

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from York County

Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JACOB D. HALL,

APPELLANT

APPELLATE CASE NO. 2024-000266

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT NO. 16
 2 COUNTY OF YORK) DOCKET NOS.: 2022-GS-46-2279
 3 2022-GS-46-2279A
 4 . 2022-GS-46-2280

5 -----
 6 STATE OF SOUTH CAROLINA,)
 7 Plaintiff,)
 8 versus)
 9 JACOB D. HALL,)
 10 Defendant.)
 11 -----

13

14 J U R Y T R I A L & S E N T E N C I N G

15 DATES AND TIMES: February 12, 2024, 11:12 a.m. to 4:23 p.m.
 16 February 13, 2024, 9:43 a.m. to 5:33 p.m.
 17 February 14, 2024, 9:49 a.m. to 5:24 p.m.
 18 February 15, 2024, 9:42 a.m. to
 19 10:09 a.m., then 1:43 p.m. to 1:56 p.m.

18 LOCATION: South Carolina Circuit Court 16
 19 JUDGE: Daniel D. Hall
 20 TRANSCRIBED BY: Sandra J. Early

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7 RYAN MISSILDINE 49 59 68

8 STEPHEN RAMSEY 70 77 85 86

9 CHRISTOPHER PENLAND 87 97

10 JOSHUA HINES 110 115

11 (February 13, 2024)

12 KENDAL HARRIS 136 145 151

13 CHRISTOPHER PENLAND 189 201 216

14 LYNN STRAIT 224

15 BRIAN WHITESIDES 227 231

16 TAMYRA HOGG 235 241

17 NICHOLAS SCHIFFERLE 243 262 265 266

18 MARSCHAL MARTENS 267 276

19 (February 14, 2024)

20 JOSHUA HINES 286 368 397 402 441

21 BARBARA TRAYLOR 407

22 GREGORY GARDNER 413 422

23 HOLLY TOBIAS 426 433 438

24 JACOB HALL 454

25

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(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL.

SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY

THE SPEAKER.)

JURY TRIAL & SENTENCING

1 FEBRUARY 12, 2024

2 THE COURT: We're on the record in
3 2022-GS-46-2279 and 2022-GS-46-2279-A. This
4 indictment is for the State of South Carolina versus
5 Jacob Dewayne Hall: Count 1 for trafficking
6 methamphetamine, 100 grams or more; Count 2,
7 possession of a weapon during the commission of
8 violent crime. And in indictment 2022-GS-46-2280,
9 State versus Jacob Dewayne Hall, indicted for
10 possession of a firearm by a person convicted of
11 violent offense. Mr. Hall is being represented by
12 Lir Derieg of Aiken. Representing the State is
13 Leslie Robinson and Chris Epting. I have received a
14 motion in limine, a motion to suppress, on behalf of
15 the defendant. And I have the State's voir dire and
16 the State's and the Defendant's potential witness
17 lists. And so,, let me ask the question again,
18 Mr. Derieg, do you have any particular voir dire?

19 MR. DERIEG: No, Your Honor, I don't.

20 THE COURT: All right. And then,, have you
21 reviewed the State's voir dire?

22 MR. DERIEG: I have, Your Honor.

23 THE COURT: Any objection to those?

24 MR. DERIEG: Well, No. 2 doesn't seem to be
25 relevant to this case.

JURY TRIAL & SENTENCING

1 THE COURT: I'm not going to ask No. 2 and --
2 however, we can -- No. 4 is a question just asking if
3 anybody has a friend or acquaintance with an attorney
4 who practices criminal defense work. I'm not going
5 to ask 2.

6 MR. DERIEG: Okay. No. 5, I don't know. I'm
7 kind of on the fence on No. 5, Your Honor, to be
8 honest with you.

9 THE COURT: Yeah. I note that you haven't
10 objected to it. However, if that's an objection, I
11 note your objection. I'm going to ask No. 5.

12 MR. DERIEG: Okay. And then, I would object to
13 No. 7.

14 THE COURT: And I will also ask No. 7.

15 MR. DERIEG: Okay. So just No. 2 is out?

16 THE COURT: Yes.

17 MR. DERIEG: Thank you, Your Honor.

18 THE COURT: All right. And is the State ready
19 to proceed?

20 MS. ROBINSON: Yes, Your Honor.

21 THE COURT: Is the Defense ready?

22 MR. DERIEG: Yes, Your Honor.

23 THE COURT: Let me ask. This is sort of a
24 tricky question on the second indictment, possession
25 of a firearm for a person convicted of a violent

JURY TRIAL & SENTENCING

1 offense. What is the underlying violent offense the
2 State would need to prove?

3 MS. ROBINSON: Attempted armed robbery. .

4 THE COURT: And you have the certified
5 conviction of that?

6 MS. ROBINSON: I do, Your Honor.

7 THE COURT: All right. You don't have to have
8 that right now. I'll just note that you have it.
9 Okay. I think the way we limit those is that I will
10 state the indictment is for possession of a firearm
11 during -- by a person convicted of a violent offense,
12 period. I will not make any reference to whatever
13 the particular violent offense is until -- we'll deal
14 with that when the State needs to bring that out as
15 an element of the offense at the appropriate time.
16 All right. Any -- any other motions from Mr. Derieg?

17 MR. DERIEG: Yes, sir. I've got a -- I've got a
18 handful of -- of oral motions that I didn't have a
19 chance to get written down. One is to go ahead and
20 settle the defendant's record for purposes of whether
21 or not he testifies as to what of his prior criminal
22 history (unintelligible).

23 THE COURT: All right. Let's do this, then.
24 We'll just go through the -- we're going to go ahead
25 and pool our jury, and we'll go through -- are any of

JURY TRIAL & SENTENCING

1 your -- any of your other questions jury-related?

2 MR. DERIEG: No, sir.

3 THE COURT: All right. Then, are we ready to
4 pool the jury from the State?

5 MR. EPTING: The State is ready.

6 THE COURT: Defense?

7 MR. DERIEG: Defense is ready, Your Honor.

8 THE COURT: All right. Let's bring the jury
9 panel on up. While we're waiting. it's been brought
10 to my attention that Juror No. 146, he's an ARP
11 pastor, but he also serves as a chaplain for the Rock
12 Hill Police Department. Defense felt we -- he didn't
13 stand at any time this morning.

14 MR. EPTING: It was not addressed, Your Honor.
15 I don't believe that the chaplain -- I believe the
16 chaplain is an honorary position. I don't believe
17 they have the powers of arrest. However, if you want
18 to call him forth separately to make sure that that's
19 addressed, then there's no objection to that.

20 THE COURT: Well, he -- he -- he -- he would
21 have answered as far as power of arrest. I think
22 that's information that -- or that I'll just make
23 that note that he is a chaplain for the Rock Hill
24 Police Department.

25 MR. EPTING: (Unintelligible.)

JURY TRIAL & SENTENCING

1 MS. ROBINSON: Your Honor, I assume the clerk
2 has received the randomized list. If we could get a
3 copy of that list?

4 THE COURT: Yeah. We'll do that. And that way,
5 you'll have the order in which they're going to be
6 called. Strikes are going to be five and five.

7 MS. ROBINSON: Thank you, Your Honor.

8 THE COURT: And if we need to take a little time
9 once that list is handed to you, we will do that as
10 well. Have you all already generated the order in
11 which they're going to be called?

12 MS. ROBINSON: Mm-hmm.

13 THE COURT: So after we get through voir dire,
14 you obviously will not call any of the people that
15 have technically been not qualified?

16 MS. ROBINSON: Correct, mm-hmm.

17 THE COURT: All right. Mr. Derieg and the
18 State, they've already generated the order that
19 they'll be called, so if you'll go ahead and provide
20 that to them. I want the order in which they're
21 going to be called. Right. So give -- give them the
22 order in which they'll be called, not that
23 (unintelligible).

24 THE BAILIFF: Are you ready, Judge?

25 THE COURT: Yes, sir.

JURY TRIAL & SENTENCING

1 (The jury panel entered the
2 courtroom.)

3 THE COURT: All right. Thank you. Thank you,
4 ladies and gentlemen. Ladies and gentlemen; we are
5 ready to begin the third part -- or part of the
6 process in determining whether you will serve on a
7 particular jury. And we're about to begin the state
8 of the case of -- I'm sorry -- to begin the trial of
9 the case of State versus Jacob Dewayne Hall.
10 Mr. Hall has been indicted on three indictments:
11 2022-GS-46-2280 for possession of a firearm as a
12 person convicted of a violent offense; indictment
13 2022-GS-46-2279 and 2279-A, for trafficking in
14 methamphetamine, 100 grams or more, and possession of
15 a weapon during the commission of a violent crime.
16 Mr. Hall has indicated that he wished to enter a plea
17 of not guilty to these charges and has requested a
18 jury trial. That's a right that every person is
19 guaranteed in this country. When they're charged
20 with a crime, they have a right to have a trial by a
21 jury. Representing the State of South Carolina is
22 Mr. Chris Epting and Leslie Robinson. If you all
23 would introduce yourselves.

24 MR. EPTING: I'm Chris Epting. I'm an assistant
25 deputy solicitor (unintelligible.)

JURY TRIAL & SENTENCING

1 MS. ROBINSON: I'm Leslie Robinson. I'm
2 (unintelligible.)

3 THE COURT: Thank you. Representing Mr. Hall is
4 Attorney Lir Derieg. Mr. Derieg, if you would
5 introduce yourself and your client.

6 MR. DERIEG: Good morning. My name is Lir
7 Derieg. I practice out of Aiken, South Carolina.
8 I'm happy to be here in York. I represent and have
9 the honor of representing Mr. Jacob Hall. Thank you.

10 THE COURT: Thank you. Is there any member of
11 the jury panel related by blood or marriage, or have
12 any close business, professional, or social
13 relationship with any of these three attorneys or
14 Mr. Jacob Dewayne Hall? If so, please stand. Thank
15 you. No one stands.

16 This offense allegedly took place on or about
17 February the 24th of 2022 here in York County at
18 Willow Pond Drive in Clover. Does any member of the
19 jury panel have any personal knowledge, direct or
20 indirect, about this incident or these allegations
21 whatsoever? If so, please stand. Thank you. No one
22 stands. Is there any member of the jury panel, either
23 you or your immediate family member, ever been
24 prosecuted by the York County solicitor's office? If
25 so, please stand.

JURY TRIAL & SENTENCING

1 Yes, ma'am, your number? I'm sorry?

2 JUROR NO. 69: No. 69.

3 THE COURT: If you'll come forward. We're going
4 to talk to you privately about your answer to these
5 questions.

6 (Sidebar audio is
7 unintelligible.)

8 THE COURT: Yes, sir, what's your number?

9 JUROR NO. 152: 152.

10 (Sidebar audio is
11 unintelligible.)

12 THE COURT: Is there any member of the jury
13 panel, either related by blood or marriage, or have a
14 close, personal, professional, or social relationship
15 with anyone, any employee of the York County
16 Solicitor's Office? That would include assistant
17 solicitors, investigators, paralegals, diversion
18 programs like PTI, treatment courts. Is there any
19 member of the jury panel related by blood or
20 marriage, or have any close, personal, professional
21 relationship with anyone who works in the York County
22 Solicitor's Office? If so, please stand. Thank you.
23 No one stands. Is there any member of the jury
24 panel, either you or any immediate family member who
25 are a friend or acquaintance with any attorney who

JURY TRIAL & SENTENCING

1 practices criminal defense work? If you have a
2 business, professional or social relationship, either
3 you or a immediate family member with any attorney
4 who does criminal defense work. If so, please stand.

5 Yes, ma'am, if you just stand and tell me your
6 number.

7 JUROR NO. 88: 88.

8 THE COURT: And -- and who do you think you --

9 JUROR NO. 88: I -- I am a paralegal for the
10 Department of Homeland Security, so I work with
11 attorneys in York County and Charlotte. Our Homeland
12 Security Investigations office covers all of North
13 Carolina and parts of (unintelligible).

14 THE COURT: All right. Thank you. That's --
15 would that fact affect your ability to be fair and
16 impartial to both the State and the Defense in this
17 case?

18 JUROR NO. 88: No.

19 THE COURT: Thank you. You may be seated. Is
20 there any member of the jury panel, either you or
21 your immediate family member, been accused of,
22 investigated or arrested for a drug or
23 weapons-related offense? A drug -- if you have
24 family members -- and the individuals that we talked
25 to privately don't need to come up. Is there any

JURY TRIAL & SENTENCING

1 other member of the jury panel who has family members
2 who have been arrested for drugs or weapons-related
3 offenses?

4 Yes, ma'am, your number?

5 JUROR NO. 89: 89.

6 THE COURT: Without going into details, what is
7 your family member?

8 JUROR NO. 89: My daughter.

9 THE COURT: Would that fact affect your ability
10 to be fair and impartial to both the State and the
11 Defense in this case?

12 JUROR NO. 89: No, sir.

13 THE COURT: Thank you. You may be seated. Yes,
14 sir, your number?

15 JUROR NO. 166: 166.

16 THE COURT: Yes, sir.

17 JUROR NO. 166: My son was arrested.

18 THE COURT: Would that fact affect your ability
19 to be fair and impartial to both the State and the
20 Defense in this case?

21 JUROR NO. 166: No.

22 THE COURT: Thank you. You may be seated. Yes,
23 ma'am, your number?

24 JUROR NO. 36: 36.

25 THE COURT: Yes.

JURY TRIAL & SENTENCING

1 JUROR NO. 36: My ex-husband's brother.

2 THE COURT: Would that fact affect your ability
3 to be fair and impartial to both the State and the
4 Defense in this case?

5 JUROR NO. 36: No.

6 THE COURT: Thank you. You may be seated. Is
7 there any member of the jury panel a member or
8 supporter of the NRA or any other Second Amendments
9 Rights advocacy groups? If you're a member of the
10 National Rifle Association or any advocacy group that
11 advocates for Second Amendment gun rights, if so,
12 please stand. Thank you. No one stands. Is there
13 any member of the jury panel, either you or an
14 immediate family member, struggled with a drug
15 addiction? And I'm not going to ask you any
16 particulars about that, but if you or a family member
17 have struggled with a drug addiction, then please
18 stand. All right. And if you'd tell me your number.

19 JUROR NO. 67: 67.

20 THE COURT: And what family member?

21 JUROR NO. 67: My brother.

22 THE COURT: Would that fact affect your ability
23 to be fair and impartial to both the State and the
24 Defense in this case?

25 JUROR NO. 67: No.

JURY TRIAL & SENTENCING

1 THE COURT: Thank you. You may be seated. Your
2 number on my right? Yes, ma'am, on my right.

3 JUROR NO. 89: 89.

4 THE COURT: Yes, ma'am.

5 JUROR NO. 89: My daughter.

6 THE COURT: Would that fact affect your ability
7 to be fair and impartial to both the State and the
8 Defense in this case?

9 JUROR NO. 89: No.

10 THE COURT: Thank you. You may be seated. Yes,
11 ma'am, your number?

12 JUROR NO. 176: No. 176.

13 THE COURT: And your situation?

14 MR. DERIEG: I'm sorry. I didn't hear that
15 number, Your Honor.

16 THE COURT: 176.

17 MR. EPTING: Thank you.

18 JUROR NO. 176: My brother.

19 THE COURT: Would that fact affect your ability
20 to be fair and impartial to both the State and the
21 Defense in this case?

22 JUROR NO. 176: No, sir.

23 THE COURT: Thank you. You may be seated. Does
24 any member of the jury panel have any beliefs,
25 religious or otherwise, that would prevent you from

JURY TRIAL & SENTENCING

1 entering judgment against another person? If so,
2 please stand. Thank you. No one stands.

3 I'm going to go through a list of potential
4 witnesses in this case. I'm going to read them in
5 groups of five. I'm going to read five names. My
6 question after each of those five names if you're --
7 are you related by blood or marriage, or have a close
8 personal, business or professional relationship with
9 any of these potential witnesses: Joshua Hines of the
10 Drug Enforcement Unit; Marshall Martens of the Drug
11 Enforcement Unit; Morgan McClaugherty, Drug
12 Enforcement Unit; Justin Moore from the Drug
13 Enforcement Unit; Stephen Ramsey from the York County
14 Sheriff's Office. anybody related by blood or
15 marriage, or have a close business, professional, or
16 social relationship with any of those potential
17 witnesses, please stand.

18 Yes, sir, your number?

19 JUROR NO. 146: 146.

20 THE COURT: And who do you know?

21 JUROR NO. 146: I'm a chaplain for the Rock Hill
22 Police Department.

23 THE COURT: Would that fact affect your ability
24 to be fair and impartial to both the State and the
25 Defense in this case?

JURY TRIAL & SENTENCING

1 JUROR NO. 146: Possibly, sir.

2 THE COURT: All right. Juror No. 146 is excused
3 in this case. You can have your seat. Just keep
4 your seat. Kendal Harris, Fawn Moore, Summer
5 Carlson, Michelle Johnson. Anyone related by blood
6 or marriage, or have a close business or personal
7 relationship with those potential witnesses, then
8 please stand. Thank you. No one stands. Nick
9 Schifferle of the York County Sheriff's Office;
10 Christopher Penland, York County Sheriff's Office;
11 Ryan Missildine, York County Sheriff's Office; Brian
12 Whitesides, York County Sheriff's Office; James
13 Voytko, York County Sheriff's Office. Any member of
14 the jury panel related by blood or marriage or have a
15 close personal, professional or business relationship
16 with any of those individuals, then please stand.
17 Thank you. No one stands.

18 Gregory Gardner, York County Sheriff's Office;
19 Barbie Traylor, York County Sheriff's Office; Holly
20 Tobias, York County Sheriff's Office; Tamyra Hogg,
21 York County Detention Center. Anyone related by blood
22 or marriage to any of those potential witnesses, then
23 please stand. Thank you. No one stands. Levi Bacot,
24 Landon Harris, Sandra Hall, James Birch, Michael
25 Garrett. Anyone related by blood or marriage, or have

JURY TRIAL & SENTENCING

1 a close personal, professional, or social relationship
2 with any of those individuals, then please stand.
3 Thank you. No one stands. Christopher Hall, John
4 Osborne, Buddy Brown, Terrance Robinson, Paul Willey.
5 Anyone related by blood or marriage to any of those
6 individuals, or have a close personal or professional
7 relationship or a social relationship with any of
8 those individuals, then please stand. Thank you. No
9 one stands.

10 Has any member of the jury panel formed any
11 opinion expressed -- or expressed any opinion about
12 any issue or matter involved in this case? Hopefully,
13 you had and you hadn't heard about it 'til just a
14 little bit ago. But -- but I'm going to have some
15 instructions to those that are selected to the jury
16 about limiting your discussion and opinions. But does
17 anybody already have an opinion about the issue in
18 this case, then please stand. Thank you. No one
19 stands. Is any member of the jury panel aware of any
20 bias or prejudice toward either the State or the
21 defendant in this case, then please stand. Thank you.
22 No one stands. Is there any member of the jury panel
23 a member of, or a contributor to any group that its
24 primary concern is the promotion of law enforcement or
25 law enforcement-related issues, such as victims

JURY TRIAL & SENTENCING

1 rights? If so, please stand.

2 Yes, ma'am, your number?

3 JUROR NO. 88: 88.

4 THE COURT: And who do you --

5 JUROR NO. 88: I work for the Department of
6 Homeland Security.

7 THE COURT: -- all right. Again, we've asked
8 you that before, but --

9 JUROR NO. 88: Yes.

10 THE COURT: -- let me -- we do this again for
11 the record. Does that fact affect your ability to be
12 fair and impartial to both the State and the Defense
13 in this case?

14 JUROR NO. 88: No.

15 THE COURT: Thank you. You may be seated. Yes,
16 ma'am, your number?

17 JUROR NO. 26: 26.

18 THE COURT: Yes.

19 JUROR NO. 26: My husband is a sheriff's deputy.

20 THE COURT: In?

21 JUROR NO. 26: Cherokee County.

22 THE COURT: Would that fact affect your ability
23 to be fair and impartial to both the State and the
24 Defense in this case?

25 JUROR NO. 26: (No audible response.)

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

8 Does the State have any additional questions
9 that the Court needs to ask?

10 MS. ROBINSON: No, Your Honor.

11 THE COURT: Does the Defense have any additional
12 questions?

13 MR. DERIEG: I beg the Court's indulgence for a
14 moment.

15 THE COURT: All right. Yes?

16 JUROR NO. 72: I'm sorry. I forgot. I'm
17 (unintelligible.)

18 THE COURT: Your number?

19 JUROR NO. 72: 72.

20 THE COURT: 72?

21 JUROR NO. 72: Yeah.

22 THE COURT: Yes, sir.

23 JUROR NO. 72: (Unintelligible.)

24 THE COURT: Would that fact affect your ability
25 to be fair and impartial to both the State and the

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1 Defense in this case?

2 JUROR NO. 72: (No audible response.)

3 THE COURT: Thank you. I appreciate you
4 bringing that to our attention now. That's extremely
5 important. Thank you. All right. Anything further
6 from the Defense?

7 MR. DERIEG: Yes, Your Honor. Can I approach?

8 THE COURT: Yes. Lawyers approach.

9 (Bench conference off the
10 record.)

11 THE COURT: I have one more. I have one other
12 question, ladies and gentlemen of the jury. Is any
13 -- is there any member of the jury panel that's
14 affected by or formed an opinion on any issue in this
15 case based upon the fact that individuals that may be
16 testifying in this particular case have tattoos? If
17 you've formed an opinion about the issue in the case
18 because of the presence of tattoos on -- on -- on the
19 individuals that may possess them, if that affects
20 your ability to be fair and impartial to the State
21 and the defendant in this case, then please stand.
22 Thank you. No one stands.

23 MR. DERIEG: Thank you, Your Honor.

24 THE COURT: Anything further from the Defense?

25 MR. DERIEG: No, Your Honor.

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1 THE COURT: All right. Madam Clerk, if you'll
2 give us our jury.

3 THE CLERK: All right. When I call your name
4 and juror number, please bring all of your belongings
5 and come to the front, and face the attorneys.

6 THE COURT: Strikes are five and five, and we'll
7 select two alternates.

8 THE CLERK: Mr. Whitestone, Juror No. 171. What
9 say you for the State?

10 MR. EPTING: Please present this juror.

11 THE CLERK: And the Defense?

12 MR. DERIEG: Please excuse this juror.

13 THE CLERK: You've been excused from this case.
14 Juror No. 26, Misty Burrell. What say you for the
15 State?

16 MR. EPTING: Please present this juror.

17 THE CLERK: And the Defense?

18 MR. DERIEG: Please excuse this juror.

19 THE CLERK: You've been excused from this case.
20 Juror No. 100, Darren Johnson. What say you for the
21 State?

22 MR. EPTING: Please present this juror.

23 THE CLERK: And the Defense?

24 MR. DERIEG: Please seat this juror.

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

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1 Juror No. 79, Donald Ells [ph]. What say you for the
2 State?

3 MR. EPTING: Please present this juror.

4 THE CLERK: And the Defense?

5 MR. DERIEG: Please seat this juror.

6 THE CLERK: Have a seat in the jury box. Juror
7 No. 33, Stephanie Couch. What say you for the State?

8 MR. EPTING: Please present this juror.

9 THE COURT: And the Defense?

10 MR. DERIEG: Please seat this juror.

11 THE CLERK: You may have a seat in the jury box.
12 Juror No. 158, Dale Santay [ph]. What say you for
13 the State?

14 MR. EPTING: Please present this juror.

15 THE CLERK: And the Defense?

16 MR. DERIEG: Please seat this juror.

17 THE CLERK: You may have a seat in the jury box.
18 Juror No. 41, Aaron Davis. What say you for the
19 State?

20 MR. EPTING: Please present this juror.

21 THE CLERK: And the Defense?

22 MR. DERIEG: Please excuse this juror.

23 THE CLERK: You've been excused from this case.
24 Juror No. 172, Alexis Stonehouse. What say you for
25 the State?

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1 MR. EPTING: Please present this juror.

