
22 from the actual other swabs that you have to determine
23 whether or not they match or not; correct?

24 A Correct. Again, we're developing profiles hopefully
25 from the evidence that's submitted and then comparing it

1 to the profiles from the known individuals.

2 Q Okay. Now, I want to get this out of the way. I
3 have a question for you. And this is just regarding
4 transfer of DNA. If I have on gloves and I'm sweating on
5 my face and I rub my face, am I transferring DNA to that
6 glove possibly?

7 A Potentially, yes, sir.

8 Q Okay. All right. And if I don't have on gloves and
9 I touch a surface, can I transfer DNA that way?

10 A It is possible. Again, it depends on how much DNA
11 is transferred and do we know exactly where to look, but
12 that is one form of touch DNA transfer.

13 Q All right. What other ways can DNA be transferred?
14 I mean, I know you talked earlier about the hair follicle
15 on the condom that you found. Tell the jury what other
16 ways -- the tons of other ways that are -- and I know you
17 can't go through all of them -- that you can transfer DNA.

18 A Well, again, we're typically looking for either
19 touch DNA through that physical contact or we're looking
20 for a bodily fluid.

21 So we can really only say this material is present
22 when we test it. We can't really say how it got there.

23 So in terms of blood, we may see drops of blood if
24 someone cuts themselves and it drips on the floor. If
25 they're shot, if they're stabbed, something more violent,

1 there may be a spray of blood. That could cause transfer.

2 An individual could leave their saliva on a
3 cigarette butt, a piece of gum. Food is sometimes a
4 useful source of DNA profiles for us.

5 Semen, obviously, commonly transferred through
6 sexual contact. There can also be vaginal secretions
7 transferred from a female victim to a male.

8 So there are quite a few different ways that we can
9 see different types of transfer from different bodily
10 materials.

11 Q How many cases have you worked over the years? And
12 I know it's a lot. How many cases have you worked over
13 the years? Hundreds? Thousands?

14 A I have issued over 2,000 reports and tests; I
15 couldn't tell you how many thousands of individual items.

16 Q Now, I want to talk about the results of the swabs.
17 Now, there was a result of the swab that you did from the
18 actual passenger's door handle in the front seat; is that
19 correct?

20 A Yes, sir.

21 Q And they took that swab. They then secure it and
22 send it to you guys. They give you the standard for
23 Mr. Brayboy; correct?

24 A Yes, sir.

25 Q And then you guys go in and you test that particular

1 swab?

2 A Yes, sir.

3 Q Now, my question is this: One of the things in the
4 report says that there was unknown mixtures -- there was a
5 mixture, okay, of DNA; correct?

6 A Yes, sir. Several of the items developed had
7 mixtures.

8 Q And I know counsel said, "Hey, that could be family,
9 that could be friends." But you don't really know who it
10 is, do you?

11 A I do not, no, sir.

12 Q So you don't know if there were other people inside
13 that vehicle that night, but you know there was DNA that
14 was present that didn't belong to Brayboy that you
15 profiled?

16 A Correct. Again, from mixtures, we have multiple
17 individual contributors, and Mr. Brayboy is excluded from
18 all those mixtures.

19 Q Okay. And just to explain an unknown mixture,
20 because you don't have a standard like Mr. Brayboy's to
21 compare it to, because they're unknown, you can't tell us
22 who those mixtures belonged to?

23 A That's correct. I can tell you the number of
24 individuals we interpreted the profile to be. I cannot
25 tell you specifically who they belonged to.

1 Q Okay. Well, let me ask you about this one for the
2 record. All right. For the swab inside the passenger
3 door, how many people contributed to the mixture?

4 A From the door handle?

5 Q Yes, ma'am.

6 A From the swabs from the door handle, we interpreted
7 the profile as being a mixture from three individuals.

8 Q And, on No. 2, the swabs from the bottle of water,
9 who contributed to that mixture?

10 A That DNA profile was interpreted to be a mixture
11 from two individuals.

12 Q And from the swabs from the passenger's door panel,
13 how many people contributed to that mixture?

14 A Again, that was determined to be a profile
15 originating from two individuals.

16 Q The swabs from the passenger seat and the headrest
17 where somebody's head would be, how many people
18 contributed to that mixture?

19 A The DNA profile developed from the passenger seat
20 headrest was interpreted as a mixture originating from
21 four individuals.

22 Q And the swabs from the passenger seat cushion, how
23 many individuals contributed to that mixture?

24 A That particular profile was determined to be
25 single-source, again, meaning that it was DNA from one

1 individual.

2 Q From one individual?

3 A Yes, sir.

4 Q But not Mr. Brayboy?

5 A Correct.

6 Q Ask you just a question about that: Why is it more
7 difficult to transfer DNA to a seat cushion, you think?

8 A Again, it comes down to the amount of contact and
9 potential physical barriers. If you're sitting on that
10 seat and you're wearing a pair of long pants, your skin
11 may not be in direct contact with that item. If you sit
12 down and you're wearing shorts and it's the heat of the
13 summer, sweat can increase the amount of transfer in, and
14 just that physical contact can increase the amount of
15 transfer that you see.