2 THE CLERK: And the Defense?

3 MR. DERIEG: Please present this juror.

4 THE CLERK: You may have a seat in the jury box.

5 Juror No. 89, Angel Cooper. What say you for the

6 State?

7 MR. EPTING: Please excuse this juror.

8 THE CLERK: You're excused from this case.

9 Juror No. 72, Christopher Gregory. What say you for

10 the State?

11 MR. EPTING: Please excuse this juror.

12 THE CLERK: You're excused from this case.

13 Juror No. 108, Tiffany Cramer. What say you for the

14 State?

15 MR. EPTING: Please seat this juror.

16 THE CLERK: And the Defense?

17 MR. DERIEG: Please seat this juror.

18 THE CLERK: You may have a seat in the jury box.

19 Juror No. 165, Tracy Shields. What say you for the

20 State?

21 MR. EPTING: Please present this juror.

22 THE CLERK: And the Defense?

23 MR. DERIEG: Please excuse this juror.

24 THE CLERK: You're excused from this case.

25 Juror No. 70, Catherine Grant. What say you for the

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1 State?

2 MR. EPTING: Please seat this juror.

3 THE CLERK: And the Defense?

4 MR. DERIEG: Please seat this juror.

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

6 Juror No. 115, Dale Malone. What say you for the

7 State?

8 MR. EPTING: Please excuse this juror.

9 THE CLERK: You're excused from this case.

10 Juror No. 119, Kathleen Mason. What say you for the

11 State?

12 MR. EPTING: Please present this juror.

13 THE CLERK: And the Defense?

14 MR. DERIEG: Please seat this juror.

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

16 Juror No. 18, David Boykin [ph]. What say you for

17 the State?

18 MR. EPTING: Please present this juror.

19 THE CLERK: And the Defense?

20 MR. DERIEG: Please seat this juror.

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

22 Juror No. 129, Phyllis Miranda Ramirez. What say you

23 for the State?

24 MR. EPTING: Please present this juror.

25 THE CLERK: And the Defense?

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1 MR. DERIEG: Please seat this juror.

2 THE CLERK: You may have a seat in the jury box.
3 Juror No. 105, Charles Kaufman. What say you for the
4 State?

5 MR. EPTING: Please present this juror.

6 THE CLERK: And the Defense?

7 MR. DERIEG: Please seat this juror.

8 THE CLERK: Please have a seat in the jury box.
9 Juror No. 102, Robert Judson. What say you for the
10 State?

11 MR. EPTING: Please present this juror.

12 THE CLERK: And the Defense?

13 MR. DERIEG: Please seat this juror.

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

15 THE COURT: All right. We'll now select two
16 alternates.

17 THE CLERK: Juror No. 63, Jason Gambrell. What
18 say you for the State?

19 MR. EPTING: Please present this juror.

20 THE CLERK: And the Defense?

21 MR. DERIEG: Please seat this juror.

22 THE CLERK: Please have a seat in the jury box.
23 Juror No. 45, Stanley DuBois [ph]. What say you for
24 the State?

25 MR. EPTING: Please seat this juror.

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1 THE CLERK: And the Defense?

2 MR. DERIEG: Please seat this juror.

3 THE CLERK: Have a seat in the jury box.

4 THE COURT: All right. Anything further
5 regarding jury selection from the State?

6 MR. EPTING: Nothing from the State, Your Honor.

7 THE COURT: From the Defense?

8 MR. DERIEG: Nothing from the Defense, Your
9 Honor.

10 THE COURT: All right. Ladies and gentlemen of
11 the big jury panel, you're excused. You're excused
12 for the rest of today. Call tonight after 6:00. The
13 clerk should have given you information about the
14 number to call to give you instructions on what to do
15 next. I assume if any of you left anything
16 downstairs, you need to pick that up. But you are
17 free to leave. Call back tonight after 6:00 for
18 further instructions. Everyone remain seated while
19 the jury panel is excused.

20 Lawyers approach.

21 (Bench conference off the
22 record.)

23 THE COURT: All right. Ladies and gentlemen,
24 I'm just trying to confer with the attorneys about
25 where we are logistically. What I'm going to do in

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1 just a few minutes, I'm going to give you some basic,
2 literal instructions about the case and your
3 responsibilities. But we have a number of issues
4 that we have to take up outside of your presence
5 which are legal issues that you will not be a part
6 of. I'm going to instruct you on the details a bit
7 later. Your role as jurors are fact finders. You're
8 to listen to the evidence and determine what you deem
9 are the appropriate facts in the case. My role is to
10 rule on the issues of the law and admissibility of
11 evidence, and that kind of thing. So there's going
12 to be a lot of times when you're not here in the
13 courtroom when we're going to be working and taking
14 care of that kind of business, and we have a fair
15 amount of that to do this afternoon before we
16 actually get started with any testimony.

17 And so,, what I'm going to do is allow you to
18 leave and be back tomorrow morning and ready to go at
19 9:30, at 9:30. In the meantime, you don't know
20 anything about the case other than what the Court has
21 told you and what the indictments are and the
22 witnesses in the case. You're going to hear me say
23 throughout this trial 'til you're sort of tired of
24 hearing me say it over and over again, do not discuss
25 the case among yourselves or with anybody else.

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1 You're not to use your electronic devices to Google
2 people, places, law, anything remotely related to the
3 case. Even when you go back to your jury room, you're
4 not to just discuss the case at all until the
5 conclusion of the case when I give you the law that
6 applies to the case and you've heard all the facts.
7 That's the only way you can be fair and impartial to
8 both the State and the Defense, is your decision in
9 this case has to be based on what you see and hear in
10 this courtroom and nowhere else.

11 And I'm going to tell you again. Do not discuss
12 the case with anybody, even the people you live with
13 tonight. Don't be doing any type of research. Don't
14 be using electronic devices. Don't be talking to
15 anybody about the case. If somebody does talk to you
16 about the case, then you don't know anything. During
17 the course of the trial, if somebody does talk to you,
18 let one of the bailiffs know and they'll bring that to
19 the Court's attention.

20 When you come back tomorrow morning, when you
21 come into the jury room, everybody can sit wherever
22 they want to except the two alternates. These
23 gentleman will keep those two seats throughout the
24 trial. You all are the alternates. At some point in
25 time, I will appoint or I will ask you to elect a

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1 foreperson among yourselves. But that will probably
2 be sometime tomorrow afternoon. The foreperson will
3 then keep this end seat throughout the rest of the
4 trial. The rest of you can sit wherever you want to.
5 You can bring water here in the courtroom. We ask
6 that you don't bring coffee or soft drinks in here.
7 This -- this -- I still call this a new building.
8 It's not terribly new, but it's still new and it's in
9 good shape. And part of it is, we've done a good job
10 of making sure we don't get coffee stains and soda
11 stains on the carpets. But feel free to bring water
12 with you.

13 And again, no -- no cell phones with you other
14 than, I believe that one juror that has a cell phone
15 because of health-related issues. But that's been
16 brought to the Court's attention. That's certainly
17 proper and needed. Don't bring any other cell phones
18 you're not allowed in the jury room. I think that the
19 bailiffs generally -- the Court makes accommodation to
20 get your cell phones. So at some point while we're
21 coming in or out, if you need to make contact with
22 somebody, you can.

23 We'll generally try to go from 9:30 'til 5:00 or
24 5:30. We'll take a break for lunch, usually about an
25 hour and a half. We usually take an hour or a hour

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1 and a half with particular witnesses and take a break.
2 But I'm going to go through that in a little more
3 detail tomorrow. But anytime you need -- you need to
4 take a break, you can simply raise your hand and we'll
5 allow it, and you'll be excused. But with that, I'm
6 going to allow you to leave for the rest of the day.
7 Be back tomorrow morning at 9:30. I can assure you,
8 we'll be working in this courtroom on this case and
9 other cases while you're out. So we'll be ready to go
10 at 9:30 in the morning. Everyone remain seated while
11 this jury panel is excused. You're excused for the
12 day.

13 (The jury exited the courtroom.)

14 THE COURT: Well, let me ask you this as far as
15 the witness for the suppression hearing who has to
16 pick up a child. If we started at 1:30 would that --
17 I'd hate for us to be sitting around waiting for him
18 to get back.

19 MS. ROBINSON: Your Honor, I believe he was
20 picking up a child during the lunch break, and his
21 wife will return and take custody of the child.

22 THE COURT: Okay. All right. We'll stick to
23 our (unintelligible). All right. Then we've
24 discussed with the attorneys at the bench the
25 pretrial issues, the motion. I have been provided

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1 with a written motion in limine and a request for a
2 suppression hearing brought by the defendant. We will
3 take care of that, this afternoon after lunch. I'll
4 hear testimony on that. In the meantime, I believe
5 Mr. Derieg had indicated that he had a number of oral
6 motions, pretrial motions. I'll be glad to hear
7 those, Mr. Derieg.

8 MR. DERIEG: Thank you, Your Honor. May it
9 please the Court. One was to go ahead and settle the
10 defendant's record as to -- if he decided to testify
11 what was fair game pertaining to his prior criminal
12 history.

13 THE COURT: All right. Mr. Epting or
14 Ms. Robinson?

15 MS. ROBINSON: I beg the Court's indulgence.
16 Your Honor, he has convictions for attempted armed
17 robbery and assault battery in the 1st degree which
18 occurred in 2017. He has a possession with intent to
19 distribute Ritalin which he was convicted in 2014.
20 He has other -- receiving stolen goods and possession
21 of one through five controlled substances
22 (unintelligible) carry over a year. So he did have
23 property and (unintelligible) conviction. That would
24 be a ten-year felony that was in 2015.

25 THE COURT: But it appears he has at least five

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1 convictions that carry more than one year?

2 MS. ROBINSON: Yes, Your Honor.

3 THE COURT: All right. That's -- that's what
4 they say they have, Mr. Derieg.

5 MR. DERIEG: I agree with that, though none of
6 them rise to the level of moral turpitude, Your
7 Honor. And they're already going to hear about the
8 attempted armed robbery through the certified
9 conviction.

10 THE COURT: Well, I think that -- I think that I
11 understand the limitations. They can ask if you've
12 been convicted of whatever the number is that perhaps
13 that carry more than one year without the specifics
14 of those." However, except the one that is the
15 element of the charge of possession of a weapon
16 through the violent -- convicted of a violent crime,
17 does the State agree with that?

18 MS. ROBINSON: Yes, Your Honor.

19 THE COURT: All right. All right. What's
20 No. 2?

21 MR. DERIEG: No. 2 is, Your Honor, I would make
22 a motion not to refer to any of the databases that
23 were run -- that fingerprints were run through. It
24 would tend to indicate that my client had had prior
25 criminal history and that his DNA and/or fingerprints

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1 would be in such databases. It's not necessary
2 because with the latent fingerprints that were found,
3 they did a ten-fingerprint card on my client, and
4 then matched it. And then, -- well, not matched it,
5 but compared it to the latent prints that they found.
6 So I don't think any -- any mention of the -- the two
7 databases that they used to initially run -- run
8 those fingerprints is --

9 THE COURT: Let me hear from the State.

10 MR. EPTING: Your Honor, typically, the way that
11 I've handled that issue in trials is when the expert
12 testifies, we have them testify that people who apply
13 for certain jobs and any other number of people, even
14 people who are arrested, whether they're guilty or
15 not, have their -- have their fingerprints entered
16 into a database. He did enter two -- entered one
17 fingerprint that he thought was suitable for
18 comparison into AFIS and it came back with no
19 matches. We certainly don't want to call to
20 attention anything through the witness that indicates
21 that he has a prior criminal history. So that was
22 kind of how I was planning on presenting that. We
23 don't want it to be argued to the Court --

24 THE COURT: Well, let me ask, then. No -- no
25 hit in AFIS, what's the other one? So if no -- no

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1 need to refer to AFIS, what would be the other
2 database?

3 MR. EPTING: It was only AFIS, Your Honor.

4 THE COURT: It was only AFIS?

5 MR. DERIEG: It was AFIS, and there was a second
6 one that I -- I did not recognize.

7 THE COURT: Well, they're not intending --
8 they're basically -- they are -- they'll have to
9 follow the same routine that --

10 MR. DERIEG: AFIS and SCAFIS.

11 MR. EPTING: It's SCAFIS. It's the South
12 Carolina-specific database, but --

13 THE COURT: You're not going to refer to that
14 all?

15 MR. EPTING: We won't if the Court orders. I
16 just don't want the jury to think that the officers
17 were falling down on their job in trying to get a
18 match on his fingerprints. So if Defense counsel
19 will agree not to bring that before the jury, we'll
20 stay away from it.

21 THE COURT: Mr. Derieg, in essence, indicated
22 they will follow the plan that he was fingerprinted
23 when he was arrested, be it a known print compared to
24 the -- the latent prints that were lifted at the
25 scene. That would be the basis of the match. Their

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1 counter-motion if it's viewed from the question of
2 the police officer of why didn't you run it through
3 other databases.

4 MR. DERIEG: I certainly won't question their
5 investigation of the fingerprints, although I will
6 point out that they never found a match.

7 THE COURT: That -- I don't know where that is
8 and, you know, they'll have to give the results, if
9 that's what they intend to do, but --

10 MR. DERIEG: You know what? I'll withdraw that
11 motion, Your Honor. They -- they -- the way that
12 Mr. Epting explained the way that he does it, I'm
13 okay with that. I'll withdraw that motion.

14 THE COURT: Whether he does or not, he's --
15 that's a trial strategy issue (unintelligible.)
16 We're not going to allow any reference to any
17 database, whether it's AFIS or the other South
18 Carolina whatever they call it. All right. What's
19 No. 3?

20 MR. DERIEG: It involves marital -- marital
21 privilege, Your Honor. One of the -- one of the
22 witnesses on the witness list for the State is the
23 wife of my client, and I would move to suppress any
24 conversations, oral or written, between -- between
25 the two as part of marital -- marital privilege.

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1 THE COURT: What about the marital privilege,
2 Ms. Robinson?

3 MS. ROBINSON: Your Honor, I do agree that the
4 marital privilege protects marital communication.
5 Where it does get a little bit sticky in this case is
6 that these two individuals also communicated with
7 each other by way of Facebook. And I'm not sure what
8 that does to the marital privilege when it goes
9 through a third-party provider. Your Honor, that
10 would be --

11 THE COURT: Well, I just -- I haven't had to
12 deal with that yet but going back to my ancient law
13 school days, I think that we could safely say that
14 Facebook was not pillow talk.

15 MS. ROBINSON: No, Your Honor.

16 THE COURT: Do they still use the term "pillow
17 talk" when they teach marital privilege?

18 MR. DERIEG: Your Honor, these messages were
19 private messages. They were -- we're not talking
20 about stuff that was posted for the world to see.
21 We're talking about private messages that only the
22 two of them could see.

23 THE COURT: Well, what's private on the Internet
24 sometimes is up for debate.

25 MS. ROBINSON: They also communicated, Your

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1 Honor, through the jail e-mail system which --
2 they've received warnings that that's visible to --

3 THE COURT: I'll take a look at that.

4 MS. ROBINSON: -- Your Honor, I don't know that
5 I'm necessarily putting those in. I just wanted the
6 Court to be aware if it became necessary to
7 (unintelligible) other matters.

8 THE COURT: Well, it's a pretrial issue. I need
9 some more context. We'll wait and see where we are
10 as far as protection about whether to offer that into
11 the record or not.

12 MS. ROBINSON: Yes, Your Honor.

13 THE COURT: All right? What's No. 4?

14 MR. DERIEG: Your Honor, as you heard in
15 chambers, there are a number of people that were
16 potential witnesses and they were mentioned,
17 actually, on the State's witness list in the "going
18 to be mentioned but not called" who have deceased
19 since February 24th, 2022, making them unavailable
20 witnesses. I don't believe any of the statements
21 that any of them may have made were like deathbed --
22 any sort of deathbed-type exclamatory statement. And
23 I would move just to suppress all of the -- all the
24 statements made by the unavailable witnesses.

25 THE COURT: All right. Ms. Robinson?

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1 MS. ROBINSON: Your Honor, the State is aware of
2 the rule in reference to the individuals who are
3 deceased and we do not plan to put forth any
4 statements by the deceased individuals.

5 THE COURT: Thank you. All right. What's
6 No. 5?

7 MR. DERIEG: The last one is a motion to compel,
8 Your Honor. I realized last night that I do not have
9 a CAD report from this incident. I didn't realize it
10 was to be something that I needed until last night,
11 and then I found that I don't have it. I sent an
12 e-mail to Ms. Robinson this morning. I haven't had a
13 chance to look at my phone to see if there's been a
14 response. But I do think that the CAD report from
15 February 24th, 2022, regarding Willow Pond Road is
16 discoverable and should be turned over. Whether or
17 not the State has it in their possession or not, they
18 can -- you know, they can get -- they can get that
19 from law enforcement pretty easy. That's a -- that's
20 quick -- quick printout.

21 THE COURT: All right. I would just note that
22 the view of the Court that a CAD report is not
23 normally discovery. It is often requested, but not
24 discovery specifically. I don't know that I've known
25 of a CAD report to be part of the normal discovery

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1 package. On the other hand, it is discoverable from
2 the courthouse. So that's where we are with that.

3 MR. EPTING: Your Honor, we received that report
4 this morning. Ms. Robinson requested that, and we've
5 got. We did not have it in our file as it existed.
6 We all kind of don't pull those unless there's a
7 reason to, and a copy of that was given to Mr. Derieg
8 about ten minutes after we started.

9 THE COURT: Do you have a copy of this -- do you
10 have a copy of that now?

11 MS. ROBINSON: Your Honor, it's in this e-mail.

12 MR. DERIEG: Is there any way you could print it
13 out for me? -

14 MS. ROBINSON: We can do that over the
15 (unintelligible).

16 MR. DERIEG: Thank you.

17 THE COURT: All right. They've indicated
18 they've complied with that -- with that request.

19 MR. DERIEG: That's all I've got, Your Honor.

20 THE COURT: All right. Then let's break until
21 2:00. We'll start our suppression hearing at 2:00.

22 (Off the record.)

23 (Recess.)

24 (On the record.)

25 THE COURT: -- 2022 GS 46-2279 and 2279-A, and

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1 2022-GS-46-2280. This is State versus Jacob Dewayne
2 Hall. Mr. Hall has been charged with trafficking
3 methamphetamines and charged with -- and he's asked
4 for a jury trial. The jury has been selected, but
5 not sworn. We had some pretrial issues that we
6 disposed of, however there was one pretrial issue: A
7 motion to suppress evidence. Was that correct,
8 Mr. Derieg?

9 MR. DERIEG: Yes, Your Honor, that's correct.

10 THE COURT: All right. Are you prepared to go
11 forward with your motion, Mr. Derieg?

12 MR. DERIEG: Yes, sir, I am.

13 THE COURT: All right. And is the State ready
14 to go forward?

15 MR. EPTING: Yes, Your Honor, with the caveat
16 that the one witness we are waiting on is still not
17 present. However, we do have multiple other
18 witnesses that we can call while we're waiting.

19 THE COURT: All right. Just -- and I think just
20 simply -- Mr. Derieg, if you'll just give me a
21 summary of what the Defense's position is as far as
22 the motion to suppress, and then we'll hear some
23 evidence first from the State.

24 MR. DERIEG: Thank you, Your Honor. Very
25 briefly, law enforcement was called by a woman named

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1 Kendal Harris's fiancé to do a wellness check because
2 she had been being abused by this man named Chris
3 Hall. And Jacob had gone and picked her up, and
4 dropped her off at his mother's house so -- because
5 his mother agreed to sort of shelter her to in order
6 to get away from the abuse that she was dealing with.
7 Jacob then left and went back to where he was living
8 in North Carolina. On the day in question, law
9 enforcement showed up based on the wellness check.
10 And at some point between getting the dispatch for a
11 wellness check, one or two deputies started radioing
12 that Jacob had outstanding bench warrants. So they
13 get to the house, they talk to -- they talk to Kendal
14 Harris specifically. When the cops pulled up, she
15 went inside briefly to check on her four children.
16 And law enforcement knew that she had four children
17 with her based on the wellness check call that had
18 come from Chris Harris -- Chris Hall, excuse me. She
19 comes back out, and law enforcement decides that they
20 have reasonable suspicion to believe that Kendal has
21 gone inside to warn Jacob that law enforcement was
22 there.

23 However, Your Honor, approximately an hour
24 before this happened, a -- before law enforcement came
25 to this -- to this residence, a Deputy Whiteside [sic]

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1 had seen Jacob in his Jeep driving across the state
2 line into North Carolina. So it's our position that
3 the sheriff's department was on notice that Jacob was
4 not at that house and that he was in North Carolina.
5 However, they used Kendal going in to check on her
6 children and then coming back out and talking to law
7 enforcement, and the fact that they had reasonable
8 suspicion to believe that Jacob was inside the house,
9 despite the sheriff's department being on notice that
10 he was in North Carolina, as a pretext to go into the
11 house and search that house.

12 They found -- they went and -- went into all the
13 bedrooms and weren't just searching for Jacob, they
14 were -- they were doing a search. Like, they found a
15 gun slide in his brother's room. But in one
16 particular room that they decided to deem Jacob's
17 room, without any knowledge from the people that had
18 lived there that that was Jacob's room, they went in
19 and found drugs, and found guns, and they called DEU.
20 DEU arrives within about 30, 45 minutes. And this all
21 happens around 5:30, 6:00 or so. A search warrant is
22 not obtained until approximately 9:13 p.m., at which
23 time, the search warrant has come and served, and
24 crime scene investigation comes with the -- with the
25 search warrant and they come and find this room in

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1 question basically all torn up and searched through
2 completely. And -- well, a search more than just for
3 Jacob had been done to that room. .

4 At 9:40 -- the warrant was obtained at 9:13. At
5 9:40, a return was done and on basically what was --
6 was taken from this particular room. And when it's
7 all catalogued electronically, it's some four or five
8 pages long. So in 27 minutes, they were able to get
9 from wherever they were -- whoever got the -- the
10 warrant signed with the judge to the residence and
11 have the return done within 27 minutes which, Your
12 Honor, I would say lends credibility to the -- the
13 belief that that room had been thoroughly searched
14 prior to a search warrant.

15 At 9:47, the adult -- well, actually, everyone
16 that was at the residence, adults and minors included,
17 were read their advice of rights, at which time, no
18 one in the house was charged with constructive
19 possession of anything, including the homeowner and
20 including Kendal Harris who had been actually sleeping
21 in that room for a night or two. Instead of charging
22 anyone that was there that actually had the ability to
23 possess or control the things that they found during
24 their illegal search, they charged none of them, but
25 rather charged Jacob without -- with the only evidence

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1 that Jacob had ever actually been at that house was an
2 envelope that was addressed to him and a social
3 security card at his mom's house. They did -- they
4 did -- they dusted for fingerprints. They found a
5 couple of latent prints. Neither of the prints
6 matched Jacob. There was no DNA found in the house.
7 There was no physical evidence in terms of forensics
8 that puts Jacob in that house at all.