16 But, again, it comes down to how many people are in
17 and out of the car, how often, and how much DNA they may
18 have contributed.

19 Q Thank you, ma'am.

20 The swabs from the exterior of the condom that were
21 submitted, how many were in that mixture?

22 A For the non-sperm fracture from the swabs, from the
23 exterior, the DNA profile was interpreted as a mixture
24 originating from two individuals.

25 Q But not Mr. Brayboy and not Mr. Rashad Jones?

1 A Correct. They were both excluded.

2 Q And then the swabs from the interior of the condom,
3 you found something called non-sperm fraction?

4 A Yes, sir.

5 Q Had to look it up. Had no clue what it was when I
6 saw it. Never saw it.

7 Please tell the jury what that means -- what that
8 is.

9 A So, again, when we perform extractions or,
10 essentially, the isolation of DNA that we're testing from
11 a particular item, when we believe an item may contain
12 semen, we perform a differential extraction. It's a
13 technique that allows us to try to separate sperm cells
14 that may have been present in any semen that's on the item
15 from any other type of cell that may be present, be it
16 vaginal secretions, blood, saliva. Anything else that's
17 present, we're trying to separate that. We want to be
18 able to get a good, clean look at a male contributor from
19 the sperm fraction. Typically, we're looking for a female
20 in the non-sperm. But, essentially, we're just trying to
21 break apart any contribution from sperm cells and then any
22 contribution from any non-sperm-type cell.

23 Q And did you come to any conclusions about whether or
24 not there were female contributions or male contributions
25 to that particular condom?

1 A The swabs from the interior, both the non-sperm and
2 sperm fraction, was determined to be single source. I
3 would have to check the raw data again. I believe it to
4 be a male profile.

5 Q Thank you very much.

6 And then the hair, obviously, came from one source;
7 correct?

8 A The hair actually was determined to be a profile
9 originating from two individuals.

10 Q Two individuals?

11 A Sure.

12 Q Now, let's talk about hair DNA versus saliva or
13 anything else. Hair DNA is tested differently than you
14 would test saliva; correct?

15 A It is slightly different. When we're testing hair,
16 again, what we're looking for is the root material so,
17 basically, the skin cells that are attached to the end of
18 the hair. So if we're trying to identify whose hair that
19 belonged to, we need a decent amount of root material for
20 testing.

21 But it is also possibly, if there's bodily fluid
22 present on the hair, that when we do that test, we might
23 also be developing a profile from someone who has
24 contributed bodily fluid to that item.

25 Q And when you did that test, Antonio Brayboy's hair,

1 obviously, or his DNA, that didn't match him, did it?

2 A Correct. Mr. Brayboy was excluded from that item.

3 Q Okay. And the condom wrapper that was also located,
4 there was DNA found on the condom wrapper?

5 A Correct. There were swabs taken from the exterior
6 of the condom wrapper that was submitted. That was
7 determined to be a single-source profile, again,
8 indicating the DNA from just one individual. And both
9 Rashad Jones and Antonio Brayboy are excluded as
10 contributors to the profile.

11 Q Now, based on your expert opinion -- and I know
12 counsel asked you this question earlier; I'm going to ask
13 it a little bit different, obviously. Just as likely as
14 they believe that he may have been in the car covered with
15 a rubber suit, it's just as also likely that he was not in
16 the vehicle; correct? But you can't say for sure one way
17 or the other?

18 A Again, that's not a question I can answer. We can
19 only make comparisons to the profiles developed. I can't
20 tell you if he was or was not.

21 Q You just know that nothing that they sent you from
22 their examination of the vehicle matched Antonio Brayboy?

23 A Correct. Mr. Brayboy was excluded from all profiles
24 that were developed.

25 MR. WILSON: No further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. WHITE:

Q Ms. Leisy, can you get in and out of a vehicle without leaving behind DNA?

A I would say it's possible. Again, it's just a matter of how much DNA is left and do we know the exact place to look for it. But if you're fully covered, if you're not in direct contact, you don't shed hairs, you don't excrete a bodily fluid, I would say that it could be done.

Q Now, we talked about those mixtures that were presented, and we failed -- both me and Mr. Wilson failed to ask you. I mean, most of those, Rashad Jones did contribute to those mixtures; correct?

A That's correct. For several of the mixtures and profiles developed, we determined what we considered to be an inclusionary likelihood ratio. So what that means is, when we compared Mr. Jones to the mixture, it was determined that it was more likely that we would see that DNA profile if he were a contributor than if he were not. The values determined were different for each item tested.

Q And the unidentified profiles, you can't say how long those profiles were present on those particular areas, can you?

A That's correct. Again, we can only determine that

1 those materials are present when we perform the test.