9 Kendal Harris can -- based on the conversations
10 I've had with her, Kendal Harris can verify that there
11 was no consent given to law enforcement to come into
12 that house, that they essentially forced their way in
13 behind a mentally-handicapped man who walked back
14 inside. She can attest to the fact that Jacob did not
15 have a room in that house and that he had been kicked
16 out of that house four months prior and gone to live
17 in North Carolina. And that on the off-chance that he
18 did sleep at his mama's house for whatever reason, he
19 would sleep in whatever room was available, because
20 there were literally hundreds of people coming in and
21 out of the house at all times because there were
22 multiple drug addicts that lived at that house that
23 liked to entertain. I think that's --

24 THE COURT: I'm not asking you to make a
25 complete argument if you don't frame it. Let me hear

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1 from the State and let me continue (unintelligible.)
2 I do have one question. You all need to help to
3 educate me since it's been a while since I've had a
4 suppression hearing. What is his expectation of
5 privacy in a home in which he did not live and claims
6 he did not live, and how does he have a basis or
7 standing to challenge the search warrant in a place
8 where he did not have any expectation of privacy?

9 MR. DERIEG: Because -- and I've thought about
10 this a lot, Your Honor. And I think it's because of
11 law enforcement's belief that he lived there and law
12 enforcement's actions towards saying that he lived
13 there, or that he had control and domain and
14 possession of the stuff that was in that house.

15 THE COURT: All right. That's a fact issue.
16 Okay. Okay. That helps. All right. Let's call
17 your first witness.

18 MR. EPTING: Thank you, Your Honor.

19 THE COURT: Do you want to respond before you
20 call any witnesses?

21 MR. EPTING: I think a lot of this will become
22 clear through their testimony.

23 THE COURT: All right. Call your first witness.

24 MR. EPTING: Thank you, Your Honor. The State
25 calls Deputy Missildine to the stand. Deputy, please

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1 come forward to be sworn.

2 RYAN MISSILDINE

3 was called as a witness, and having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. EPTING:

7 Q Good afternoon, Deputy.

8 A Good afternoon.

9 Q Could you please state your name for the record?

10 A Ryan Missildine.

11 Q And -- and how were you employed in February of 2022?

12 A I was assigned to Clover C shift -- I'm sorry --
13 Clover A shift.

14 Q And what were your duties on Clover A shift?

15 A Just patrol deputy, go-to calls for service, citizen,
16 just whoever needs me.

17 Q Did you receive a call for well check on Willow Pond
18 Road on February 24th, 2022?

19 A Yes, sir.

20 Q Can you tell the Court how you came to arrive at that
21 location?

22 A I was given a call to check on -- a well-being check
23 on four children that were -- they thought that was going
24 to be at that house. And that's how I got there.

25 Q Okay. Are you familiar with that location or were you

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1 then?

2 A Yes, sir.

3 Q And were you the first one to arrive or did somebody
4 arrive with you?

5 A Me and my -- Sergeant Penland arrived at the same
6 time.

7 Q All right. And who went in first?

8 MR. DERIEG: Sergeant who?

9 THE WITNESS: Sergeant Penland.

10 MR. DERIEG: Penland, okay. Thank you.

11 BY MR. EPTING:

12 Q And who arrived first at the house itself?

13 A Penland was the -- Sergeant Penland was the first car.
14 I was second car. We arrived at the exact same time.

15 Q And en route to the -- to the welfare check call for
16 those -- that woman and those four children, did you
17 receive other information about Jacob Hall's wanted
18 status?

19 A Yes, sir. On the way to the call, dispatch advised us
20 that he was wanted and the warrants were in-hand at the
21 station over here at Moss.

22 Q Did you receive warnings from dispatch that Jacob Hall
23 might be armed and dangerous?

24 A Yes, sir.

25 Q And did you have a conversation with Penland about his

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1 prior expense with Mr. Hall?

2 A Yes, sir. Prior to arriving at the call, Sergeant
3 Penland called me because he knew that I have never been
4 to that house before. He told me to wait down the street
5 from the house and wait on him to arrive. He met me at
6 the stop sign down the street, and then we arrived on
7 scene at the same time.

8 Q Tell the Court what you saw when you -- when you and
9 Sergeant Penland pulled up to the house.

10 A As we were arriving on scene, Ms. Kendal was on the
11 front porch, and she went inside in a fast manner, which
12 we believe at the time -- well, we knew that Jacob Hall
13 was possibly staying there. So that made it suspicious
14 that she's running in to either have him run out the back
15 door or have him hide. And that's why, when we got out of
16 our cars, Sergeant Penland went straight to the backyard
17 and then I went to the front yard.

18 Q So your testimony is that you found that behavior
19 suspicious?

20 A Yes, sir.

21 Q You were concerned she was alerting someone inside the
22 house?

23 A Yes, sir.

24 Q And Sergeant Penland went around back?

25 A Yes, sir.

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1 Q And you went around front?

2 A Yes, sir.

3 Q What happened next?

4 A As I went out front, Sergeant Penland, I could see him
5 in eye view. He didn't make it completely around, but he
6 made it to where he could see the backyard and the side
7 yard where he could see me. And at that time, I told him
8 that she was coming back out the front door. That's when
9 he came straight to me and he started to talk to
10 Ms. Kendal.

11 Q Okay. And what did she say?

12 A From what I believe, she -- that we were here -- so we
13 told her where -- why we were here, and Sergeant Penland
14 started talking about where's Jacob. He did the majority
15 of the talking. I just stood there and listened the
16 entire time.

17 Q What did Kendal say about where Jacob might be or
18 where he was when you asked -- when -- when asked?

19 A Jacob's not there.

20 Q Okay. And did you see --

21 A And we told her -- oh, sorry.

22 Q -- go ahead.

23 A It was more that we told her why did she run inside so
24 quickly, that it appeared suspicious. Not like she walked
25 inside, it was a fast movement inside.

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1 Q And did you encounter any of the children that you
2 were also there to check up on?

3 A Yes, sir. When -- when we were walking in the door,
4 there was this one child right there at the front door. I
5 do not believe where the other ones were at the time, but
6 one met us at the front door.

7 Q And did you speak with that child?

8 A I did not. Sergeant Penland spoke to that child.

9 Q Did you hear their conversation?

10 A Yes, sir.

11 Q What did -- what was their conversation?

12 A Sergeant Penland asked the child if --

13 MR. DERIEG: Objection to hearsay.

14 THE WITNESS: -- I'm sorry.

15 THE COURT: It's an expression of

16 (unintelligible._ I'll overrule the objection.

17 MR. EPTING: Thank you, Your Honor.

18 BY MR. EPTING:

19 Q What did the child say?

20 A Sergeant Penland asked if the -- if Jacob was there.
21 He said no, Jacob was at work or he comes back at
22 nighttime, he is at work.

23 Q So the child indicated that Jacob lived there?

24 A Mm-hmm.

25 Q Was Sergeant Penland familiar with Jacob -- where --

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1 with where Jacob's bedroom was in that house?

2 A Yes, sir, prior to that.

3 Q And again, you all -- you all knew he was wanted at
4 that time on a warrant?

5 A Yes, sir.

6 Q What, if anything, did you all do once you got inside
7 the house? Well, where did the conversation with the
8 child happen? Let me ask that.

9 A Right at the front door. The front door was open. As
10 soon as you walk in the front door, the stairs are right
11 there. You go straight up the stairs and it was between
12 the front door the stairwell.

13 Q Okay. And what, if any, action did you and Sergeant
14 Penland take once you passed the -- spoke with the child
15 and took further action?

16 A We went immediately upstairs to -- to the left. And
17 as soon as you turn left, there's a bedroom on the right
18 which we believed to be Jacob Hall's room.

19 Q What was the state of that bedroom as far as
20 cleanliness?

21 A It was very dirty, a lot of stuff on the walls, drug
22 paraphernalia. And then,, what we can see is ammunition
23 on the tables. He had a closet door that was open, with a
24 safe that was open that had guns in the safe. We also --
25 there was just different -- just gun stuff everywhere and

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1 drug paraphernalia.

2 Q And did you see ammunition?

3 A Yes, sir, we did.

4 Q Did you or Sergeant Penland, or both of you, know that
5 Jacob Hall was prohibited from possessing ammunition?

6 A Yes, sir.

7 Q And you said drug paraphernalia as well?

8 A Yes, sir.

9 Q At some point, did you find what you believed to be a
10 firearm of some sort?

11 A Yes, sir. The -- when the safe from -- like I said,
12 the closet door was open. The -- it had one of those
13 taller safes. The safe door was open. And from the
14 outside it looked -- it appeared to be two separate guns.
15 And that's when we pulled them out.

16 Q All right. And did you secure those guns?

17 A We did. We put them on the bed and -- yes sir. We
18 left them right there. We stayed in the room the entire
19 time with the guns.

20 Q Were you able to ascertain whether they were real
21 firearms or not real firearms?

22 A The first gun we pulled out, it appeared to be real.
23 I mean, it was heavy. It was, like, made of metal. It
24 looked like an older type of -- I don't want to say
25 machine gun, but older type of gun. And the second gun we

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1 pulled out, we did not see from inside the safe -- but
2 when we pulled it out, the magazine on the opposite side
3 of the gun had two CO2 canisters in it. So that's when we
4 knew, okay, that second gun was actually an Airsoft gun.

5 Q And what type of drug or drug paraphernalia did you
6 observe when you were in there looking for Jacob Hall?

7 A Like, it was, like, you could tell it was marijuana,
8 like residue, kind of like little (unintelligible.)

9 Q And you said the closet door was open and the safe was
10 open?

11 A Yes. The safe was open.

12 Q Was -- and at that point, was there anybody else
13 inside the house aside from Kendal and the one child that
14 you spoke to?

15 A Yes. There was his -- Jacob Hall's mom was in the
16 bedroom downstairs and the dad was outside when he -- the
17 dad was there, also. He met -- he was outside when we
18 came up. And then, there was another male attending to a
19 fire. Or I don't know if the fire was started yet, but he
20 was out there outside, too.

21 Q Tell the Court about the physical status of who we've
22 identified as Jacob's mother at that time.

23 A She was not in good health. She stayed in her bedroom
24 all the time. She was ill. I don't know what was exactly
25 wrong with her, but she stayed in her bedroom in bed.

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1 Q And did the -- well, who you've called the dad, was
2 that -- did he speak to you about whose bedroom it was
3 that you and Sergeant Penland had entered into?

4 A I do not exactly recall.

5 Q Okay. At some point after securing the firearms what,
6 if anything, did you do as far as taking it further and
7 getting sort of --

8 A At that time, Sergeant Penland advised me to -- of
9 course, not to move anything, more just continue to search
10 without touching anything in plain sight. And he then
11 started to call higher-ups up the chain to get stuff to
12 just notify of what was -- what we seen in that room at
13 that time.

14 Q Was that for the purpose of getting a search warrant
15 for a further search?

16 A I believe so, yes, sir.

17 Q And you said that room was in a -- a dirty state when
18 you went in to begin with?

19 A Oh, yes, sir.

20 Q At some -- at some point in -- in looking for Jacob,
21 did you clear the other rooms on that second floor?

22 A The other room I went to was the one that Kendal was
23 then in with, I believe, some of the children, too. I
24 don't know exactly how many children. But she was in that
25 room. That's the furthest I made. I did not continue

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1 down that hallway at all. I did not. I just stayed
2 between Jacob's room where Kendal was staying, and then
3 downstairs.

4 Q Was the house cleared so that Jacob was found not to
5 be inside? Let me ask it that way.

6 A I -- I did not go completely down the hallway, so like
7 I said, I did not clear completely down the hallway.

8 Q Were you and Sergeant Penland on scene the entire time
9 from securing that room to the search warrant?

10 A From when -- the search warrant, yes. And then,, I
11 ended up staying on scene the entire time until all
12 parties left the house.

13 Q Okay. So all parties left the house, including law
14 enforcement?

15 A Law enforcement, yes. Sergeant Penland left prior to
16 that. They elected to keep a road deputy on scene to at
17 least have a marked car visible.

18 Q And during that time, did you see Jacob Hall?

19 A No, sir.

20 Q And during that time -- at some point during the
21 search after you've secured those weapons, did you learn
22 that Jacob Hall -- well, did you speak with -- well, did
23 you speak with Whitesides from the sheriff's office?

24 A I did not.

25 Q All right. Did somebody with you speak with

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1 Whitesides from the sheriff's office?

2 A Not that I knew of at the time.

3 Q Okay. Well, what about later?

4 A Yes. I found out later that someone spoke to Sergeant
5 Penland about it, but that was it. I did not know what
6 happened prior to that during that day.

7 Q Gotcha. What was the timing in relation to them
8 finding out what Whitesides told Penland and you entering
9 the house?

10 A I -- I do not know that.

11 Q Okay. Was it instantaneous, hours later?

12 A I wouldn't say hours later. I probably got told
13 sooner than that.

14 Q But you didn't know entering the house that that --

15 A No. I did not know entering the house, no, sir.

16 MR. EPTING: I beg the Court's indulgence.

17 That's all the questions I have for you.

18 THE COURT: Cross-examination?

19 MR. DERIEG: Thank you, Your Honor. May it
20 please the Court.

21 CROSS-EXAMINATION

22 BY MR. DERIEG:

23 Q Will you tell me again what yours or Sergeant
24 Penland's indication was that that was Jacob's bedroom?

25 A I believe prior to that, Penland -- Sergeant Penland

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1 had been to the house before and knew information prior to
2 that he can talk about. And also, we knew it was up and
3 to the left. I mean, that's what I was told by my
4 sergeant that -- I do not remember exactly who on scene
5 said that.

6 Q And do you remember what the -- what the contents of
7 the conversation with the minor at the front door was?

8 A Asking me where was Jacob or Jacob was here.

9 Q And --

10 A That was -- Sergeant Penland spoke to the kid. I was
11 just behind him.

12 Q -- do you know how old the kid was?

13 A You can -- I would just say elementary-school age. I
14 mean, 5th, maybe. I couldn't tell you exactly what age.

15 Q Was he questioned with his -- with his mother present?

16 A I believe the mother was following right behind us.
17 The mother was close, but I cannot say for sure if the
18 mother was right next to him.

19 Q Did she give her consent for her elementary-school
20 child to be questioned by law enforcement?

21 A I do not know. I did not question the kid.

22 Q Did you ever hear Kendal give permission to anyone to
23 speak to her children?

24 A No, sir.

25 Q And this closet that you searched inside and found the

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1 safe with the door open, how much of the -- the closet did
2 the -- the safe take up?

3 A It was small, like, coat-closet size, and the safe was
4 on the left side of the coat closet. So it took up about
5 a third of it. I wouldn't even say a half of the closet,
6 but between a third and a half of that closet is how much
7 that safe took up.

8 Q At that point, did you believe that Jacob was in the
9 residence?

10 A I don't know. At that time, we -- we went straight
11 there. So at that time the rest of the house was not
12 searched yet. At that time, we did not know if Jacob was
13 still in the house. We saw the guns, and then we stopped
14 there for a second.

15 Q Were you searching for Jacob in that closet when you
16 were searching for the guns -- when you searched the safe
17 for the guns?

18 A The room was dirty, so there was tons of stuff
19 everywhere. I mean, I've found -- we've found people
20 under stuff at war. So we were taking precautions because
21 there was guns right there.

22 Q And I think on direct testimony that you said that you
23 guys, before the warrant came, continued to search that
24 house; correct?

25 A We did not move stuff, like, move and search under

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1 things, but all plain-sight stuff prior to that. And
2 then,, that's when we called the higher-ups, too, about
3 the search. I was told by Sergeant Penland not to touch
4 anything besides if something was in plain view, like,
5 just to look at it. I did not move anything.

6 Q At what point did the search for Jacob stop?

7 A Once we found those guns right there, I mostly just
8 did what Sergeant Penland told me to do, and I mostly just
9 stayed right where he was. I mean, I did not continue to
10 -- like I said, the furthest I made it down the hallway
11 was to Kendal's room. I don't know if it was Kendal's
12 room, but the next room to the left down the hallway which
13 Kendal was in at the time.

14 Q But you continued to search for things in plain sight;
15 correct?

16 A Yeah. We looked around his room. Yes, sir.

17 Q Who gave you all permission to go in the house?

18 A Just our suspicions that he was there at the time,
19 that I can recall.

20 Q And if another -- if another deputy working for your
21 office had seen -- roughly an hour to prior to the search
22 of this house -- had seen Jacob going across the state
23 lines into North Carolina, and let's say that information
24 wasn't immediately communicated to you guys, who bears the
25 responsibility for that?

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1 MR. EPTING: I'm going to object to that
2 question, Your Honor. It calls for a legal
3 conclusion.

4 THE COURT: Yeah. I sustain the objection.

5 BY MR. DERIEG:

6 Q How long was it that -- do you remember, roughly, how
7 long it was before you heard about Penland talking to
8 Whiteside [sic]?

9 A I can't recall. I don't -- I do not know. At the
10 time we got on scene, it was 6:09. Shift starts at 6:00,
11 so I didn't work prior to that day. Like I said, the
12 shift started at 6:00, so I don't know what happened
13 during the dayshift. I'm just now starting my shift.

14 Q Okay. And as you continue your search for things in
15 -- in plain view and not for Jacob, you said you were
16 there 'til the -- 'til the very end; right?

17 A Yes, sir.

18 Q About how long was it from the time that you stopped
19 searching for Jacob and you started searching for more
20 things in plain view, until the search warrant arrived?

21 A I do not know the exact time of when the search
22 warrant arrived. At that point, we had, like I said,
23 higher up the chain come in. And I was more just ordered
24 in my patrol car to stay out front to show that the police
25 was there, and that to not just have a whole bunch of

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1 unmarked vehicles.

2 Q Do you know what time, approximately, Sergeant Penland
3 instructed you to continue to search for things in plain
4 view?

5 A No, sir. He just said -- no. I do not know the
6 approximate time. When we were there, we saw the first
7 two guns at that point just prior to making calls. And
8 then, at that point, we were just looking at his stuff in
9 his room.

10 Q And about -- can you estimate how long you'd been
11 there?

12 A From the time we arrived and the time we found the
13 first two guns in the safe, and as soon as we entered his
14 room, I'd say that was probably between close to ten
15 minutes from the time we arrived 'til when we saw the
16 first two guns, or less than that. But we stood outside
17 with Kendal for a minute.

18 Q And what time did you arrive?

19 A I believe 6:09.

20 Q 6:09? And so, roughly ten minutes later, you guys
21 found the guns in the safe, and then you were instructed
22 to continue the search for things in plain sight?

23 A I was continued -- I was told not to touch anything,
24 and we were just looking at that point. We were just
25 looking and waiting for the higher-ups to give us -- my

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1 sergeant, a call back.

2 Q So we're looking at the latest 6:30, or what? The
3 time that you started searching for things in plain -- you
4 were instructed to continue the search, but not touch
5 anything?

6 A The moment that we saw the two guns --

7 Q Sure.

8 A -- we then just continued to look there. So like I
9 told you, I saw the two guns ten minutes later, so 6:09,
10 6:19 then -- ten minutes later or right around there.

11 Q Okay. How long do you think it was until the search
12 warrant got there, a long time, short time?

13 A Probably within -- the search warrant? I do not know
14 the search warrant, but I -- other people started to
15 arrive on scene close to probably 30 or 40 minutes later.
16 People -- other people started to arrive on scene that was
17 going about to handle all of that -- the other situations
18 in that house.

19 Q And what did they do?

20 A They got there, they came up to the room with us, and
21 then they started looking around. I don't -- yeah. They
22 were just there waiting. So I don't know what they were
23 told to do, but I just was told to just sit and stay
24 there.

25 Q What did you observe them doing?

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1 A As they were there at some point, they did start to
2 search the house or search that room --

3 Q Mm-hmm.

4 A -- and then I just watched them search the room.

5 Q And approximately how long after you found the guns in
6 the safe did you witness these other law enforcement
7 agents searching the room?

8 A They slowly came in, like, one by one. But I think
9 the first other guy -- officer showed up probably within
10 the next 40 minutes after Sergeant Penland started making
11 calls. I don't know the exact time. It took a minute
12 because they had to call them.

13 Q And these were the DEU agents?

14 A Yes, sir.

15 Q And how long did it take -- once -- once DEU got on
16 scene, how long did it take for them to start searching
17 the room?

18 A I couldn't give you a time. I do not know.

19 Q Was it a short time, was it a long time?

20 A From when they got there? I mean, from when I got to
21 -- when they started searching, I mean, a longer -- a
22 little bit longer time. I mean, it wasn't right away from
23 what I can believe.

24 Q Can you approximate that -- that amount of time?

25 A Well, they showed up 40 minutes later, like I said

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1 earlier, 30 to 40 minutes later. So that's closer to
2 7:00, so from 7:00 on. And if I arrived at 6:09 -- so it
3 was about an hour later, but I couldn't give you the exact
4 time.

5 Q So they started searching immediately when they got
6 there?

7 A I do not recall. I don't know. I don't know when
8 they started searching.

9 Q Well, you said you -- you observed them doing a search
10 of that room.

11 A Yeah, but I can't tell you from when they got there to
12 when the search happened.

13 Q You can't approximate that amount of time?

14 A Another hour. We'll just go with that. I don't -- i
15 can't give you the approximate time. I do not recall.

16 Q Okay. So if it's another hour, we're -- we're looking
17 8:00; right?

18 A Yes. We'll go that.

19 Q And it's your testimony you don't know when the search
20 warrant arrived?

21 A No, sir, I do not.

22 Q Thank you.

23 MR. DERIEG: That's all the questions I have,
24 Your Honor.

25 THE COURT: Any redirect?

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1 MR. EPTING: Very brief.

2 REDIRECT EXAMINATION

3 BY MR. EPTING:

4 Q You mentioned looking in a closet on your direct and
5 you were asked about that on cross. Is that an area where
6 a person could have hidden?

7 A Yes, sir.

8 Q And the safe that you pulled the guns from, was that
9 open or closed?

10 A It was open.

11 Q And we've talked about safes in the room. Was that --
12 was there a different safe located elsewhere in the room?

13 A There was another safe underneath a desk but, I mean,
14 it was small.

15 Q Gotcha. And was that open or closed?

16 A That one was closed.

17 MR. EPTING: I beg the Court's indulgence.

18 That's all I've got for you.

19 THE COURT: Recross? You can step down.

20 THE WITNESS: Yes, sir.

21 THE COURT: Call your next witness.

22 MR. EPTING: Your Honor, at this time, the State
23 would like to play a copy of the well check call that
24 was placed to 911.

25 THE COURT: All right.

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1 MR. EPTING: As far as if it's Court's
2 Exhibit 2, we would ask the Court to enter that into
3 the Court's record.

4 (Court's Exhibit 2 was offered
5 into the record.)

6 MR. DERIEG: No objection.

7 THE COURT: Court's Exhibit 2 will be part of
8 the record.

9 (Court's Exhibit 2 was admitted
10 into the record.)

11 (The audio recording was played.)

12 (The audio recording was
13 stopped.)

14 MS. ROBINSON: Sorry, Your Honor. The cord is
15 shorting out.

16 MR. DERIEG: Are we supposed to get that on our
17 monitor up here, too?

18 MR. EPTING: What?

19 MR. DERIEG: Are we supposed to get that on our
20 monitor?

21 MR. EPTING: Both the monitors -- neither of the
22 monitors are playing. Your Honor, I swear I checked
23 this right before we started court and it worked
24 fine.

25 MS. ROBINSON: We checked it.

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1 (The audio recording was played.)

2 (The audio recording was

3 stopped.)

4 MR. EPTING: Your Honor, I place State's --
5 Court's 2 --

6 THE COURT: All right. That will be made a
7 Court's exhibit.

8 MR. EPTING: And I believe the witness that
9 we're still waiting on was Sergeant Penland who was
10 with Missildine, and so we'll proceed with -- to our
11 other witnesses while we're waiting.

12 THE COURT: Thank you. We'll take them out of
13 order.

14 MS. ROBINSON: Your Honor, the State would call
15 Investigator Ramsey. May it please the Court?

16 THE COURT: Yes.

17 STEPHEN RAMSEY
18 was called as a witness, and having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ROBINSON:

22 Q Investigator Ramsey, can you please introduce yourself
23 for the record?

24 A I'm Lieutenant Stephen Ramsey. I currently serve as
25 the supervisor over the drug enforcement unit.

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1 Q Okay. And on February 24th of 2022, were you working
2 on the drug enforcement unit?

3 A I was. I was a sergeant on the drug enforcement unit
4 during that time.

5 Q Okay. And on that particular day, was there a time in
6 which you became involved in acquiring a search warrant
7 for a residence on Willow Pond in Clover?

8 A Yes, ma'am.

9 Q Okay. Do you recall, roughly, what time it was that
10 you were -- somebody reached out to you?

11 A I don't.

12 Q Okay. Who reached out to you about getting a search
13 warrant?

14 A Sergeant Penland.

15 Q Okay. And did you ultimately apply for a search
16 warrant for that residence?

17 A I did.

18 Q And what was the information that -- did you provide a
19 sworn affidavit to the Court to get a search warrant?

20 A I did.

21 Q What was the information that you provided to the
22 Court as the reason for probable cause for the search?

23 A The general summation. Patrol officers had been
24 dispatched to that area for a well-being check. Dispatch
25 had informed them that Jacob Hall had warrants with that

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1 address number listed as his residence. They arrived on
2 scene, and Kendal had made some suspicious movements going
3 inside the house and coming back out, which led them to
4 believe that Jacob may be inside the residence. And so,
5 since the warrants had that address listed, they entered
6 the residence.

7 Q And again, what warrants are you talking about?

8 A He had a warrant with county. I think it was for
9 failure to appear.

10 Q Okay. So he had a bench warrant that lists -- for
11 Jacob Hall that listed the address that was also the
12 subject of the well check?

13 A Yes, ma'am.

14 Q Okay.

15 A So they entered the residence. According to what
16 Sergeant Penland told me that Kendal or one of the other
17 occupants on scene instructed them to Jacob's bedroom.
18 And so, they went to that bedroom, and that's where they
19 observed the firearms in plain view along with ammunition
20 and marijuana and marijuana paraphernalia.

21 Q Okay. And then,, what was the problem with there
22 being ammunition and those items in that room?

23 A Jacob Hall was -- Jacob Hall was both state and
24 federally prohibited from owning firearms or ammunition.

25 Q Okay. And was there -- while you were working on this

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1 search warrant, where were you physically located?

2 A At the Moss Justice Center in the DEU office.

3 Q To your knowledge, were there other DEU officers that
4 ended up out on scene at Willow Pond?

5 A Yes, ma'am. Once I received the call from Sergeant
6 Penland, I sent some investigators up there just to help
7 secure the scene until we could get the search warrant
8 typed.

9 Q Okay. And about how long do you recall being at the
10 Moss Justice Center working on obtaining that search
11 warrant?

12 A I could estimate it. It generally takes me anywhere
13 from 30 minutes to an hour to type a search warrant. It
14 just depends on if I have to make follow-up phone calls to
15 get information that I need.

16 Q Okay. But you did ultimately present a search warrant
17 request to a magistrate judge; correct?

18 A I did.

19 Q And were you sworn at the time that you presented the
20 information?

21 A I was.

22 Q All right. And once you obtained a search warrant,
23 did you notify anybody that you had obtained it?

24 A Yes. I don't recall who -- I don't remember who I
25 called, but I called somebody on scene and said the judge

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1 has signed the search warrant and the search warrant is in
2 effect.

3 Q Okay. Now, is it true that you ultimately obtained a
4 second search warrant in reference to this case?

5 A Yes, ma'am.

6 Q Can you explain why you ultimately got two search
7 warrants that night?

8 A So when I was initially -- when I was typing the
9 initial search warrant, Investigator Hines was -- had just
10 gotten on scene, and so I was asking him questions as far
11 as the physical address since he was there and asking him
12 questions like, is Willow Pond one word or two words, and
13 he told me it was one word. And then, I asked him was it
14 drive, lane? It's drive. I said are you sure, and he
15 said yes. And so, I got the search warrant with that
16 information. Once I left the -- the office and went to
17 the physical location, as I was turning onto Willow Pond
18 Road, I saw that the address was different than what I had
19 on the search warrant. And so, I had a conversation with
20 Lieutenant Schifferle I believe who was on scene. We
21 decided to go back and get the street name fixed, so I
22 went back and got a second search warrant with the
23 appropriate road name on it.

24 Q Okay. And in reference to the residence out there,
25 did you make any changes between the search warrants in

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1 regard to the exact street number?

2 A No, ma'am.

3 Q And did anything about your description of the
4 property change?

5 A No, ma'am.

6 MS. ROBINSON: Your Honor, may I approach?

7 THE COURT: You may.

8 BY MS. ROBINSON:

9 Q I've handed you what's been marked as Court's
10 Exhibits 3 and 4. Do you recognize those?

11 A Yes, ma'am.

12 Q What are they?

13 A These are the search warrants for [REDACTED] Willow Pond
14 Road in Clover, South Carolina.

15 Q Okay. And at what time did you first get a search
16 warrant issued?

17 A The first search warrant was issued at 8:09 p.m.

18 Q Okay. And they -- you -- you testified that you
19 realized there was a discrepancy in regard to the street
20 name being one word or two; correct?

21 A That's correct.

22 Q And then, a discrepancy between drive and road?

23 A That is correct.

24 Q And that prompted you to get another search warrant;
25 is that correct?

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1 A Yes, ma'am.

2 Q What time was the second search warrant signed?

3 A 9:13 p.m.

4 Q Okay. Between the time of those two search warrants,
5 did any of the content of the affidavit regarding your
6 reasons for the search or probable cause for the search
7 change?

8 A No, ma'am.

9 Q Did anything change other than the street name?

10 A No, ma'am.

11 Q Was there any confusion about which residence on that
12 street was to be searched?

13 A No, ma'am. And if you actually look in the
14 description of premises to be searched, there is language
15 in there that says officers on scene, which means that
16 there are officers at the physical location to be
17 searched.

18 Q Okay. And to your knowledge, are there two different
19 streets in Clover named Willowpond, one word, and Willow
20 Pond, two words?

21 A No, ma'am. According to York County's mapping system,
22 there's only one Willow Pond Road or any street name
23 that's Willow Pond within York County.

24 Q After you got the search warrant at 9:13, what did you
25 do next that night?

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1 A I drove back to the incident location and then, if I'm
2 recalling correctly, I read the search warrant and Miranda
3 form to the occupants inside the residence.

4 MS. ROBINSON: I beg the Court's indulgence. If
5 you could please answer any questions from the
6 Defense.

7 THE COURT: Mr. Derieg?

8 MR. DERIEG: Thank you, Your Honor. May it
9 please the Court?

10 CROSS-EXAMINATION

11 BY MR. DERIEG:

12 Q Do you know what time officers arrived on scene at the
13 incident location?

14 A Which officers are you specifically referring to?

15 Q The first ones.

16 A I don't recall.

17 Q Do you know whether they were given any consent to
18 search?

19 A No, I would not know that. I was not on scene.

20 Q You're familiar with the -- the 911 wellness check
21 call; right?

22 A From just listening to it, yes.

23 Q So when that information would have been relayed to
24 the officers that were initially responding, they would
25 have known that Ms. Kendal had four children; right?

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1 A That would be correct.

2 Q And --

3 A Well, let me preface that. It should be correct. As
4 long as dispatch relayed the information correctly into
5 the system, they should have known, yes.

6 Q -- so knowing that she had four small children and law
7 enforcement was coming up to the house, I think it was
8 your testimony that law enforcement decided that her going
9 into the house quickly and then coming right back out was
10 suspicious and thought that they were -- she was tipping
11 off Jacob?

12 A I can speculate. I've worked a lot of drug cases.
13 I've seen a lot of drug behavior. When we typically
14 arrive on scene, people either run from the front door or
15 they run through the front door. And so,, I would confirm
16 with the officer's opinion that is suspicious behavior,
17 yeah.

18 Q Do they typically run into the front door and then
19 come right back out and talk to law enforcement?

20 A It has happened before, yes, sir.

21 Q Is it something that you were talking about frequently
22 if they either run from or run in, do they -- is it
23 something that happens a lot, where they go in for a
24 minute and come right back out and talk to law
25 enforcement?

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1 A Yes, sir. You've got to have somebody to stall the
2 police.

3 Q Okay. Do you know -- do you know what happened inside
4 that house between the time that the officers arrived on
5 scene initially and the time that you obtained the search
6 warrant?

7 A The only information I have is what Sergeant Penland
8 gave me. I was not physically on scene, so I cannot
9 testify beyond what he conveyed to me.

10 Q Okay. So you don't know anything about when DEU
11 showed up?

12 A Again, once I had received the call from Sergeant
13 Penland, I sent some investigators up there. I don't know
14 exactly what time they arrived, because they're
15 essentially driving from York to north of Lake Wylie to
16 the North Carolina line. So it's quite a bit of travel
17 distance, depending on traffic. There's -- it would just
18 be an estimation. I don't know how it would be relevant
19 to the Court.

20 Q As to what time they got there?

21 A You're just asking me to guess. I don't -- I don't
22 know.

23 Q Okay, okay. If you don't know, you don't know. Do
24 you know what they did when they got there?

25 A I wasn't there. I don't know.

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1 Q Okay. That's kind of my point. You obtained the
2 first search warrant at 8:09 but, ultimately, there's no
3 return done on that search warrant; correct?

4 A That would appear to be correct based on the evidence
5 that I have here.

6 Q Okay. And then,, you said after you got the search
7 warrant at 8:09 that ultimately has no return, you -- how
8 did she relay the warrant is in effect?

9 A I called one of the officers on scene.

10 Q Do you remember which one?

11 A I don't recall. Again, I don't remember at this
12 point.

13 Q It was a long time ago. .

14 A Yeah, it was.

15 Q Do you know how long, approximately, after that
16 warrant was signed at 8:09 that you made that phone call?

17 A Immediately.

18 Q Immediately?

19 A Yeah. So once the warrant is signed, I'm walking out
20 of the judge's office, I'm making the phone call, hey, the
21 warrant has been signed.

22 Q So when you get down to the -- the incident location,
23 ultimately, after doing the second search warrant, who is
24 it that -- that did the return?

25 A Investigator Hines did the return, is what I believe.

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1 I don't have that copy, but I have seen the return and
2 Investigator Hines is on the one that did that return.

3 Q You don't have the 9:13 copy with the --

4 A I don't.

5 Q -- return on it?

6 MR. DERIEG: Your Honor, may I approach, Judge?

7 THE COURT: Yes, you may.

8 MR. DERIEG: Your Honor, I don't believe I have
9 a copy of it. Yeah, that would be great.

10 THE COURT: Well, the question is, why isn't
11 what you've got part of an exhibit?

12 MR. DERIEG: I can't answer that.

13 THE COURT: I'm asking you.

14 MR. EPTING: The term apparently was not
15 attached to the warrant. One has a blank return and
16 one has -- this is another Exhibit. This is the --

17 MS. ROBINSON: Your Honor, that -- that was my
18 oversight. One was stapled and I had it --

19 THE COURT: All right.

20 THE WITNESS: The one does, the other one
21 doesn't.

22 THE COURT: The solicitor has indicated that was
23 an oversight, and she's purported she has it here --

24 MS. ROBINSON: Yes.

25 THE COURT: -- she had it in her possession in

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1 the courtroom at the beginning of the trial.

2 MS. ROBINSON: Yes, sir.

3 THE COURT: All right. There's nothing
4 nefarious about that. It just being an oversight,
5 then I'll allow that to be attached to the
6 (unintelligible.)

7 MR. EPTING: Thank you, Your Honor.

8 BY MR. DERIEG:

9 Q So it was Sergeant Hines that -- that completed the
10 return?

11 A That is correct.

12 Q Okay. And approximately how long did it take you from
13 the time that you obtained the search warrant at -- the
14 second search warrant at 9:13 to get to the incident
15 location with -- with the new warrant?

16 A I don't recall. Approximately 30 minutes, 20 or 30
17 minutes.

18 Q So that return, more or less was, filled out within
19 minutes of your arrival --

20 A That's possible.

21 Q -- fair to say?

22 A That's possible.

23 Q Okay. Can you tell me why this return was not signed
24 off on by a judge until May the 12th of 2022?

25 A I cannot.

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1 Q Whose responsibility would that have been to take it
2 to a judge?

3 A That would have been Investigator Hines'.

4 Q Fair enough. And I believe in your direct testimony
5 you said that law enforcement, once inside the house, was
6 -- I couldn't tell whether you said instructed or directed
7 -- to Jacob's room?

8 A That is correct, based on the information that
9 Sergeant Penland gave us.

10 Q Do you have any idea who it was that instructed them
11 or directed them to tell them that that was Jacob's room
12 from the conversations that you had with Sergeant Penland?

13 A I don't. It doesn't -- I don't recall. It just says
14 deputies were told that Hall's room was upstairs and to
15 the left inside the residence.

16 Q No idea who --

17 A I don't.

18 Q -- no idea who told them?

19 A I don't.

20 Q Okay. And remind me what you said they -- was relayed
21 to you that was found in plain view as it relates -- as it
22 relates to drugs?

23 A Just drugs specifically?

24 Q Yes.

25 A Okay. It was just partially-smoked marijuana

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1 cigarettes and marijuana paraphernalia on a table in plain
2 view.

3 Q Do you know whether or not Jacob was ever charged with
4 marijuana?

5 A I don't recall.

6 Q Do you know where the methamphetamine was -- was
7 found?

8 A I don't recall.

9 Q Do you know when the methamphetamine was found?

10 A No.

11 Q But you are -- were you at the time their -- the
12 supervisor of the DEU like you are now?

13 A Yes. I was a sergeant, so I was a supervisor there.
14 There was another supervisor, sheriff's office supervisor,
15 on the scene as well.

16 Q Okay.

17 A It was Lieutenant Nick Schifferle.

18 Q So as a supervisor of the -- the DEU unit, do you know
19 who it was that found the methamphetamine?

20 A I don't. I don't recall.

21 Q Is that something that you would typically ask your
22 subordinates?

23 A No. It would be in the -- it would be in the case
24 folder who found it. It would be in the -- the chain of
25 evidence.

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1 Q Okay. And have you had an opportunity to -- to ever
2 review that?

3 A I reviewed that in 2022 -- or once he was arrested in
4 New York, so it may it have been later. Once he was
5 arrested and the case folder was submitted, I would have
6 looked at it, but I don't recall the information.

7 Q Okay. So you don't know who, or when, or where the
8 methamphetamine was discovered?

9 A I don't.

10 MR. DERIEG: I beg the Court's indulgence for a
11 moment, Your Honor. That's all I have at this time.

12 THE COURT: Any redirect?

13 MS. ROBINSON: Just briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. ROBINSON:

16 Q Investigator Ramsey, are you aware of when the
17 defendant was served with the arrest warrant in this case?

18 A I'm not.

19 Q Was it that night?

20 A No.

21 Q What is your understanding of how -- approximately how
22 much time went by?

23 A Months had went by, because I think they found him in
24 New York.

25 MS. ROBINSON: No further questions, Your Honor.

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1 THE COURT: Any recross?

2 MR. DERIEG: Briefly, Your Honor.

3 RECROSS-EXAMINATION

4 BY MR. DERIEG:

5 Q Did you ever come to learn about the information that
6 Deputy Whiteside [sic] had about Jacob going to -- going
7 into North Carolina approximately an hour before law
8 enforcement arrived on scene?

9 A At some point. I can't recall when. But as I stated
10 previously, his house is almost right on the state line,
11 so it would not be -- he could go across the state line
12 and come back in five minutes. So you know, an hour
13 timeframe, he could have come back and gone across 15, 20
14 times, right? So I don't know that that's necessarily
15 relevant to whether he's in the house or not.

16 Q Have you had an opportunity to read Deputy Whitesides'
17 report where he talks about --

18 MS. ROBINSON: Objection, Your Honor. This is
19 outside the scope of redirect and not relevant to --

20 THE COURT: I'll sustain the objection.

21 BY MR. DERIEG:

22 Q Do you have an approximate time that you found out?

23 A I don't.

24 MR. DERIEG: Thank you, Your Honor.

25 THE COURT: You may step down. Call your next

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1 witness.

2 MR. EPTING: The State calls Sergeant Penland to
3 the stand. And if you'll come forward to be sworn.

4 CHRISTOPHER PENLAND
5 was called as a witness, and having been first duly sworn,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. EPTING:

9 Q Good afternoon.

10 A Good afternoon.

11 Q Could you state your name for the record, please?

12 A Christopher Penland.

13 Q And how are you employed?

14 A Via the York County Sheriff's Office.

15 Q How were you employed in February of 2022?

16 A In the enforcement division as a sergeant, Clover A
17 shift.

18 Q Can you tell the Court what your duties were then?

19 A I'm the shift supervisor for the District 2 4-A shift,
20 and I have subordinates assigned to me, and I'm
21 responsible for them.

22 Q Were you working in that capacity in February of 2022?

23 A Yes, sir.

24 Q And did you respond to what started as a well-check
25 call at Willow Pond Road?

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1 A Yes, sir.

2 Q Could you tell the Court how you came to be assigned
3 that call?

4 A It came in via dispatch. They requested that we were
5 to conduct a well-being check on up to four minors. A
6 male subject had called into dispatch stating that he had
7 feared for their safety because he knew them to be with
8 Jacob Hall, and wished for there to be a well-being check.
9 And just for his safety and ours, he felt that it would be
10 safer that law enforcement conduct that rather than him
11 coming over himself.

12 Q And en route to Willow Pond Road, did you learn
13 additional information about Jacob Hall's legal status?

14 A Yes, sir. We were advised while we were en route that
15 he had active bench warrants. I believe it was bench
16 warrants. And upon arriving on scene, I confirmed with
17 dispatch that the warrants -- the address on the warrants
18 was the same address. It was Willow Pond.

19 Q And that is the -- the same Willow Pond Road address
20 you arrived to?

21 A Yes, sir.

22 Q When you arrived on scene, did you arrive alone?

23 A No, sir. Deputy Missildine was with me.

24 Q Okay. And what did you and Deputy Missildine do once
25 you arrived on scene?

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1 A On arriving on scene, I noticed a female darting to
2 the front door rather quickly. In my experience, it's
3 usually to alert somebody to either, hey, law enforcement
4 is here.

5 Q As a result of her actions, what did you do?

6 A I immediately went to the -- since I was, I believe,
7 ahead of Missildine, Deputy Missildine, I went to the back
8 door to assure that nobody was running out the back door,
9 because in my experience, it's not uncommon for that to be
10 an alert and someone to take off out the back door and/or
11 either alert them to hide inside.

12 Q And did anybody run out the back door?

13 A No, sir.

14 Q Did you have an opportunity to speak with Kendal
15 inside or outside the house?

16 A Is Kendal the name of the female that had run in?

17 Q Well, let's call her the female that -- that -- that
18 ran inside, just so we're using the same terms. Did you
19 speak with her?

20 A I did. I confronted her as to why she had quickly run
21 inside.

22 Q What, if anything, did she say to you?

23 A She seemed very shaky and didn't seem to give any
24 credible information as to what she was doing, having any
25 good reason as to why. It didn't make any sense when I

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1 asked her a couple of questions. None of them was a good
2 foundational reasoning as to her actions.

3 Q So she was the female you were there to check on; is,
4 that correct?

5 A And the juveniles, yes, sir.

6 Q The juveniles, were they outside?

7 A I believe that they were right inside the living room
8 when we had come in. We had seen some of them, and then
9 had also seen another one when I went upstairs.

10 Q Now, let me ask you, were you familiar, prior to
11 February, with that house on Willow Pond road?

12 A Oh, yes, sir. We've been to calls out there.

13 Q And were you familiar with Jacob Hall prior to that .
14 incident on Willow Pond Road?

15 A Yes, sir. I spoke with him a couple of months prior.

16 Q Okay. Tell the Court about that. What -- what month
17 was that when you spoke with Jacob Hall?

18 A I believe it was in December of 2021. It was a
19 complaint of gunfire. His mother was calling and
20 complaining about him firing weapons and using firearms on
21 the property, and she was claiming he was prohibited. I
22 spoke with Mr. Hall on the property. He denied the
23 allegations. And I asked for consent to search, and he
24 said no. He identified where his room was and that he did
25 live there. He said that his room was up the stairs and

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1 the first room on the left right there.

2 Q So he identified his room inside that house at Willow
3 Pond Road in December?

4 A Absolutely.

5 Q And he denied you permission to search?

6 A Yes, sir.

7 Q And when you go inside the house -- going back to the
8 February incident -- you said the children were -- were
9 just inside the house?

10 A I believe there was two that were just inside in the
11 living room. As you open the door, there's a stairway
12 immediately in front of you, a bedroom, and then the
13 living room to the right.

14 Q And did you speak with them about the whereabouts of
15 Jacob Hall?

16 A I questioned where he was, asked the kids. I believe
17 the kid had told me Jacob is at work and he doesn't get
18 off until late in the evening hours. I don't recall the
19 specific time.

20 Q Okay. So at that point, where did you go inside the
21 house?

22 A Due to the fact of just personal knowledge of
23 Mr. Hall's history and whatnot, I immediately went to the
24 room to secure that and to see if he was there, just
25 because he had already identified to me previously that

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1 that was his room. So I immediately went there just for
2 officer -- out of office officer safety concerns --

3 Q And to effect the arrest warrants?

4 A -- with the active warrants.

5 Q You were there to arrest him?

6 A Yeah, with the active warrants, because of the safety
7 concerns with his arrest warrants.

8 Q Can you describe the state of the room, as far as
9 cleanliness, to the Court?

10 A I would not call it cleanly whatsoever. Subflooring,
11 no actual flooring. And immediately upon entering into
12 the room, it was just a box spring, a mattress with no
13 sheets, no fitted sheets, nothing of a normal bedroom
14 setup. And then, there was a, I believe, around a
15 three-or-four-month old child alone in the room on the
16 bed.

17 Q Would it be a fair statement to say the room looked
18 like a hurricane had hit it?

19 A Yes, sir.

20 Q So at some point, as you're inside the room looking
21 for Jacob what, if anything, do you see that catches your
22 attention as a law enforcement officer?

23 A In plain view, we could see marijuana that had been
24 previously smoked and/or remnants of marijuana and
25 marijuana paraphernalia. Also firearms that were in plain

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1 view upon entering into the room.

2 Q Okay. Where -- where were the firearms located?

3 A There was a safe in a closet. There was what appeared
4 to be a long gun next to a safe in plain view. Deputy
5 Missildine also had seen one in a closet, an AK-47 or
6 AR-15-style type of weapon in another closet. And then,,
7 there was also a pistol sitting in a windowsill.

8 Q Okay. So you said you saw -- the safe that you saw
9 the first firearm in, was that open or closed?

10 A I don't recall specifically. I just remember
11 recalling we seized the firearms just due to safety
12 concerns because there was a lot of people in the house at
13 the time. We seized them and placed them on the bed.