2 Q So they could have been there for weeks? months?
3 years?

4 A Yes, sir, it's possible.

5 Q And, again, a vehicle -- especially a family vehicle
6 is a high-traffic area; would you agree?

7 A It certainly could be.

8 Q Thank you very much, Ms. Leisy. I have nothing
9 further.

10 A Yes, sir.

11 MR. WHITE: That's all I've got, Judge. Thank you.

12 MR. WILSON: Just very briefly, Judge.

13 RECROSS-EXAMINATION

14 BY MR. WILSON:

15 Q These are the mixtures and profiles of individuals
16 who are people -- DNA is related to people; right?

17 A Yes, sir.

18 Q Okay. All right. So you don't know if he was
19 engaged in a party at the park that night with folks;
20 right?

21 A I can't speak to anything that he was participating
22 in that evening, no, sir.

23 Q You have no clue if he was having a ménage à trois
24 in the car? You have no clue, do you?

25 A I do not.

1 MR. WILSON: No further questions.

2 THE COURT: Is there any objection to this witness
3 being released from her subpoena?

4 MR. WILSON: No objection, Your Honor.

5 MR. WHITE: None, Judge.

6 THE COURT: All right, ma'am. Thank you so much for
7 being here. You're free to go.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Tell you what, ladies and gentlemen,
10 we're going to take about a ten-minute break. We'll
11 figure out the scheduling for the rest of the afternoon
12 and what we have left to hear today, and then we'll bring
13 you right back out and resume the trial. Okay?

14 Please don't discuss this case. Thank you so much.

15 (The jury exited the courtroom at 2:44 p.m.)

16 THE COURT: All right. Anything before we take a
17 recess?

18 MR. WHITE: Judge, just from a scheduling
19 standpoint, this thing is going way quicker than I
20 anticipated. I don't see any problem finishing this
21 tomorrow at all. We only have a few more witnesses left,
22 to be honest.

23 This is potentially my last witness for the day. I
24 hate to end early, but the next witness that I call I
25 think will be my last witness. But, again, I don't think

1 that will hinder us from finishing the State's case
2 tomorrow.

3 THE COURT: I mean, that's no problem. We have got
4 plenty of time. Are you telling me you only have one
5 witness left?

6 MR. WHITE: For the day.

7 THE COURT: For the day. Okay. About how long is
8 that witness?

9 MR. WHITE: For me? 15 minutes maybe.

10 THE COURT: Okay. Mr. Wilson, anything to add?

11 MR. WILSON: Judge, I mean, we're good to go home
12 early. We all need rest. If they have one more
13 witness -- I think I know who it is -- we're going to be
14 quick. Yes, sir.

15 THE COURT: And the other witness can't be here
16 until tomorrow?

17 MR. WHITE: Well, they can be here. It would be
18 taking it out of order as far as moving evidence in. So
19 that would be the problem. I think it would confuse the
20 jury, to be honest with you.

21 THE COURT: All right. Are you familiar with what
22 he's talking about Mr. Wilson?

23 MR. WILSON: I think he's talking about his lay
24 witness, I believe.

25 MR. WHITE: Well, the lay witness -- and I'll just

1 go ahead and tell you. I'm putting up Derrick Jones now,
2 and then tomorrow will be kind of the substance of the
3 case. It will be the cell phone stuff as well as the
4 SkipTheGames stuff. And those two witnesses are Angel
5 Clark and Jade Roy. They kind of piggy-back off of one
6 another. I think taking it out of turn would be a little
7 confusing. I can try to do it, but I would prefer not to.

8 THE COURT: I mean, given the -- I mean, we're early
9 enough in the week I would anticipate -- I don't know what
10 time defense might be put up.

11 MR. WILSON: I'm looking at two weeks, three weeks
12 Judge.

13 THE COURT: Two or three weeks?

14 [Courtroom Laughter]

15 THE COURT: Well, then it doesn't matter if we take
16 the afternoon off.

17 MR. WHITE: Hey, if we have got 11 witnesses up and
18 down today, I think we're all doing pretty good.

19 THE COURT: Oh, I understand. I'm not complaining.
20 I was just trying to...

21 MR. WILSON: Judge, I am completely kidding.

22 THE COURT: No, you're entitled to whatever you'd
23 like. I think you need to call -- well, I can't give you
24 any advice.

25 Anyway, we'll take a few-minutes break.

1 MR. WHITE: Sounds good.

2 MR. WILSON: Thank you, Your Honor.

3 (A recess was taken from 2:48 p.m. to 3:00 p.m.)

4 THE COURT: Are we ready to proceed?

5 MR. WHITE: Yes, Your Honor.

6 MR. WILSON: Yes, Your Honor.

7 THE COURT: And you're just going to have one
8 witness for today?

9 MR. WHITE: Yes, sir, Judge.

10 (The jury entered the courtroom at 3:05 p.m.)

11 THE COURT: All right. Thank you, ladies and
12 gentlemen, for your attention. The State is going to call
13 another witness right now here in just a second.

14 What I wanted to tell you was, just for scheduling
15 purposes, is that we have been able to get through a lot
16 more witnesses today than anyone would have anticipated.
17 And, again, you know, for scheduling purposes, you know,
18 and to save time as far as not having you sit here and
19 wait on a witness to appear, we're just going to have the
20 one witness this afternoon and then the remaining
21 witnesses first thing in the morning because they can't be
22 here in time, that sort of thing, and we don't want you to
23 just sit around.

24 So I just wanted to give you that heads-up. We're
25 going to hear this witness, and then we're going to