14 Q But you saw it immediately?

15 A Oh, yes.

16 Q And how many firearms did you see to secure them,
17 total?

18 A To secure, I believe it was -- at the time, we had
19 believed one of them was a firearm. It turned out it was
20 not. But there was two that we had laid on the bed.
21 One -- there was another -- a third one that ended up
22 being a CO2-type of weapon.

23 Q Okay. And you said the -- the -- the other, the --
24 the broken-down gun, was that -- was that a real firearm
25 or was that another Airsoft gun, the gun that was in two

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1 pieces?

2 A It was -- it was kind of zip-tied together. That was
3 a real firearm.

4 Q Okay. And at this point in time, are you seeing
5 anything else as far as ammo drawing your attention?

6 A Oh, there's significant amounts of ammo throughout the
7 room. There was gun parts, there was checklists of how to
8 make guns or what guns he needed to complete making. It
9 wouldn't be unreasonable to believe, after looking at what
10 anybody would refer to as common knowledge, as of a
11 checklist with specific types of guns to complete.

12 Q Did Jacob Hall have any type of personal decorations
13 in the room that would lead you to believe he had a
14 connection to it?

15 A I mean, his name was throughout. I believe there was
16 even something on the safe. There were numerous things
17 throughout the room that would lead any reasonable person
18 to believe that this was his room.

19 Q So at some point in time -- so you've seen the items
20 in plain view, you've checked them -- did you speak -- we
21 mentioned the white female. We've mentioned one of the
22 children. Was there anyone else in the house that you
23 spoke to? How about an elderly woman?

24 A An elderly woman. I believe she was bedridden at the
25 time. I also spoke to an elderly male who lived at the

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1 residence. We've -- I've known he lives at that residence
2 through previous calls for service.

3 Q What, if anything, did he say about who lived in the
4 room that you went in to look around?

5 A He just kept saying I don't know what's in there.
6 That is Jacob's room.

7 Q And how did he --

8 A I don't know if that's verbatim but, essentially, he
9 kept mentioning that's Jacob's room, and he's not able to
10 speak as to why there are firearms or drugs or anything in
11 there because that's specifically Jacob's room.

12 Q And you said he keeps saying that. He's saying that
13 repeatedly?

14 A He had said it numerous times. Because I would
15 question, hey, what's this doing here? I don't know.
16 That's Jacob's room.

17 Q Gotcha. And later on at some point, did you learn
18 that law enforcement had contacted -- had come into
19 contact with Jacob earlier that day?

20 A Yeah. I don't exactly know when, but somewhere around
21 shift change or maybe prior to, Deputy Whitesides had
22 advised that he had seen him, and he'd just crossed over
23 the county line.

24 Q So Whitesides said he saw him around -- around shift
25 change, is that -- is that what your testimony is?

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1 A Somewhere near there. I don't know a specific time --

2 Q Gotcha.

3 A -- but it was prior to our arrival when we were made
4 aware of it.

5 Q And when were you -- were you made aware of it?

6 A It was prior to our going out there. I don't know the
7 specific -- I couldn't give you a 2:00 or 3:00 type of
8 thing.

9 Q So you were made aware that Whitesides had seen --
10 when did Whitesides tell you that he had seen Jacob Hall?
11 Was it prior to you entering the house?

12 A Correct, yes. Prior to our call for service out
13 there, he had seen Jacob Hall.

14 Q When was that information related to you?

15 A Prior to receiving this call for service.

16 MR. EPTING: I beg the Court's indulgence.

17 BY MR. EPTING:

18 Q And where in the area was he seen?

19 A Somewhere near Willow Pond. It was either right prior
20 to the call for service or as it had come through. He had
21 called and advised, hey, I'd seen -- I'd laid eyes on him
22 earlier and he went across the state line. There's
23 nothing -- just jurisdictional boundaries is kind of...

24 Q Okay. And you're familiar with that location;
25 correct?

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1 A Yes, sir. That's right.

2 Q How far is -- how far is the state line from that
3 house?

4 A I'd venture to say you could probably throw a rock to
5 it, if you had a good enough arm.

6 Q So very, very close?

7 A Very, very close.

8 MR. EPTING: I beg the Court's indulgence. All
9 right. That's all the questions I have. Please
10 answer any questions Defense counsel may have for
11 you.

12 THE WITNESS: Yes, sir.

13 THE COURT: Mr. Derieg?

14 MR. DERIEG: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. DERIEG:

17 Q You said you spoke to Kendal, or the lady that was
18 there on the porch that had gone inside quickly and came
19 out, and she couldn't give you any good reasons why that
20 had happened.

21 A Yes, sir.

22 Q Can you recall specifically what it was she was
23 saying?

24 A I had asked her if she lived there. She gave me a
25 roundabout answer of yes, I live here; no, I don't live

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1 here; well, I don't know; I don't live here, no. Just
2 through normal conversation, any reasonable person would
3 know where they live, and fumbling around with the answer
4 of a simple question like that...

5 Q She didn't -- she didn't explain to you that she was
6 hiding from her fiancé who had been abusing her?

7 A I don't recall that.

8 Q Specifically, the person that made the well -- the
9 welfare check call?

10 A The complainant for the call?

11 Q Correct.

12 A I don't recall.

13 Q Okay.

14 A But I don't believe that it would -- she knew that we
15 were in marked units. She knows who is arriving on scene,
16 and it would be clear to her that that's not who was on
17 scene. She saw us in our marked patrol vehicles, in
18 uniform.

19 Q Right. My question is, she is sort of wishy-washy as
20 to whether or not she lives there. I mean, would that be
21 consistent with somebody that's not actually living there,
22 but hiding out from somebody for a while?

23 A I'm not sure. I wouldn't be able to tell you that,
24 sir.

25 Q Okay. Did this woman, Kendal, ever specifically tell

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1 you that you guys did not have consent to search the
2 house?

3 A I don't recall if she said no. If it's not her
4 residence, I don't know that it would be her call anyway.
5 But due to her actions of quickly going to the door, it
6 was very suspicious and gave us reasonable suspicion to
7 believe that she is alerting an occupant inside that
8 house, which the occupant believed to be Jacob Hall,
9 because he has active warrants for his arrest at that
10 address.

11 Q Were you aware when you arrived on scene that there
12 were potentially four small children present?

13 A I believe we were probably made aware of that en
14 route.

15 Q En route?

16 A The complainant had called and listed the -- I
17 couldn't recall the names of the children. But there were
18 children to be checked on, the welfare, I believe four of
19 them.

20 Q So before you got there, you knew that there were
21 kids; right?

22 A Yes, sir.

23 Q Is it not just as likely that she went in -- the cops
24 are pulling up, and she went in to secure her children
25 with law enforcement rolling up, and then came directly

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1 back out and spoke to you?

2 A I guess define secure, because she came out by herself
3 as well.

4 Q Right, to make sure her kids were okay with cops
5 coming up, and they're not freaking out because law
6 enforcement is rolling up, and then coming back out and
7 talking to you?

8 A I couldn't tell you why, if that was the theory. I
9 can tell you that it is very common in law enforcement
10 when we arrive on scene at an address that has active
11 warrants for a particular subject for there to be someone
12 to alert the subject inside, regardless of whomever is
13 inside, it is extremely common for us to encounter that,
14 and that be the reason.

15 Q Did that -- did that prove to be the case as to what
16 happened?

17 A What is your question? I'm sorry.

18 Q Were your -- were your suspicions founded? Did you
19 discover that she, in fact, went in to alert Jacob Hall
20 that law enforcement was coming?

21 A There's no way to confirm if that was what she was
22 doing, but her actions were suspicious, therefore, we
23 acted as such and appropriately. Out of an abundance of
24 caution for officer safety measures, we can't take actions
25 like that and just ignore it. We have to take our

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1 precautions and secure it as soon as we can.

2 Q Did you ever find Jacob Hall?

3 A No, Your Honor -- no, sir.

4 Q You can call me --

5 A I apologize.

6 Q -- so you go in without a warrant, without consent to
7 search for Jacob Hall with the information that you
8 received prior to arrival that Whiteside [sic] had more or
9 less chased Jacob, until Jacob went into North Carolina
10 right around shift change?

11 A We went in with a warrant. I confirmed it prior to
12 entering the house. I did not -- nor myself, or Deputy
13 Missildine, did not enter without a warrant.

14 Q Excuse me, without a search warrant?

15 A Without a search warrant, that is correct, but not
16 without an arrest warrant.

17 Q With the information that Whiteside [sic] had
18 chased -- essentially chased Jacob into North Carolina?

19 A I'm not sure how that would be relevant because he had
20 plenty of time to come through. He could have come back
21 on scene numerous occasions, back into York County's
22 jurisdiction.

23 Q Is there any evidence that he did?

24 A No, and there's -- I don't believe there's any that he
25 didn't. We can't -- we have to -- for officer safety

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1 discretion, we have to ensure that we go home safe at
2 night.

3 Q So you're there for a wellness check, initially, and
4 then it turns into a search for -- for Jacob. How much
5 welfare checking actually got done?

6 A Once the scene security issues were taken care of, I
7 did speak with the white female -- I believe her name was
8 Kendal, you said --

9 Q Mm-hmm.

10 A -- as to supplies for the children, the children's
11 needs. My concerns for it as if this is where she was
12 staying, then I was going to notify DSS because of the
13 condition of the house. So all fronts of the call had
14 been taken care of. There was no immediate need for any
15 kind of intervention with the children upon making entry
16 when laid eyes upon them. So all facets of the call for
17 service were conducted.

18 Q You said if she -- if she was staying there with the
19 children that you would have called DSS; right?

20 A At that house because that residence was not fit for
21 children to be staying at.

22 Q Wasn't she, in fact, staying there with the children?

23 A She had clarified later, I believe, that she was
24 leaving and going to a house in Rock Hill, maybe off of
25 Indian Trail. I don't recall specifically. But the

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1 children were not going to be staying there, so there's no
2 need for an immediate intervention from DSS if the kids
3 aren't going to be staying there.

4 Q Okay. You said that Jacob ID'd his room at that
5 December incident. Could you -- I think I missed exactly
6 how you phrased it, that he told you where his room was.

7 A Up the stairs to -- right up to the stairs to the
8 left. He may have even pointed to it, but he described it
9 very specifically which one was his room. I asked him
10 specifically, hey, can I have consent to search your room.
11 I did not get consent, and that's his right. But he did
12 identify his room very clearly.

13 Q But that room that you searched and believed was
14 Jacob's isn't exactly up the stairs to the left, is it?

15 A I don't know how else you would define it. I went up
16 the stairs and went to the left to the room.

17 Q Was it immediately left when you got to the top of the
18 stairs, or was it down the hall, was it down -- was it
19 right down the hall, was it left down the hall?

20 A I can't give you the amount of feet, but it's going to
21 be the -- as soon as you turn left, the first room right
22 there.

23 Q The first room?

24 A Mm-hmm.

25 Q So it's not down the hallway either way?

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1 A As soon as you get to the top of the stairs, the room
2 is on the left. That's as clear as I can state it for
3 you.

4 Q Okay. And you said that it was -- you would -- you
5 would -- you said that it was a dirty room?

6 A Very unclean, in disarray, not cleanly at all.
7 Extreme disarray, things everywhere.

8 Q Well, this might be -- I don't know. I'll ask the
9 question. Did -- did the room smell like bleach or any
10 other sort of cleaning chemicals?

11 A I don't recall. I don't --

12 MR. EPTING: Your Honor, I'm going to object to
13 how that relates to what he's --

14 THE WITNESS: Yeah. I don't --

15 THE COURT: I'll sustain the objection. Let's
16 move on.

17 BY MR. DERIEG:

18 Q Do you know whether Kendal Harris is allowed to own
19 guns?

20 A Is that the white female at the front door?

21 Q Yes.

22 A I do not know.

23 Q Did you check?

24 A I don't recall. I don't believe I did.

25 Q Did she indicate that she had been staying in the room

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1 that you searched?

2 A I don't recall. I know that there was a baby in the
3 room that initially appeared to be unresponsive and alone
4 in the room. And she claimed the baby as hers, and it was
5 fine. It did take me several seconds up on scene, again,
6 to make sure that it was okay. But she did -- I don't
7 know specifically if she said I've been staying in this
8 room or not.

9 Q As it relates to drugs, what did you find in plain
10 view?

11 A Marijuana and marijuana paraphernalia.

12 Q Do you know if Jacob was ever charged with marijuana?

13 A I do not.

14 MR. EPTING: Object to relevancy, Your Honor.

15 THE COURT: I'll overrule the objection.

16 BY MR. DERIEG:

17 Q Do you know when the methamphetamine was found?

18 A I do not.

19 Q Were you present when it was found?

20 A I don't recall.

21 Q Do you know who found it?

22 A I do not.

23 Q And do you have any idea where it came from?

24 MR. EPTING: Objection to asked and answered.

25 THE COURT: I'll overrule the objection. It's

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1 his impression (unintelligible).

2 BY MR. DERIEG:

3 Q Any idea where it came from?

4 THE COURT: I sustain the objection. He
5 answered and said he was not there and he doesn't
6 know about the search. So again, as to questions
7 about that, he's already answered. Move on.

8 BY MR. DERIEG:

9 Q Approximately how long after you arrived on scene did
10 members of the DEU arrive?

11 A I couldn't tell you a timeframe. We put the wheels in
12 motion as soon as we secured and understood the necessity
13 of a search warrant. And when they arrived on scene, I
14 couldn't tell you specifically. I'm sure the CAD has that
15 log with dispatch for officer arrival. I don't recall.

16 Q What did DEU do when they arrived on scene?

17 A They conducted their investigation.

18 Q And what does that consist of?

19 A You would have to speak to their supervisor,
20 Lieutenant Ramsey. I don't work for the DEU unit. I know
21 that when we called them to the scene, we essentially
22 secure the scene for them, and the scene is theirs once
23 they take it.

24 Q So does that mean once DEU gets there, you guys go
25 outside, and they go inside and do their thing?

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1 A No, not necessarily. We can still be there to secure
2 the scene, whether it be a door, or a room, or whatever
3 assistance they may need. But they will conduct their
4 investigation. And as to the specifics of that, I could
5 not tell you because I do not work in the DEU unit.

6 Q What did you -- well, were you still inside the house
7 when the DEU was conducting its investigation?

8 A I believe I was for a decent amount of time.

9 Q What did you observe?

10 A In specifics to what?

11 Q Specifically what they did.

12 A I don't recall, specifically. You know, their
13 supervisor is Lieutenant Ramsey. I'm responsible for
14 Deputy Missildine on scene. I don't tend to question them
15 as to the specifics of their job, as they do not for mine.

16 Q I'm not asking you to question them or if you
17 questioned them. I'm just asking what your eyes -- what
18 they saw --

19 A They conducted --

20 Q -- while you were inside.

21 A -- they waited for the search warrant. And then,,
22 once the search warrant was confirmed in hand, I'm sure
23 they began their search the moment that they were notified
24 that everything was logistically correct.

25 Q Where did they wait for the search warrant?

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1 A Who, specifically? Who are they?

2 Q Where did the DEU --

3 A There were some investigators with the DEU in the
4 bedroom that we were securing until the search warrant.
5 No further searches were being conducted. We were in the
6 bedroom.

7 Q And how long did you guys stay in the bedroom until
8 you got word that the warrant was good?

9 A I don't recall.

10 Q Was it a long time, short time?

11 A I don't recall. Nothing unreasonable. It's common
12 practice to wait on a search warrant. I don't recall
13 specifically how long. I apologize.

14 Q Had you all been standing -- just standing in that
15 room for a couple of hours?

16 A I wouldn't think it would be a couple of hours,
17 because I believe I was only on scene for two hours,
18 total.

19 Q What time did -- what time did you leave the scene?

20 A I don't know. I don't recall, specifically. It was
21 around two -- 2 hours and 15 minutes or so I believe I was
22 there.

23 Q And had the search warrant been obtained by the time
24 you left?

25 A Of course.

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1 Q You can remember that?

2 A I do.

3 MR. DERIEG: I beg the Court's indulgence.

4 BY MR. DERIEG:

5 Q Did you speak to Whitesides specifically regarding
6 Jacob being chased over the -- the state line?

7 A I don't know if it was specifically him or his unit
8 that had advised me it. Typically, at shift change or any
9 kind of crime trends or anything, they'll notify me of one
10 of the units on the scene on that specific group will
11 notify me of anything that would affect my district that
12 I'm responsible for. So I don't recall who, specifically.
13 I do recall that Deputy Whitesides had seen Mr. Hall.

14 Q Did anybody inform you as to what Deputy Whiteside
15 [sic] did after Mr. Hall went across the state line?

16 A I don't recall. That would be Deputy Whitesides'
17 investigation.

18 Q Okay. So that information doesn't get relayed to you
19 as to whether or not he stayed in the area to see if Jacob
20 came back?

21 A I don't recall.

22 MR. DERIEG: That's all I have, Your Honor.

23 Thank you.

24 THE COURT: Thank you. Redirect?

25 MR. EPTING: No, Your Honor.

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1 THE COURT: All right. Thank you. You may step
2 down. How many more witnesses do you have?

3 MS. ROBINSON: One more, Your Honor.

4 THE COURT: And who is that?

5 MS. ROBINSON: Investigator Hines.

6 THE COURT: All right. We'll take a ten-minute
7 break, a ten-minute break.

8 (Off the record.)

9 (Recess.)

10 (On the record.

11 THE COURT: Call your next witness.

12 MS. ROBINSON: Thank you, Your Honor. The State
13 would call Investigator Josh Hines.

14 JOSHUA HINES

15 was called as a witness, and having been first duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ROBINSON:

19 Q If you could, please introduce yourself to the Court
20 for the record.

21 A My name is Joshua Hines.

22 Q And where are you currently employed?

23 A With the York County Sheriff's Office.

24 Q Were you employed with York County Sheriff's Office on
25 February 24th of 2022?

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1 A Yes, ma'am.

2 Q In what capacity were you working at that time?

3 A DEU investigator.

4 Q Okay. And on that date, did you respond to [REDACTED]

5 Willow Pond in Clover?

6 A Yes, ma'am.

7 Q Do you recall about what time you responded out there
8 that night?

9 A It was a little past 6:00, close to 7:00 is when I
10 responded out there. It was getting dark.

11 Q And why were you responding there?

12 A Patrol was out there in reference to a well-being
13 check, and also that they knew that Jacob Hall had
14 warrants at that time. While deputies were on scene, I
15 got a call from Lieutenant Ramsey stating that they had
16 potentially drug paraphernalia in plain view, so I got out
17 there to see what they had.

18 Q So what did you do when you arrived at around 7:00?

19 A I arrived on scene. I noticed that they were inside.
20 I went upstairs to the -- or there was motion upstairs. I
21 could hear him and his mother, Sandy, to the left of that
22 room directly when you walk in the house. I believe that
23 was his dad that was in near the stairwell, stating that
24 the deputies were upstairs in the bedroom.

25 Q So did you go --

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1 A Upstairs to left and to the right. Yes, ma'am, I made
2 contact with him. Deputy Missildine and Sergeant Penland
3 was inside. And I observed the plain view of the drug
4 paraphernalia and marijuana that was on the table.

5 Q So then, what did you do at that point?

6 A I contacted Lieutenant Ramsey -- well, Sergeant Ramsey
7 at the time -- what I was -- what we seen, and established
8 a search warrant for that.

9 Q And what was the point of telling Deputy Ramsey about
10 that?

11 A Because he was -- obviously, he was our sergeant at
12 that time. We go through him about things. But also, he
13 was back at the office stating that he would get the
14 search warrant for us.

15 Q So he was going to be the officer to actually apply
16 for the search warrant with the judge?

17 A That is correct.

18 Q Okay. And what were you doing while Sergeant Ramsey
19 was doing the paperwork and applying for the search
20 warrant?

21 A As I gave him the information, more investigators
22 arrived on scene. Once we -- once I confirmed that that
23 room was secure, I pretty much made my rounds around to
24 make sure that Hall was not stationed anywhere. Like I
25 said, not jumping back on patrol, but it's also good for

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1 us to take a double-check and make sure that there's
2 nobody else hanging around.

3 Q Okay. And did you find the defendant on scene at that
4 point?

5 A No, ma'am.

6 Q Were there other individuals on scene?

7 A Yes, ma'am.

8 Q And so,, that's what you did while you were waiting
9 for Sergeant Ramsey?

10 A Yes, ma'am.

11 Q At any point before you heard back from Sergeant
12 Ramsey, did you begin actually searching and moving items
13 in and about?

14 A Oh, no, ma'am.

15 Q About what time did you hear from Sergeant Ramsey
16 regarding a search warrant?

17 A I believe -- I can't give you an approximate time -- I
18 mean an accurate time, but maybe 30 minutes to an hour is
19 when he contacted and stated that the search warrant was
20 signed by the judge.

21 Q Okay. And -- but while you were on scene during that
22 time, you were waiting to conduct a search until you
23 heard?

24 A That is correct.

25 Q Okay. And then,, who was responsible for filing the

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1 search warrant return in this case?

2 A My -- it was me. Excuse me.

3 Q And when did that happen?

4 A It happened a few months after the search warrant was
5 signed.

6 Q Do you normally wait a few months to file your search
7 warrant returns?

8 A No. We're required to do it sooner, but I fell on the
9 ball on that one.

10 Q Okay. And what -- why did you wait until -- is it May
11 that you filed it?

12 A That's correct. Yes, ma'am.

13 Q So what happened between the search in February and
14 when you filed it in May?

15 A Getting the paperwork done for that case. But also, I
16 was still working on investigations on top of this case as
17 well.

18 Q Okay. So why did you end up filing it in May?

19 A I got wind that the U.S. Marshals picked up a Mr. Hall
20 in -- in New York, and that I was going to turn our paper
21 over to the solicitor's office and realized that that was
22 not checked off on that checklist --

23 Q Okay.

24 A -- was that return.

25 Q So that's when you then filed it?

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1 A That's correct.

2 MS. ROBINSON: I beg the Court's indulgence. If
3 you could please answer any questions for the
4 Defense.

5 THE WITNESS: Absolutely.

6 MR. DERIEG: Just a moment, Your Honor, if you
7 don't mind.

8 CROSS-EXAMINATION

9 BY MR. DERIEG:

10 Q Is it Deputy or Investigator Hines?

11 A It is deputy at this time, sir.

12 Q Deputy at this time?

13 A Yes, sir.

14 Q Kind of fluctuating depending on your duties?

15 A Yes, sir. That's absolutely -- at that time, I was in
16 -- even when you're on the drug unit, you're an
17 investigator. I'm not currently in drug enforcement unit
18 at this moment, so I'm a deputy.

19 Q Okay. I guess we'll start where you all just ended.
20 You said you heard that marshals had arrested Mr. Hall
21 in -- in New York and that's what made you file the
22 return?

23 A Yes, sir. I was actually going through my paperwork
24 with knowing that he was coming back. They were bringing
25 him back to the Carolinas. And since I was the case agent

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1 on that one, I wanted to make sure all of the paperwork
2 was in-line, and I noticed that that error was there and I
3 corrected it.

4 Q Do you know when he was picked up in New York?

5 A I do not see the exact date.

6 Q But your testimony that as soon as you heard he was on
7 his way back from the Carolinas you filed the return?

8 A I heard approximately like, yes, sir, that he was on
9 his way, that he was picked up. And then, when I was
10 getting ready to turn the paperwork over to the
11 solicitor's office, I noticed that that error was there
12 and I corrected it. So I cannot give you the exact time
13 of the call.

14 Q Okay. And so,, that was, like -- that was immediate.
15 As soon as you heard that he was on his way back, you
16 wanted to turn the paperwork over, realized the error, and
17 fixed it?

18 A I wouldn't say immediately. I wouldn't say
19 immediately, but I knew that that was not there. It was
20 not finished, so that's why I corrected it.

21 Q Okay. You said that you were called out there because
22 of I believe you said reports of drug paraphernalia?

23 A Yeah. Well, yes, sir. I was talking about the
24 well-being check. But then, as I -- I got a call from
25 Sergeant Penland letting them know that they had drug

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1 paraphernalia and drugs in plain view in that bedroom that
2 they were in.

3 Q Were you -- wait. Were you on your way out for part
4 of the welfare check?

5 A No, sir, Your Honor. I mean -- sorry, Your Honor.

6 Q That's twice.

7 A It's all good. No. I was actually out there because
8 my job was dope at that time, and also investigating
9 Mr. Hall. So no, I got the call stating there was drug
10 paraphernalia in plain view --

11 Q Okay.

12 A -- and that's why I went out there. I had nothing to
13 do with the call for service, mostly just the -- what was
14 in plain view.

15 Q Does -- does the drug enforcement unit typically
16 respond to -- to evidence of paraphernalia?

17 A Anything that's -- yeah. So it depends on the case,
18 if I can be honest with you. That's -- if -- if they see
19 something in plain view, they'll call us and say, hey, you
20 know, we've got this secured, you guys get a search
21 warrant for us, absolutely. We work really well with
22 patrol and other units -- well, divisions in the sheriff's
23 office.

24 Q And I think you -- you just stated sort of off the
25 cuff that part of this was investigating Mr. Hall; right?

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1 A Yes, sir.

2 Q So a report of anything, you all were going to come?

3 A If it was his house or anybody else's, absolutely.

4 Q Anything regarding him?

5 A I'm sorry?

6 Q Anything -- anything regarding him at his house or
7 anybody else's house?

8 A No, no. Sorry. They -- if he was wanted, the warrant
9 scene would take care of that. If it was narcotics
10 related, then absolutely.

11 Q Okay. And you actually searched the house for Jacob,
12 didn't you?

13 A Yes, sir. .

14 Q You might be the only person that did. Did you have
15 any interaction with any of the adults -- the adults that
16 were in the house?

17 A Yes, sir, Mrs. Harris, Kendal Harris. And also, I
18 believe that was Jacob's dad. Those were the only two.

19 Q Stepdad.

20 A Yeah, stepdad. Excuse me. That's the only two
21 individuals that I really had interaction with.

22 Q What did you and Miss -- Ms. Harris talk about?

23 A The kids. Me and Ms. Harris attended a church
24 together --

25 Q Mm-hmm.

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1 A -- in Rock Hill, and just checking on the kids to see
2 how she was doing. And she was talking about her life
3 with Mr. Hall, and I guess her knew or ex-fiancé, or
4 whoever he was. I spoke with the kids. And then,, that
5 was pretty much it.

6 Q So you come to do the welfare check, too?

7 A Yes, sir. Even though I'm a drug investigator, it
8 just doesn't -- that's not part -- I mean, everything is
9 part of police work. I still did it all.

10 Q I honestly commend you for your work. You said
11 nothing was moved or searched while waiting on the search
12 warrant?

13 A That's correct. Everything was -- once they secured
14 that room, I made sure that Mr. Hall was not lingering in
15 any other rooms, because I was unsure if they did or
16 didn't search it. And if they did search it, I just
17 double-checked to make sure there was no bodies throughout
18 the house that we knew there. We knew there was a -- I
19 can't think of the male's name, the party that was on the
20 front porch. I remember his mother was laying in the bed.
21 His stepfather was towards the living room. Ms. Harris
22 was in the front room when I was there, and then also the
23 kids were downstairs. So I just made sure that was the
24 only -- well, I guess, human-body search still floating
25 around in that area, or in the house.

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1 Q We've heard testimony earlier that it's common for a
2 suspect -- wanted suspects to run out -- run out the back
3 of the house.

4 A Yes, sir.

5 Q Is that fairly common?

6 MS. ROBINSON: Objection, Your Honor. He is
7 still not the one who responded to that. He's not
8 the one who testified to that.

9 THE COURT: Yeah. I'm not sure the relevance to
10 the search warrant, either. I sustain the objection.

11 MR. DERIEG: Well, Your Honor, it goes to what
12 -- what an officer that -- what a reasonable officer
13 would do if they believed somebody was running out
14 the back.

15 THE COURT: You can ask that -- you can ask that
16 one question. You can ask that question.

17 MR. DERIEG: Okay.

18 BY MR. DERIEG:

19 Q How long would a typical officer stay out behind the
20 house if he believed that somebody might be running out
21 the back of the house?

22 MS. ROBINSON: Objection, Your Honor. This is
23 not the question that you just --

24 THE COURT: Yeah. I'll overrule the objection.
25 Move on.

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1 MR. DERIEG: Okay.

2 BY MR. DERIEG:

3 Q Approximately what time did you guys find out that
4 there was a search warrant that had been signed?

5 A I'm sorry. Can you restate that question again?

6 Q About what time did you find out that the search
7 warrant had been signed?

8 A I believe the search warrant was signed around 8:09,
9 if I'm not mistaken.

10 Q So you think you found out, roughly, right at -- would
11 Ramsey -- Ramsey have called right after?

12 A Ramsey called me directly as soon as the search
13 warrant was signed. That's correct.

14 Q Okay. Did you -- did you lead the search once the
15 search warrant was signed?

16 A You said did I lead?

17 Q Yes.

18 A I -- well, we had more investigators on scene as well,
19 so we all began to start searching, searching.

20 Q Everybody just started searching?

21 A Not everyone. Well, not everyone. Only just if you
22 were a drug agent, you searched, and we began searching.

23 Q What did the people that -- what did the deputies that
24 were not drug agents do?

25 MS. ROBINSON: Objection, Your Honor. I'm not

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1 sure what this is with the scope of the -- the
2 validity of the search warrant and the validity of
3 the search.

4 THE COURT: All right. I'll overrule the
5 objection. Go ahead.

6 BY MR. DERIEG:

7 Q What were the officers that aren't part of the drug
8 team doing while you're -- while you're searching?

9 A They were just keeping eyes on the other individuals
10 inside the house.

11 Q Okay. Do you know where the methamphetamine was
12 found?

13 A Yes, sir. It was located in the safe in Jacob Hall's
14 bedroom.

15 Q And how did you know that it was his bedroom?

16 A Other than his stepfather consistently telling me that
17 it was his bedroom up there.

18 Q It was the stepfather that told you that?

19 A Yes, sir.

20 Q Okay. And how would you describe where that room was
21 located?

22 A Up the stairs. When you -- we walked into the house
23 directly, the stairwell is on your left. You go up the
24 stairs, take an immediate left, and then the bedroom is on
25 your -- your immediate right.

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1 Q So you take a left and the bedroom is on your right?

2 A Yes, sir, that's correct.

3 Q I appreciate that. Did you check and see what was in
4 any of the surrounding rooms?

5 A Yeah, to make sure that there was no persons in there
6 at that time. Initially, that's what the search I did
7 just to make sure that I focused personally on that room.
8 That was my first room that I searched, was that.

9 Q Okay. Did any other rooms get thoroughly searched
10 besides that one?

11 A That's correct, they did.

12 Q They did?

13 A Yes, sir.

14 Q All of them?

15 A Yes, sir.

16 Q Was anything found in those other rooms?

17 A Yes, sir. The bathroom in between, I believe,
18 Mr. Hall's and, I guess, I don't know whose room that was
19 on the far right, there was methamphetamine found in that
20 bedroom -- I mean, that bathroom.

21 Q Mm-hmm.

22 A Down in his brother's room. I can't say his last
23 name, but Levi was his brother on the --

24 Q Bacot?

25 A Yes.

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1 Q Bacot?

2 A Yeah. There was his -- there was a medicine bottle
3 with his name on it, and a Glock that was located in his
4 room.

5 Q Okay. Did anybody on the scene there, present at the
6 house where the drugs and guns were found, get charged
7 with anything?

8 A No. (Unintelligible.)

9 Q Why?

10 MS. ROBINSON: Objection, Your Honor. This is
11 beyond the scope of the motion.

12 THE COURT: Yeah. I'll sustain the objection.

13 MR. DERIEG: I beg the Court's indulgence, Your
14 Honor. Deputy Hines, that's all I have. I genuinely
15 appreciate the job you did in this case. Thank you.

16 THE COURT: All right. Thank you. Ms.
17 Robinson, any redirect?

18 MS. ROBINSON: No follow up, Your Honor.

19 THE COURT: Thank you. Deputy Hines, you can
20 step down.

21 THE WITNESS: Yes, sir.

22 THE COURT: Call your next witness.

23 MS. ROBINSON: Your Honor, that would be the
24 last of the witnesses. I would ask that the Court
25 accept State -- or the Court's Exhibits 3 and 4 as

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1 Court's exhibits for conservation.

2 (Court's Exhibits 3 and 4 were
3 offered as exhibits.)

4 THE COURT: All right. Let me see those. All
5 right. Does the Defense have any witnesses?

6 MR. DERIEG: Your Honor, I do have one witness,
7 but she is not available until tomorrow morning.
8 It's Kendal Harris.

9 THE COURT: Well, we had made it clear that we
10 wanted to be through with -- why was she not able to
11 be here? Did you notify her to be here when we
12 talked about this last Wednesday or Thursday?

13 MR. DERIEG: Yes, sir. I talked to her for
14 about half an hour at 8:30 this morning, and she told
15 me she would be available whenever. She could come
16 as soon as I let her know. And during the lunch
17 break, I called her multiple times, I texted her
18 multiple times, and got no response. During our last
19 ten-minute break, I texted her again and she told me
20 that she had gone to work and couldn't leave, but
21 would be able to come in the morning.

22 THE COURT: Is she subpoenaed to be here?

23 MR. DERIEG: She's subpoenaed by the State, Your
24 Honor.

25 THE COURT: When was she subpoenaed to be here?

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1 MS. ROBINSON: Your Honor, I do not anticipate
2 using her for this matter because I don't believe her
3 testimony is relevant to the validity of the search
4 in this case. So I had touched base with her, and
5 told her I would call her tomorrow at lunchtime as to
6 timing.

7 THE COURT: All right. And what the -- what's
8 your basis -- what's your basis for calling
9 Ms. Harris as a witness?

10 MR. DERIEG: Multiple -- multiple reasons, Your
11 Honor. To clarify what it is that she was doing that
12 was so suspicious, to explain the things that she
13 said, and that she did, and that she observed.

14 THE COURT: All right. All right.

15 MS. ROBINSON: Your Honor, the -- the State's
16 perspective on that is, the question is what the
17 officers perceived, and whether their responses to it
18 were reasonable. And so,, whether Ms. Harris has a
19 reason for what she did would not be relevant to the
20 search.

21 THE COURT: All right. Well --

22 MR. DERIEG: And what she -- what she observed
23 the officers doing inside the house prior to a search
24 warrant being obtained.

25 THE COURT: -- well, here's the thing. The

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1 Court -- we'll do this. We will start promptly at
2 9:30. If she is here at 9:30, we'll take testimony
3 from Ms. Harris at 9:30. If she's not here at 9:30,
4 then the Court should be prepared shortly after that
5 to rule. All right?

6 MR. DERIEG: Thank you, Your Honor.

7 THE COURT: We're adjourned until 9:30.

8 MS. ROBINSON: And, Your Honor, would -- would
9 you like the State to respond to any -- he gave his
10 opening --

11 THE COURT: We'll do that tomorrow.

12 MS. ROBINSON: -- okay. Thank you.

13 THE COURT: Let's hear -- he has a right to
14 present evidence. And the Court has to be sure,
15 particularly in a case where someone is looking at a
16 mandatory minimum of 25 up to -- what's the upside?

17 MS. ROBINSON: It's just 25 on the
18 methamphetamine. The weapon charges, one would be
19 concurrent, the other one is another additional five.

20 THE COURT: Well, they could run consecutive,
21 particularly on this type of charge that we're going
22 to be sure we cover all the bases. He has a right to
23 call a witness. We'll hear that witness, if she's
24 here, at 9:30 tomorrow morning.

25 MR. DERIEG: Thank you, Your Honor.

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1 MS. ROBINSON: Your Honor, just a few
2 housekeeping matters.

3 THE COURT: Yes.

4 MS. ROBINSON: Your Honor, I had sent to
5 Mr. Derieg some of the State's proposed exhibits and
6 requested any -- if he had any redaction requests. I
7 have not heard anything back, but it does take time
8 for the State to do things of that nature and so, I'm
9 inquiring whether there's anything we need to prepare
10 tonight in advance of court tomorrow.

11 MR. DERIEG: Are one of those things the -- the
12 22 pages of Facebook stuff? Is that part -- is that
13 part of the --

14 MS. ROBINSON: I believe it's 30-some pages but,
15 yes.

16 MR. DERIEG: -- 33, excuse me.

17 MS. ROBINSON: But yes, the Facebook records.
18 There is a jail-video visit. And then,, we would
19 need to discuss at some point how to admit the
20 certified conviction, how that should go in.

21 MR. DERIEG: I don't need the Facebook stuff
22 further redacted. I would actually ask under the
23 rule of completeness that the -- all 989 pages come
24 in.

25 MS. ROBINSON: Your Honor, in that Facebook

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1 return, the defendant is dealing weapons and drugs
2 repeatedly. And so,, the State shows what it shows
3 because I know that prior bad acts would just have
4 brought a mistrial on the vast majority of that.

5 MR. DERIEG: Well, there's a way to just redact
6 that stuff.

7 MS. ROBINSON: But I would need more
8 information. With 989 pages, I would need to know
9 what he wants --

10 THE COURT: Hold on a minute. This is the first
11 time the Court has heard anything about redaction of
12 anything that the State intends to introduce at
13 trial. Tell me what it is. Tell me about the
14 Facebook pages.

15 MS. ROBINSON: Your Honor, we received a
16 989-page Facebook return. I did e-mail Your Honor
17 and Mr. Derieg about it in early January, saying we
18 did intend to admit portions of it. It is a 989-page
19 return. I went through it and I selected -- I
20 believe there's 33 pages that have material that I
21 believe are admissible and relevant to this case.

22 THE COURT: Tell me about that material.

23 MS. ROBINSON: Your Honor, there's various
24 things in here. As the Court is aware, I would need
25 to authenticate this account. So there are things

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1 like his biographical information consistent with the
2 defendant. There are selfies that he sent of his
3 face, indicative of him using the account. But then
4 there are other -- there's other information about
5 items in the room, and him claiming those items in
6 messages to other people through Facebook.

7 THE COURT: All right. And -- and you have
8 provided him with how many pages?

9 MS. ROBINSON: I have provided him with the
10 entire 989 pages. And then, on Monday of last week,
11 I provided him the 33 pages that I was seeking to
12 admit.

13 THE COURT: And those were redacted? .

14 MS. ROBINSON: Those were -- the 33 pages, I
15 redacted. Obviously, that's only a limited portion
16 of the 989, but I also redacted some of the content
17 of those pages to the extent some of those are him
18 saying his address during drug sales. So I redacted
19 out words that indicated drug sales, but left in his
20 address and things of that nature.

21 THE COURT: All right. And he's indicated that
22 you're not objecting to those redacted 33 pages; is
23 that correct?

24 MR. DERIEG: Actually, no, because I think those
25 33 pages in multiple spots show something completely

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1 different than what was just posited to the Court.

2 So I'm fine with the 33 pages.

3 THE COURT: You're talking in circles.

4 MR. DERIEG: I -- I -- I -- I would --

5 THE COURT: You said no and then you said you're
6 fine.

7 MR. DERIEG: -- I've rethought it and --
8 specifically, while I was listening to Ms. Robinson
9 speak, I think those 33 pages are actually just fine.

10 THE COURT: All right. Out of the other
11 whatever 900 and something minus 33, is there any
12 that you deem relevant?

13 MR. DERIEG: I would have to go back and -- and
14 recheck, Your Honor. To be honest with you, I was
15 worried that not all 33 of those pages were going to
16 come in. But if all 33 are coming in, then that
17 actually satisfies me.

18 THE COURT: All right. Well, right now, you
19 have consented to all 33 pages.

20 MR. DERIEG: Yes, sir. And I'm --

21 THE COURT: How many -- it was not the Court
22 ruling them coming in. However, I will rule that
23 they come in if you consent.

24 MR. DERIEG: I do.

25 THE COURT: It appears you're consenting to

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1 those 33 redacted pages coming in.

2 MR. DERIEG: Yes, sir.

3 THE COURT: So my next question is, you had a
4 motion --

5 MR. DERIEG: I withdraw it.

6 THE COURT: -- okay. All right. That resolves
7 that issue. The 33 pages come in, in their redacted
8 form.

9 MS. ROBINSON: Your Honor --

10 THE COURT: And what's the other --

11 MS. ROBINSON: -- there was a jail -- the jail
12 allows the inmates to have video visits, kind of like
13 a Skype call or a Zoom. And I -- there was a video
14 visit in December of 2022 where there was a
15 discussion about this residence, and the defendant
16 made a statement that he was living there at the
17 time. I have -- again that is like a 15-minute video
18 visit. I redacted it to down to 26 seconds that
19 revolve around that because, obviously, these
20 individuals talk about other things in this visit.
21 But there's 26 seconds that I redacted. I provided
22 that to Mr. Derieg last Monday. And we just need to
23 know if I need to make changes. Video changes are a
24 harder thing to accomplish.

25 THE COURT: All right. So you've got 26 seconds

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1 of a video-jail visit.

2 MS. ROBINSON: Yes.

3 THE COURT: And the -- the entire video is

4 20-some minutes.

5 MS. ROBINSON: I think it's 15 minutes, maybe.

6 THE COURT: 15 minutes. What's your position as
7 far as does anything else you do need to be redacted
8 or is there anything else relevant that you deem to
9 be admitted?

10 MR. DERIEG: Your Honor, I'm actually trying to
11 recall if I got the full 15 minutes or if I just got
12 the 26 seconds, because I know there was some issues
13 with -- with finding the correct player to play some
14 of the stuff that was sent over initially in -- in
15 discovery. So I guess my question to the State would
16 be: Is that 26 seconds of a full video that I've
17 already been sent?

18 MS. ROBINSON: Your Honor, in January, I did put
19 the digital discovery on a thumb drive and overnight
20 by FedEx to the -- to Mr. Derieg, and that visit in
21 its entirety is on that thumb drive.

22 THE COURT: All right. Well, she's indicated --
23 and here we are on the day of trial, you're trying to
24 figure out whether she sent you the entire stuff or
25 not, which she said she did. I assume you have

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1 looked at it. Is there anything else on there that
2 you wish to go beyond the 26 minutes -- I'm sorry --

3 MR. DERIEG: 26 seconds.

4 THE COURT: -- 26 seconds?

5 MR. DERIEG: No, sir.

6 THE COURT: All right. Anything else?

7 MS. ROBINSON: Your Honor, the last thing I
8 mentioned in terms of redactions was how to admit the
9 certified copy. I will confer with Mr. Derieg before
10 we leave for the evening, and see if we can come to
11 an agreement how to do that paper.

12 THE COURT: All right. You know, there's not a
13 whole lot of case law on one convicted of a violent
14 crime 16-500. But there is case law where they have
15 been tried and found guilty. So I'm not sure. If
16 you could all figure how we need to do that. All
17 right? Anything else?

18 MR. DERIEG: Nothing from the Defense.

19 THE COURT: All right. Anything from the State?

20 MS. ROBINSON: No, Your Honor.

21 THE COURT: All right. We should start at 7:30
22 with Ms. Harris -- I'm sorry, 9:30 with Ms. Harris.
23 It's been a long day, 9:30 with Ms. Harris. I wish
24 we could get everybody here at 7:30 in the morning,
25 but that's probably asking too much. And have all

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1 your witnesses lined up, Ms. Robinson, after that.

2 MS. ROBINSON: Yes, Your Honor.

3 THE COURT: All right? Thank you.

4 (The proceedings were adjourned

5 until 9:30 a.m., February 13,

6 2024.)

7 **FEBRUARY 13, 2024**

8 THE COURT: We're back on the record in the case
9 of State versus Jacob Dewayne Hall. The indictment
10 is 2022-GS-46-2280, 2279, 2279-A. We're in the midst
11 of a suppression hearing. We ended yesterday
12 afternoon with the Defense indicating that they
13 wished to call a witness for the purpose of a
14 suppression hearing. And you're prepared to do that
15 this morning, Mr. Derieg?

16 MR. DERIEG: I am, Your Honor. Ms. Harris is
17 here.

18 THE COURT: All right. Thank you. Then let's
19 bring the jury in.

20 MR. DERIEG: No jury. It's a suppression
21 hearing.

22 MR. EPTING: It's a suppression hearing.

23 THE COURT: I'm sorry. I've got too much going
24 on through my thinking. Let's bring -- call -- call
25 your next witness.

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1 MR. DERIEG: The Defense calls Kendal Harris.

2 KENDAL HARRIS

3 was called as a witness, and having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DERIEG:

7 Q Good morning, Ms. Harris.

8 A Good morning.

9 Q Thanks for being here. Briefly, could you start by
10 telling the Court what your relationship is to Mr. Hall,
11 Jacob Hall?

12 A We're currently separated.

13 Q But are you still married?

14 A Yes, sir.

15 THE COURT: All right. Let's get her full name
16 for the record. Ma'am, what's your full -- state
17 your full name.

18 THE WITNESS: It's Kendal Harley Harris.

19 THE COURT: All right. Thank you.

20 BY MR. DERIEG:

21 Q So you're separated, but married?

22 A Yes, sir.

23 Q Okay. I want to take you back to February 24th of
24 2022. Do you recall that day?

25 A Yes, sir.

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1 Q Where were you staying?

2 A I was at [REDACTED] Indian Trail. I'd gotten into an
3 argument with my ex, and I ended up staying at my
4 mother-in-law's home.

5 Q At some point, did you ever end up at Jacob's mother's
6 house?

7 A Yes, sir.

8 Q And when was that?

9 A That would have been on the 23rd of February.

10 Q And did you stay overnight?

11 A Yes, sir.

12 Q When did you end up going to your mother's house?

13 A The next day, once the whole incident occurred. It
14 was at night.

15 Q Okay. And you said incident. I want to talk about
16 that. Do you recall law enforcement pulling up to Jacob's
17 mother's house?

18 A Yes, sir.

19 Q And this is on Willow Pond Road; correct?

20 A Yes, sir.

21 Q Where were you when law enforcement pulled up?

22 A I was outside at a burn pit.

23 Q And who were you with?

24 A A man by the name of Michael.

25 Q Who is now presently deceased?

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1 A I'm not sure. I haven't kept up with him. It's
2 possible. I know that a lot of the people at the home
3 have been deceased.

4 Q Okay. And that was Michael Garrett?

5 A Yes, sir.

6 Q Okay. What did you do when you saw law enforcement
7 arrive on the property?

8 A I went inside to check on my kids and make sure that
9 they didn't come outside, until I figured out what was
10 going on.

11 Q And approximately how long were you inside?

12 A Maybe two minutes, if that.

13 Q And what did you do next?

14 A I walked back outside.

15 Q And did you have a -- was -- did you ultimately end up
16 making contact with law enforcement?

17 A Yes, sir.

18 Q And describe for the judge your initial contact with
19 law enforcement.

20 A They were doing a wellness check on me.

21 Q And about how long did that wellness check last?

22 A About five minutes or so.

23 Q Five minutes or so?

24 A Yes, sir.

25 Q Do you remember who the officers were that did that

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1 wellness check?

2 A No, sir.

3 Q Okay. Once -- well, how many -- how many officers
4 approached you when you came back outside?

5 A I believe it was two.

6 Q It was two?

7 A Yes, sir.

8 Q Once the wellness check was complete, what happened
9 next?

10 A They asked me if I knew where Jacob Hall was.

11 Q And what did you tell them?

12 A No, I did not.

13 Q Did they ask you if he was in the house?

14 A Yes, sir.

15 Q And what did you tell them?

16 A No, he was not.

17 Q Did they ask you if you knew where he -- where he was
18 at all?

19 A Yes, sir, and I had no clue.

20 Q No clue?

21 A I wasn't sure.

22 Q Okay. And what happened after -- after you told them
23 that Jacob was not in the house?

24 A They asked if they could come in, and I told them not
25 without a search warrant.

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1 Q And what happened next?

2 A They talked to man by the name of Jimmy.

3 Q And who is Jimmy?

4 A That would be Jacob's stepfather.

5 Q Okay. And are there any issues with Jimmy?

6 A He kind of was having health issues. He wasn't really
7 himself at that point.

8 Q Okay. And did you overhear what the conversation was
9 between law enforcement and Jimmy?

10 A I heard a lot of it, yes, sir.

11 Q Tell the Court what that was.

12 A They wanted to come into the home. I remember Jimmy
13 wondering what was the reason that they needed to come
14 into the home. He questioned them about it. They was
15 asking about Jacob Hall. Whenever he walked away into the
16 home, they proceeded in afterwards.

17 Q Did Jimmy ever give consent for them to come in after
18 him?

19 A No, sir, not that I'm aware of.

20 Q Did you have occasion to go into the home while law
21 enforcement was there?

22 A Yes, sir.

23 Q And what happened -- or what did you observe when you
24 were in the home?

25 A They were searching the home, mainly upstairs in the

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1 top rooms to the left and right of the stairway, right in
2 front of it.

3 Q So they were searching two rooms upstairs?

4 A Mainly those two, but they were kind of going up the
5 stairs, down the hallways of the steps. Right along the
6 steps, there's a little hallway that leads to all the
7 other rooms. They were in that hallway as well, but
8 mainly in those rooms.

9 Q Okay. Did you have occasion to observe what they were
10 doing in those rooms?

11 A Not at first, no, sir. But when I was going to leave,
12 I did.

13 Q Tell the Court about that.

14 A They were searching inside. I saw people looking
15 inside the closets, digging through the belongings that
16 were inside of that room, just digging through all the
17 items that was there, pretty much, whatever they could
18 find.

19 Q And when you say digging through the belongings, were
20 those belongings that were out on the floor, or were they
21 in a drawer or --

22 A Drawers, inside closets, shelves and closets. Yes,
23 sir.

24 Q So they were looking in drawers and things like that?

25 A Yes, sir.

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1 Q Were you there when the drug enforcement unit arrived?

2 A Yes, sir.

3 Q What happened when they arrived?

4 A They came in and searched the home.

5 Q And describe what you mean by that.

6 A They went upstairs and looked around in the same room
7 that the police and law enforcement looked into.

8 Q Do you know whether they were also opening drawers and
9 looking --

10 A Yes, sir. Doing the same thing, yes, sir.

11 Q -- would you describe it as looking through
12 everything?

13 A Yes, sir. They were searching through everything.

14 Q Were they doing that in any other room than the two
15 upstairs?

16 A They go up and down the stairway. They did look in
17 some of the other, like, living room, kitchen as I went to
18 go leave. But the majority at the beginning, they went up
19 to the top rooms.

20 Q And what were they doing when they were looking in the
21 kitchen and the living room?

22 A I'm not sure. I know they were searching through
23 cabinets, though. They were looking --

24 Q And they weren't just looking for things in plain
25 sight?

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1 A No, sir.

2 Q They were --

3 A They were going through things trying to find other
4 things, probably.

5 Q -- the things that wouldn't be obvious --

6 A Yes, sir.

7 Q -- if you were just standing there looking?

8 A Yes. They were digging through and moving things
9 around.

10 Q And would you say that once the drug enforcement unit
11 arrived, they immediately started searching?

12 A Yes, sir.

13 Q Did you ever hear law enforcement talk about waiting
14 for a search warrant?

15 A No, sir. Or at one point, I did, yes, sir. But they
16 said they was waiting on a search warrant, but they went
17 ahead and went in. They said -- because whenever I told
18 them that they needed a search warrant, they said that
19 they could wait on a search warrant. But then they went
20 and talked to Jimmy.

21 Q Okay. They said they could wait on the search warrant
22 but then they --

23 A But they still went in, yes, sir.

24 Q -- went ahead and --

25 A Yes, sir. At one point, they did say that. They

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1 still went in. Yes, sir.

2 Q Do you remember about how long it was in between when
3 the first two law enforcement officers arrived and when
4 the drug enforcement unit arrived?

5 A Probably about an hour or two.

6 Q Okay.

7 A Yes, sir.

8 Q About what time did you leave the property?

9 A It had to be nighttime. It was dark. Maybe after
10 9:30, 10:00, maybe a little bit later than that.

11 Q Was law enforcement still there when you left?

12 A Yes, sir.

13 Q At any point, did you observe any law enforcement
14 officers bring a search warrant?

15 A No, sir.

16 Q After -- after the -- well, with the drug enforcement
17 unit, do you -- do you recall who those officers were that
18 arrived?

19 A No, sir.

20 Q Do you see them in the court here anywhere?

21 A I see a couple that searched the room, yes, sir. And
22 I don't know which one was law enforcement and which one
23 was drug units. I just saw a bunch of them.

24 Q Could you point out for the Court which officers you
25 saw searching the rooms? Could you describe what they're

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1 wearing?

2 A One has a white shirt, and I believe I've seen the man
3 in the black shirt as well.

4 Q Is that it?

5 A Yes, sir, I think so.

6 MR. DERIEG: I beg the Court's indulgence for a
7 moment. That's all I have, Your Honor. Thank you.

8 THE COURT: Cross-examination?

9 CROSS-EXAMINATION

10 BY MS. ROBINSON:

11 Q Good morning, Kendal.

12 A Good morning.

13 Q All right. So you're still married to the defendant
14 in this case; is that right?

15 A Yes, ma'am.

16 Q And you have -- do you have a child with him?

17 A Yes, ma'am.

18 Q Okay. And when law enforcement was out there that
19 night, you did tell them that the defendant had been there
20 within the prior 24 hours; correct?

21 A Yes, ma'am, he did.

22 Q Okay. And you also told them that he would come and
23 stay for a few days, and then leave again, and things of
24 that nature?

25 A The last time he was there was about a two-or

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1 three-month span before that.

2 Q Okay. And he --

3 A But yes, ma'am. He kind of came and went, but he
4 would not be there for a long period of time.

5 Q -- okay. And you testified, you and him are
6 separated.

7 A Yes, ma'am.

8 Q When did you guys separate?

9 A It was December, probably December of 2021, I would
10 say.

11 Q Now, when you were at the house, you had four children
12 with you?

13 A Yes, ma'am.

14 Q And your youngest child was how old at that point?

15 A A couple of months old.

16 Q A couple of months old? And the defendant is not the
17 father of the child, is he?

18 A No, ma'am.

19 Q So in the time you had separated from the defendant,
20 you had had a relationship with this other individual,
21 Chris Hall, correct --

22 A Yes, ma'am.

23 Q -- and had a child --

24 A Yes, ma'am.

25 Q -- that was a couple of months old?

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1 A Yes, ma'am.

2 Q So you had been separated for over year by the time
3 that this incident occurred, most likely?

4 A We would talk about getting back together, but as far
5 as actually staying in the same home.

6 Q Right. So you hadn't been living together for over
7 year. So it would have been December, probably, of 2020;
8 is that correct?

9 A December of 2021, somewhere around in that area.

10 Q Okay. Well, if it was December of 2021, this search
11 is on [REDACTED] of 2022, so that would only be three
12 months later.

13 A Then it was -- my daughter was born in 2019.

14 Q Okay.

15 A We got married. And that it would have been maybe
16 2020.

17 Q Okay. So you had not lived with the defendant since
18 December of 2020?

19 A If you're doing your calculations right, then yes.

20 Q Okay. And that night, you did not stay there at the
21 cabin another night, did you?

22 A I stayed one night.

23 Q One night, the night before law enforcement came; is
24 that correct?

25 A Yes, ma'am.

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1 Q And then, when law enforcement came, they told you you
2 needed to stay somewhere else; is that correct?

3 A Yes, ma'am. They told me, me and my kids needed to
4 leave, that it was not safe for me and my kids to be in
5 that home.

6 Q Okay.

7 A Yes, ma'am.

8 Q And how did you get to the cabin the day before?

9 A I parked my car at Burgers & Barley, and Jacob picked
10 me up.

11 Q Okay. So Jacob picked you up and took you to the
12 cabin?

13 A To his mother's home, yes, ma'am.

14 Q Okay. And then, he stayed there for a little bit?

15 A For short time, yes, ma'am.

16 Q And at some point he leaves?

17 A He left to go to a friend's home.

18 Q And you told law enforcement that you had expected him
19 back, but he had been gone?

20 A I didn't know if he was coming back, but at one point,
21 I thought maybe he'd come back because it was his
22 birthday. Yes, ma'am.

23 Q And when you went to leave -- so you had to get a ride
24 from somebody else; correct?

25 A Yes, ma'am.

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1 Q And your kids' shoes were still in Jacob's car, in
2 that correct?

3 A I'm not sure exactly where they were at, but that
4 probably makes sense if they was in his car. Yes, ma'am.

5 Q And that's what you told law enforcement?

6 A Then that's where they would have been.

7 Q All right. Now, coming in -- about what time did you
8 leave that night?

9 A Probably about 9:30, 10:00. It could have been a
10 little bit later than that.

11 Q Okay. And --

12 A It was definitely dark.

13 Q -- so by the time you left, law enforcement had been
14 on scene for three or four hours?

15 A Probably a little bit longer than that. They came
16 probably around 2:30, somewhere around there, 2:00, 3:00,
17 somewhere around those times is when they came.

18 Q And then,, you testified that you never did see a
19 search warrant?

20 A I don't remember seeing a search warrant, no, ma'am.

21 Q Do you remember them reading the search warrant to
22 you?

23 A I remember them reading me my Miranda rights, yes,
24 ma'am.

25 Q Is it possible they read you the information on the

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1 search warrant at the same time?

2 A It is possible after they searched the home that they
3 read me a search warrant.

4 Q And then,, you signed an acknowledgment of rights
5 form?

6 A Yes, ma'am.

7 Q And when you described law enforcement searching that
8 home, that's during the course of those hours that they
9 were there; correct?

10 A From the time they got there and they walked in the
11 doors, they asked which rooms to search. Nobody was
12 giving them information. They went up the stairs because
13 Jimmy walked up the steps.

14 Q Okay. Did you stay in the room upstairs with them and
15 watch their --

16 A No, ma'am.

17 Q -- movements the whole time?

18 A No, ma'am.

19 MS. ROBINSON: I beg the Court's indulgence.

20 Your Honor, may we approach real quick?

21 THE COURT: Yes, you may.

22 (Bench conference off the
23 record.)

24 THE WITNESS: No, sir.

25 MS. ROBINSON: Your Honor, that's all of my

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1 questions for cross.

2 THE COURT: Any redirect?

3 MR. DERIEG: Yes, Your Honor, very brief.

4 REDIRECT EXAMINATION

5 BY MR. DERIEG:

6 Q On cross-examination, you said that you stayed one
7 night?

8 A Yes, sir.

9 Q Which room did you stay in?

10 A The top room to the left of the stairs.

11 Q Was that one of the rooms that got searched?

12 A Yes, sir.

13 Q Was that the room where they found drugs and guns?

14 A Yes, sir.

15 Q And you stayed in that room?

16 A Yes, sir.

17 Q Okay. On cross, the -- you were -- I believe you
18 stated that Jacob came and went from that house sometimes?

19 A Yes, sir.

20 Q Whose house was that?

21 A His mother's.

22 Q And you said that -- on cross, you said that you
23 thought he might be coming back that day because it was
24 his birthday?

25 A Yes, sir.

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1 Q He'd be coming to his mother's house?

2 A Yes, sir.

3 Q When Jacob came and went from that house sometimes, do
4 you know if he had a room there?

5 A No, sir, not at the time, he did not. He was not
6 living there.

7 Q Do you know if he ever stayed the night there?

8 A It had been a while.

9 Q And when he did stay the night there, do you know
10 which room he stayed in?

11 A It varied from room to room. It just depended,
12 because people came and go in that room and in the house
13 so he didn't have a designated room of his own.

14 Q And you said that multiple people came and went from
15 that specific room?

16 A Yes, sir.

17 Q And are you referring to the room that you stayed in
18 that night?

19 A Yes, sir.

20 Q And I believe you testified on cross-examination, that
21 you may have been read the search warrants after your
22 Miranda rights?

23 A It is possible, yes, sir.

24 Q And if you were read your -- read that search warrant,
25 would that have been before or after law enforcement

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1 searched the home?

2 A After.

3 MR. DERIEG: That's all I have, Your Honor.

4 Thank you.

5 THE COURT: The Court has a question for you,
6 Ms. Harris. Are you under the influence of any drugs
7 or alcohol this morning?

8 THE WITNESS: No, sir. I did get put on mental
9 health meds as of Thursday.

10 THE COURT: If we had ordered you to have a drug
11 test this morning, what would it show?

12 THE WITNESS: It would show flozintine [ph].
13 And I had smoked marijuana, but not today.

14 THE COURT: Would it show any methamphetamines?

15 THE WITNESS: No, sir.

16 THE COURT: All right. I think I do have the
17 authority (unintelligible) to the witness here that
18 was subpoenaed to be here in the courtroom. She's
19 testified she does forget. And by her own admission,
20 she's indicated that she's on some type of mental --

21 THE WITNESS: I can provide paperwork, if
22 needed. I can get it.

23 THE COURT: -- all right. Then, you may need to
24 do that.

25 THE WITNESS: Yes, sir.

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1 THE COURT: However, I have concerns about her
2 safety in driving here, and her safety in leaving
3 here in a vehicle. We've discussed that with her
4 attorney and the prosecutors here at the bench. I'm
5 going to ask that you be drug tested.

6 THE WITNESS: That's fine.

7 THE COURT: All right. If you'll just go with
8 this lady here.

9 THE WITNESS: Okay.

10 THE COURT: When you finish with the -- well,
11 let's don't go this way because --

12 MR. DERIEG: They'll just take you down the
13 hallway to another courtroom.

14 THE COURT: -- yeah, she just doesn't go this
15 way. Here's the thing.

16 THE BAILIFF: Take her to F? Yeah, I can do
17 that.

18 THE COURT: When -- when you are -- when she's
19 finished, if you just escort her back here into the
20 courtroom, and she can have a seat on the back row in
21 the courtroom. All right? But don't bring her in
22 either of these doors.

23 THE BAILIFF: Yes, sir.

24 THE COURT: All right. All right. Any other
25 witnesses, Mr. Derieg?

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1 MR. DERIEG: No, Your Honor.

2 THE COURT: All right. I'll be glad to hear
3 your motion.

4 MR. DERIEG: Your Honor, I would make a motion
5 to suppress the drug and gun evidence. You've heard
6 testimony that law enforcement used -- well, came
7 into the house under the pretext of searching for
8 Jacob on a bench warrant, yet the -- yet law
9 enforcement had actual knowledge prior to arriving on
10 the scene that Jacob had gone into North Carolina. I
11 believe Penland testified to that, that he had direct
12 knowledge from either Whiteside [sic] or someone else
13 on -- on staff during the -- during the shift change
14 that Whiteside [sic] had encountered Jacob, and had
15 essentially chased Jacob into North Carolina, not
16 long before law enforcement arrived.

17 You've heard testimony that when law enforcement
18 got there, they say one went to -- Penland went to the
19 back and Missildine went to the front. However, you
20 just heard testimony from Ms. Harris that she went
21 inside for a brief minute or two to check on her kids,
22 and came back outside, and was approached by two law
23 enforcement officers. You heard testimony that no one
24 gave consent for them to go into the house, they just
25 followed one of the occupants into the house. And

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1 you've heard testimony that once in the house, they
2 immediately started searching, and not just searching
3 for things in plain view, but going through drawers,
4 opening cabinets. I believe the only -- the only
5 person that actually checked the house for Jacob or
6 anyone else that might be, would have been Deputy
7 Hines. Everybody else seemed to go in and just start
8 searching. You've heard testimony that once the drug
9 enforcement unit arrived on scene, they came in and
10 immediately started searching, and it wasn't searching
11 for things in plain view. It was going through
12 drawers, opening cabinets, and whatnot.

13 This clearly wasn't just a plain-view search.
14 If you look at the time between when search warrants
15 were obtained, and when a return was -- a return was
16 made on the second search warrant, even though it
17 wasn't -- it wasn't put in front of a judge until May,
18 which is also curious because Investigator Hines
19 testified that as soon as he heard Jacob was coming
20 back from New York, he went -- he noticed his mistake
21 and took it to a judge. Well, Jacob came back from
22 New York in around April the 20th, and that he didn't
23 take it to a judge for at least two weeks, 'til May
24 the 12th.

25 But the time between getting the search warrant

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1 and the return was very short. They obviously had
2 found everything that -- everything that they intended
3 on seizing. It had been described -- that room had
4 been described as being hit by a tornado. And you've
5 heard that the search warrant -- well, Miranda rights
6 were read to Ms. Harris and the other people that were
7 at that house, and the search warrant may have been
8 read to them. But she was very clear that before a
9 search warrant was ever read to the occupants of the
10 house, that they had been searching for quite some
11 time. I don't know necessarily that it -- it matters
12 as far as the -- the search goes, but I think it is
13 significant that Ms. Harris testified that if Jacob
14 ever stayed at that house, it was whatever room --
15 whatever room was available, and that there were
16 multiple people going in and out of the room where the
17 drugs and the guns were found.

18 Your Honor, I believe under the -- the Fourth
19 Amendment of our U.S. Constitution and the State of
20 South Carolina that this would be -- this should be --
21 this would constitute an illegal search. It wouldn't
22 have taken much for the officers to just stop -- well,
23 to go through the house and make sure that Jacob
24 wasn't there, stop, secure the scene, wait on the
25 search warrant. That didn't happen. You heard when

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1 they -- when Missildine and Penland went through the
2 specific room in question where they found the drugs
3 and the guns, you heard testimony for -- from
4 Missildine, that Penland instructed for him to
5 continue to search.

6 Now, he said that he was told not to touch
7 anything, but he was told to continue to search. And
8 I would say, Your Honor, once they went in and
9 determined that Jacob Hall was not in that house and
10 they saw some marijuana paraphernalia, at that point,
11 it was their obligation to stop, secure the scene,
12 make -- have everybody sit outside -- they did call
13 the drug enforcement unit -- wait on drug enforcement
14 unit to get there, and then wait to search anything
15 else until they got the call that -- that the search
16 warrant was good. And that didn't come until shortly
17 after 8:00 at night, and these officers arrived on
18 scene between 5:00 and 6:00 that night. So there were
19 two hours where they were searching this house prior
20 to a search warrant ever being -- before the first
21 search warrant was done, let alone the second one at a
22 little after 9:00. I think it's very clear that this
23 house was unlawfully searched prior to getting a
24 search warrant.

25 Like I said, once anything was found in plain

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1 view, the protocol and the lawful activity would have
2 been to stop, make everyone leave the house, secure
3 the scene, call drug enforcement unit, drug
4 enforcement unit get there, wait for the call that the
5 search warrant was good, and then go in and search
6 wherever they wanted because they would have had the
7 lawful ability to do so. It wouldn't have taken much
8 for them to wait. Unfortunately, they decided not to
9 and, therefore, I believe this is a very clear
10 unlawful search and seizure under the 4th Amendment,
11 Your Honor.

12 THE COURT: All right. Thank you.

13 MR. DERIEG: Thank you.

14 THE COURT: Ms. Robinson?

15 MS. ROBINSON: Thank you, Your Honor. Your
16 Honor, the law enforcement, as you heard from the
17 testimony, responded out there for a well check. And
18 then, also before their arrival, they're aware of the
19 existence of bench warrants that list that address as
20 the defendant's address. Your Honor, there's case
21 law that says that the existence of the bench
22 warrants combined with reason to believe that the--
23 that the defendant may be at that location is grounds
24 to enter the house. And, Your Honor, this well check
25 specifically -- the 911 caller specifically

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1 referenced the defendant as one of his concerns about
2 Ms. Harris being at that location. And while they
3 want to make much of the officer seeing him earlier
4 in the day, the -- that information was conveyed to
5 the officers responding to say he had had been in the
6 area. There was never a statement that there was
7 100 percent that he had not returned. Law
8 enforcement cannot take that chance when they're
9 responding to this type of a well check and have
10 arrest warrants.

11 Your Honor, once they make entry to that
12 residence, they do go up to the room. Individuals on
13 scene indicated that that was the defendant's room.
14 And it's when they get in that room -- well, one,
15 there's an infant asleep on the bed that Deputy -- or
16 Sergeant Penland testified he had concerns was not
17 responsive initially. And then,, it's while he's in
18 that room with that infant that he immediately is
19 seeing the ammunitions, the marijuana paraphernalia.
20 And then,, while he's standing there talking to
21 Ms. Harris about the situation, he sees the guns in
22 the open safe in the closet. And so,, that's the
23 plain view that then allows them to say, well, we need
24 to secure the scene.

25 They do stay on scene. They stay in that room.

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1 Your Honor, the officers testified that they did not
2 manipulate and move objects, other than securing those
3 firearms they saw, until they had a search warrant.
4 And I submit that Ms. Harris's testimony to the
5 contrary was one, unclear and two, untrustworthy. Her
6 timeline is that law enforcement arrived there at 2:30
7 to 3:00 in the afternoon. Sergeant Penland responded
8 -- or testified that he responded 6:09 p.m., and that
9 is consistent with the other information in the case.

10 Then, Your Honor, as you heard the testimony,
11 they called for DEU to come out there. Given the
12 location, Deputy Hines testified that he arrived there
13 right around 7:00 p.m. That is not an unreasonable
14 amount of time, given that they have to drive up to
15 this location near the state line. Then they
16 communicate with Sergeant Ramsey, who secures that
17 search warrant by 8:09 p.m. He immediately notifies
18 them, those officers on scene, who then begin to
19 execute the search. Now, Sergeant Ramsey does realize
20 this, what I would call, a typographical error in the
21 search warrant that was signed it 8:09 p.m. It is
22 strictly with regard to whether Willow Pond is one
23 word or two, and whether it is road or drive.

24 There is case law that typographical errors do
25 not impact the validity of a search warrant. They

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1 did, out of an abundance of caution, go back to the
2 judge and have it issued with the correct street name
3 spacing, and the end of it being road instead of
4 drive. But, Your Honor, there has been no evidence --
5 or the evidence before you that they were searching
6 unlawfully before that time is unreliable, and all the
7 officers testified that they waited 'til they heard
8 that.

9 Your Honor, finally, in reference to the delayed
10 filing of the return, case law is clear that that is
11 like a -- that is a ministerial requirement. Deputy
12 Hines did admit candidly that he made that mistake.
13 He did testify that he was triggered to do that after
14 the arrest, but I believe his testimony included that
15 he realized it when he reviewed the file to send to
16 our office which typically happens sometime after the
17 arrest. And so, in May, he did realize that it was
18 not filed and he did take it to file. They have not
19 shown any prejudice for the lack of filing of the
20 return before that date.

21 And, Your Honor, another reason that there is
22 some concern regarding Ms. Harris' testimony -- and
23 one I would submit that she has bias, given that she's
24 still married and has a child with him -- she also
25 misidentified officers who were there on scene for the

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1 search. Although she did indicate Deputy Hines, she
2 also indicated the gentleman in the black, who was not
3 even on the scene, Your Honor.

4 THE COURT: All right. Thank you. Let me have
5 Ms. Harris. Ms. Harris, if you'll come back up. All
6 right. What did the -- what did the test show?

7 THE BAILIFF: Ms. Harris tested positive for
8 THC.

9 THE COURT: Marijuana. All right. Ms. Harris,
10 that's all right. You can step down. I'm not going
11 to take you into custody. Your lawyer is going to
12 talk to you a little bit before you leave.

13 MR. DERIEG: Your Honor, to be clear, I'm not --
14 I'm not her lawyer.

15 THE COURT: Well, I'm sorry. The lawyer who
16 asked you to be here, as a witness for his client, is
17 going to talk to you a little bit before you leave.
18 So if you'll just have a seat. We'll take a break in
19 just a minute, and you can talk to him. All right.

20 I'm going to deny the motion to suppress. I
21 find that, based on what's presented to the Court, I
22 mean, there are actually two issues. One, the
23 Defense, through their one witness, indicates that he
24 did not live in the house and had not lived in house.
25 And so,, there's the whole issue of what his

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1 expectation of privacy in the place that he claims he
2 didn't live in. He would have no expectation of
3 privacy. And I think our case law is clear that he's
4 got to assert his own 4th Amendment rights rather than
5 vicariously asserting the rights of others, and he has
6 to prove that he had an actual and reasonable
7 expectation of privacy in the place illegally
8 searched. So even by his own witness who testified
9 today, she testified that he did not live in the
10 house, had not lived in the house. And so,, that
11 would be one concern, would be one basis by which the
12 Court would deny the motion to suppress.

13 Secondly, even if he had some expectation of
14 privacy there, if that was found, the officers were
15 responding to a welfare check to check on minor
16 children and to determine whether the defendant, who
17 had pending warrants, active warrants, bench warrants
18 for failure to appear, was present there. I find that
19 -- judging the credibility of the witnesses before the
20 Court, I find that the officers did what they were
21 required to do, properly required to do under the law
22 and the procedure that they followed. I find that
23 they -- certainly, for a welfare check of children in
24 a home in which one of the responding officers had
25 been there on other occasions, gave the appearance to

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1 be a house where there's a -- drugs were being used.
2 In fact, one -- the witness for the Defense testified
3 she was standing out in the yard at a burn pile with
4 an individual -- she wasn't even sure what his name
5 was and wasn't sure whether he was alive or dead --
6 indicates that the officers, in doing a welfare check
7 for four children, had a duty to go through the whole
8 house to make sure those children were accounted for
9 and safe.

10 In fact, they later informed the mother of those
11 children that she -- that she did not need to stay in
12 the house with those children, it was unsafe. I find
13 that they -- the responding officers -- well, the
14 sergeant understood where the defendant had been or
15 room was claimed as his in the past, knew exactly
16 where that room was. They went straight to that room.
17 And when they went to that room, they found a child, a
18 2-month-old child, on a mattress and box springs on
19 the floor with drug paraphernalia and marijuana in the
20 presence of that child, a closet door open with a gun
21 safe door open with guns in plain view, along with the
22 paraphernalia and the drugs. And so, they had a
23 basis, one, to secure the area, to remain there to do
24 whatever is necessary to make sure that -- that, one,
25 that four children, minor children, are being safe and

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1 then for their own safety, which would have required
2 more than just a cursory glance around the -- the
3 premises. But they did what they were required to do
4 to carry out mandate.

5 I find that they also -- the officer testified
6 that they did not do an extensive search until the
7 sergeant called and informed them and that a search
8 warrant had been signed by the judge and that that
9 search warrant was on its way to a location. The
10 delay of the return -- and the law -- the solicitor is
11 correct, the law is clear. Unless there's prejudice
12 shown by the defendant in this delay of a return being
13 presented beyond the ten days required by law, then
14 that is not fatal to the -- to the State and their
15 bench warrant. I find that there was no prejudice
16 shown by the Defense that they were prejudiced in any
17 way in the delay of the return being presented.

18 So again, I find that the facts of this
19 particular case, the credibility of the witnesses that
20 testified here today, that I'm going to -- the motion
21 to suppress the drugs and gun evidence is denied.
22 Thank you.

23 MR. DERIEG: Thank you, Your Honor.

24 THE COURT: All right. Are we ready to start?

25 MS. ROBINSON: Yes, Your Honor.

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1 THE COURT: Are we ready to start trial? We've
2 got -- are you ready? Is the Defense ready? Because
3 we're going to take a ten-minute break.

4 MR. DERIEG: I'm sorry. Do you want me to talk
5 to Ms. Harris now?

6 THE COURT: Yes. I mean, whether she stays or
7 not, that's you all's business. She was a witness
8 for here, but somebody -- we'll, here's the thing.
9 I'll talk to her. Ms. Harris, we have some concerns
10 about you being here today under the influence of
11 some type of -- of medication or illegal drugs.
12 Thankfully, your drug test showed that you have THC
13 or marijuana in your system. That's bad enough. But
14 by your own admission, you've indicated that you took
15 medication this morning that has been prescribed to
16 you for mental health issues. You understand that
17 you -- you know, even if you're taking a legal
18 medication, you could still be found unfit to operate
19 a motor vehicle. Do you understand that?

20 THE WITNESS: Yes, sir.

21 THE COURT: All right. Then you're free to
22 leave. We're going to take a ten-minute break.

23 (Off the record.)

24 (Recess.)

25 (On the record.)

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1 THE COURT: Is everybody ready to proceed?

2 MR. EPTING: The State is ready, Your Honor.

3 THE COURT: Is the Defense ready?

4 MR. DERIEG: Judge, I think we've got an issue.

5 I was just talking with Mr. Epting about the -- we
6 might as well go ahead and take care of now. To tell
7 the story about why law enforcement was chasing
8 Jacob, obviously, the idea or the -- the fact that a
9 warrant was on him has to -- has to come out in some
10 way. I think Mr. Epting and I have -- have agreed on
11 couching it in terms of a warrant for missing a roll
12 call, which is exactly what it was. And I would ask
13 that that be -- when -- when talking about the
14 warrant, that they're -- they're going after him for.
15 It an FTA bench warrant, so I think --

16 THE COURT: Well, I -- Mr. Epting?

17 MR. EPTING: I'm fine with that, Your Honor. I
18 agree with counsel. But I believe the warrant -- the
19 underlying charge was a gun charge. I don't think
20 that's proper for the jury to hear, given that he's
21 charged with guns here as well. I'm fine phrasing it
22 as a warrant for missing court or something along
23 those lines.

24 THE COURT: I think it's proper to call it a
25 warrant for failure to appear, and the basis for the

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1 failure to appear was missing roll call.

2 MR. EPTING: Right.

3 MR. DERIEG: Yeah, I think that's as
4 nonprejudicial as -- as we can phrase it.

5 THE COURT: All right. The record needs to be
6 clear that there was a legal -- they're claiming a
7 legal basis that -- and the legal basis was a warrant
8 for failure to appear. But the reason for that
9 failure to appear was failure to appear to roll call.

10 MR. EPTING: Yes, Your Honor.

11 THE COURT: All right.

12 MR. DERIEG: Yes, sir.

13 THE COURT: All right.

14 MR. DERIEG: The Defense is ready.

15 THE COURT: Anything else?

16 MR. DERIEG: No, sir. We're ready.

17 THE COURT: Is everybody ready? All right.

18 Now, we can bring the jury in.

19 (The jury entered the courtroom.)

20 THE COURT: Thank you, ladies and gentlemen. I
21 appreciate your patience. We have been working since
22 9:00 in here. I don't want you to think we were home
23 drinking coffee and eating pancakes. We've been
24 working, taking up issues that needed to be addressed
25 outside of your presence. Once the trial starts,

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1 which is going to happen here in just a few minutes,
2 I do anticipate we'll be able to move at a little
3 more predictable rate. That doesn't mean we have --
4 we have starts and stops and have to deal with
5 issues, but I'll talk to you about that in just a
6 moment. Again, we appreciate your patience. At this
7 point, Madam Clerk will swear you in.

8 (The jury was sworn to try the
9 case.)

10 THE COURT: Thank you. You may be seated.
11 Ladies and gentlemen of the jury, the case we're
12 about to try is the case of the State versus Jacob
13 Dewayne Hall. I'm going to give you some general
14 instructions to sort of outline what your role is and
15 what my role is and what you can anticipate will take
16 place over the next few days. I have indicated to
17 you earlier, to the big panel, that what the
18 defendant in this case is charged with, he's charged
19 with trafficking in methamphetamine, possession of a
20 weapon during the commission of a violent crime, and
21 then another gun charge.

22 You're to be the fact finders in the case, and
23 I'm going to instruct you on the law and the elements
24 of each of those charges after all the evidence is in
25 in the case. In the meantime, just because he's been

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1 indicted and there are pieces of paper that bring
2 Mr. Hall here into Court, that is simply the charges
3 by which he's brought to Court, and he's pled not
4 guilty to each of those charges on the indictments.
5 Whenever that happens, the State, then, has the burden
6 of proving each of the elements of each of those
7 charges or each indictment beyond a reasonable doubt.
8 And it's going to be left up to you, ladies and
9 gentlemen, to determine whether the State has met that
10 burden of proving each element beyond a reasonable
11 doubt. Your purpose is to find and determine the
12 facts. You're the sole judges of the facts. If, at
13 any time, if I make a comment about the facts of the
14 case, you must disregard it.' You're to determine the
15 facts from the testimony that you hear and other
16 evidence that's you -- that's introduced here in
17 court. It's up to you to determine the inferences
18 which you may feel are properly drawn from the
19 evidence.

20 As I told you yesterday, you're -- we want you
21 to base your decision on what you see and hear from
22 the facts presented, the evidence here in the
23 courtroom, and nothing else. No -- when you go home
24 tonight, don't discuss the case with anybody. Even
25 among yourselves in the jury room, don't begin

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1 discussing until all of that has been done until the
2 end of the case. The same law that makes you the fact
3 finders of this case makes me the judge of the law.
4 You must accept and follow the law that I give to you.
5 You're not allowed to disagree with it. Your job is
6 to take the law that I instruct you and give you at
7 the end of the case and apply it to the facts as you
8 determine them or as you -- from the testimony of the
9 witnesses and any other evidence, you apply that law
10 to the facts as you determine them to be.

11 During the course of the trial, the lawyers may
12 have objections, and they may stand and state their
13 objection. There may be a way that I can deal with
14 those by bringing them up here and talking about it
15 outside of your presence. Or sometimes, based on
16 whatever the legal argument is, we may need to send
17 you out to the jury room and have a full hearing on
18 the objections outside of your presence. I ask that
19 you -- I instruct you not to hold that against the
20 lawyers when they're making objections; they're doing
21 their job. That's what they're required to do to
22 protect their client, to make objections or decide
23 when to make those objections. The Court is certainly
24 not offended by that. I hope you're not offended by
25 that as well because that is the nature of our system

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1 as we -- during a jury trial.

2 In just a moment, the solicitor is going to give
3 you an opening statement. They're going to explain
4 the issues in the case and what they think the issues
5 are. And the attorney for the Defense will then be
6 able to -- if they desire -- to make an opening
7 statement as well. The opening statements are not
8 evidence in the case. The opening statements are the
9 lawyers' contentions as to what the issues are.

10 In determining what are the true facts -- what
11 the true facts are in this case, you must decide
12 whether or not the testimony of the witnesses is
13 believable. And my responsibility is to rule as a
14 matter of law as to whether certain testimony is
15 admissible at all or not. But once the testimony is
16 admitted, whether or not you believe it is solely for
17 you determining -- to determine. In deciding whether
18 to believe a witness, you have a right to consider the
19 interest of any witness, the bias of any witness, the
20 prejudice of any witness, the opportunity for the
21 witness to have seen the matters and things about
22 which the witnesses may testify, and the way the
23 witness acts on the witness stand. You have a right
24 to consider anything that's in the record that will
25 help you evaluate the testimony of the witnesses. I

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1 ask that you pay close attention.

2 At some point this afternoon, I'm going to ask
3 that you will elect a foreperson from among
4 yourselves. The foreperson has no greater say in the
5 outcome or deliberations or what goes on in the jury
6 room any more than any other juror. A foreperson is
7 necessary for the Court to have someone to communicate
8 back and forth with the jury, if need be.

9 If at any time you have a question for the
10 Court, there's paper and pencil or pad and pen back in
11 your jury room. If you would simply write the
12 question on a piece of paper, hand that paper to the
13 bailiff, and they'll bring that to my attention and
14 I'll address any questions as I deem appropriate.

15 We will -- depending on the flow of witnesses, I
16 generally take a break sometime around 12:30, quarter
17 to 1:00, and we usually go 'til lunch about 2:00.
18 Then we'll try to be here around 5:00 or 5:30 this
19 evening, then start back again tomorrow morning at
20 9:30. If, at any time, you need to take a break
21 during the course of the trial, simply raise your hand
22 and we will excuse the jury while you take a -- take a
23 break. I'll generally go about an hour or hour and a
24 half between witnesses and take a break about every
25 hour or hour and a half.

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1 And with that, I think that concludes my
2 remarks. Anything further from the State as far as
3 any general remarks to the jury?

4 MR. EPTING: Nothing from the State, Your Honor.

5 THE COURT: From the Defense?

6 MR. DERIEG: No, Your Honor.

7 THE COURT: All right. Solicitor, call your
8 first witness.

9 MR. EPTING: Your Honor, opening statements.

10 THE COURT: I'm sorry. I'm -- I'm ready to...

11 MR. EPTING: The State is ready for that, Your
12 Honor.

13 THE COURT: All right. Thank you.

14 MR. EPTING: Thank you, Your Honor. May it
15 please the Court?

16 THE COURT: Mr. Epting is going to present an
17 opening statement on behalf of the State.

18 MR. EPTING: Thank you, Your Honor. May it
19 please the Court --

20 THE COURT: Yes.

21 MR. EPTING: -- and Defense counsel. Ladies and
22 gentlemen, we are here today for two main reasons:
23 drugs and guns, drugs and guns in the constructive
24 possession of Jacob Hall, the defendant sitting here
25 at Defense counsel table. The evidence that you will

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1 hear over the course of this trial -- we do believe
2 that it will be a short trial -- will be that
3 officers responded out to an address on Willow Pond,
4 Road, a house belonging to the defendant's mother, in
5 February of 2022. They were responding out initially
6 to a welfare check. And on their way, they realized
7 that Mr. Hall, the defendant, had a warrant for
8 failure to appear. So a deputy responded out. And
9 as they arrived, they see a white female in the yard.
10 She goes inside and she comes back out. They talked
11 to her a little bit. They go inside and proceed up
12 to a room that they know to be Jacob Hall's room.

13 Testimony will be that one of the officers, .
14 Deputy Penland, spoke to Jacob Hall on his own about
15 that, and that in that conversation, Mr. Hall told him
16 that he stated that that was his room. He claimed it.
17 He told him it was the room at the top of the stairs
18 to the left. They go to that room and they see all
19 kinds of things. They see the defendant's name
20 written all over the wall, they see the defendant's
21 nickname, Quik, written on the wall. But more
22 importantly, they see firearms in plain view, which
23 they then secure. They see ammo in plain view, which
24 they then secure.

25 Now, you may be asking yourself, why secure that

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1 immediately? They know Jacob Hall is prohibited by
2 law from having those items. Jacob Hall has been
3 convicted of a violent crime. He is not allowed, by
4 law, to have those items, so they seize those items.
5 They get on the phone to their supervisors and then
6 they arrange for a search warrant. Officers arrive,
7 they get the search warrant, they show up, they call
8 the drug enforcement unit since drugs had become a
9 concern.

10 And at that point, they realized that, in
11 addition to the open safe where they found some of the
12 rifles, there was a closed safe underneath the desk.
13 They get into that closed safe. And that closed safe
14 is one of the main reasons we're here today," because
15 inside that closed safe they found numerous items, one
16 of those items being Jacob Hall's security card --
17 social security card. Another of those items being
18 firearms, two automatic pistols in working order and
19 one revolver that is in a varied state of
20 deconstruction. And most important, a large quantity
21 of methamphetamine. They searched the room, they take
22 into evidence what they find. And then, they find out
23 as they're exiting that Jacob Hall is not present as
24 they're serving this warrant.

25 However, in the time prior to this search

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1 warrant being served and the officers arriving, one of
2 the other officers had seen Jacob Hall in the area.
3 Not just in the area, but Jacob Hall about to turn
4 into that Willow Pond Road address. This officer is
5 an unmarked car, but he did notice Jacob Hall. He
6 knows him by his nickname and his name. And he
7 said -- he will testify that him and Jacob crossed
8 past each other in a slow fashion, see each other, and
9 then instead of turning in, all of the sudden Jacob
10 Hall turns the other way. He goes straight down that
11 road instead of turning into Willow Pond and he picks
12 up speed before that officer can turn around and get
13 behind him. He goes into North Carolina.

14 So they were not able to arrest him that night
15 for the items they found the room that he had
16 constructive possession of. However, they were able
17 to, unbeknownst to Mr. Hall, get into his Facebook
18 account, and you'll hear the messages. You'll hear
19 what Mr. Hall's take was on the search. You'll hear
20 Mr. Hall's knowledge of the items inside that room.
21 You will see Mr. Hall introducing himself to people
22 that he sought to deal with on Facebook either by
23 picture or by direct name. You'll see him, at some
24 point, give an inventory of the items that were in
25 that locked safe that nobody in the house had a

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1 combination to, and he lists them out. And almost to
2 an item, it's every single item that they pulled and
3 took into evidence. You'll see all that in front of
4 you from this Facebook account.

5 You will be instructed on the law at the close
6 of this case in much more detail. However, briefly
7 before you are three charges. The first is the
8 firearms charge. A person who has been convicted of a
9 violent crime not lawfully able to be in possession of
10 a firearm. They can't -- they can't have them.

11 You'll hear he's been convicted of a violent crime.

12 You will hear that he is charged with trafficking in
13 this case, which is possession of a certain amount of
14 drugs over a certain weight. And I would submit to
15 you that the issue in this case is going to be that
16 possession. In South Carolina law, we have multiple
17 types of possession. We have actual possession. This
18 pen is in my actual possession. Why? Because I have
19 it in my hand. But that's not the end of it. That's
20 not the end of it, because we also have what is known
21 as constructive possession. Let's say, by exercise, I
22 put this pen in my car and then I lock my car. Who
23 has access to my pen at that point? Me. Why?

24 Because I have access to my car keys and I can lock my
25 car. And even though I may walk away from my car and

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1 walk into this building and be great distances away,
2 because I have access to my car, because I can exclude
3 other people because I can lock my doors and I have
4 the means to do that, I have constructive possession
5 over all the items in the car. The classic example we
6 always give as the State when the State was filing
7 this case, the person who knows how to get into the
8 safe, the person who knows what's inside the safe is
9 the person who has constructive possession of what's
10 in the safe.

11 Ladies and gentlemen, we anticipate this being a
12 short trial. That doesn't mean it's not an important
13 trial. It's important for the State, and it's
14 important Defense. But the evidence will show after
15 all the testimony is in, after all the physical
16 exhibits have been entered, that nothing happened in
17 that room at Jacob Hall's mother's house without Jacob
18 Hall's knowledge and consent. And at the conclusion
19 of this case, Leslie Robinson, the other prosecutor in
20 this case, will get up in closing and she will ask you
21 to find the only verdict that is substantiated by the
22 evidence that you will hear over the next several
23 days, and that is a verdict of guilty to all charges.
24 I look forward to presenting this case to you on
25 behalf of the 16th Circuit. Thank you.

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1 THE COURT: Thank you, Mr. Epting. Mr. Derieg?

2 MR. DERIEG: Thank you, Your Honor.

3 Ms. Robinson, Mr. Epting, ladies and gentlemen of the
4 jury. One of the first questions you're going to
5 have to answer in this case is: How long are you
6 allowed to refer to your mama's house as home, even
7 when you don't live there? And while I never plan to
8 stop calling my mama's house home, what if you have
9 to? And if you have to, who gets to tell you it's
10 time to stop calling your mama's house home? Your
11 spouse, your partner, significant other, your kids?
12 What if it's the government that decides you no
13 longer get to call your mama's house home? That's
14 one of the first things that you're going to have to
15 decide for yourself in this case.

16 Make no mistake, that's your decision this week
17 because Jacob, on a few cherry-picked occasions on
18 Facebook -- it's Facebook, mind you -- a few
19 cherry-picked conversations that he has on Facebook,
20 where he refers to his mama's house as home, is that
21 proof the Jacob Hall had constructive possession over
22 the drugs and guns that were found in his mother's
23 home? Because these agents of the government sitting
24 at the table over here can't connect Jacob to the
25 drugs and guns in any other way than these

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1 cherry-picked conversations from Facebook where he
2 refers to his mama's home as home. Somebody asked him
3 where he's at, he says -- he says home. And they ask
4 for clarification and he clarifies that this it's his
5 mama's house.

6 Because in Mr. Epting's -- in his example of
7 what constructive possession is where he takes his
8 keys and he puts it in his car and he locks his car
9 and then he comes back here and he's got constructive
10 possession of his keys even though they're not in the
11 courtroom, well, if law enforcement was to go down to
12 his car and fingerprint his car, fingerprint his keys
13 and test for DNA, you're going to find Mr. Epting's
14 fingerprints and DNA all over that car. In this case,
15 you've got none of that. In this case, this room that
16 was supposedly under the sole control of Jacob Hall
17 had absolutely zero DNA of his at all. In fact, you
18 won't hear anyone testify that there was any DNA of
19 Jacob Hall's found anywhere in his mother's house.
20 Ask yourself if that makes sense. Even better, they
21 fingerprint gun. At first, they don't find any prints
22 on the gun. Then they use a more -- a more advanced
23 technique to find the fingerprints. They find two
24 sets of fingerprints. They go get Jacob's
25 fingerprints from a ten-print finger card, you know,

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1 like you've seen done on TV a million times before
2 where they put -- dip your fingers in ink and roll it
3 on a card. And they compare them to those -- those
4 prints they found on the gun. Guess what? Not his
5 fingerprints.

6 So the person that they say has exclusive
7 control over this room, you find fingerprints from
8 other people and they never -- they never discover who
9 these other people are. Absolutely no DNA whatsoever.
10 On top of that, you're going to hear law enforcement
11 testify that this room was filthy, absolutely filthy.
12 No indication that anybody had been in there cleaning
13 up, none whatsoever. So that's your first and second
14 question: Who gets the -- how long do you get to call
15 your mama's house home, who gets to tell you that, and
16 then does the physical evidence show what the State
17 contends had actually happened and that Jacob had
18 exclusive control over a room in a home that's not
19 his?

20 And that's another large distinction between
21 this case and Mr. Epting's example to you about what
22 constructive possession is. Mr. Epting owns his car.
23 He's got exclusive control over his car. He's got the
24 ability to lock his car and keep everyone else out.
25 Jacob didn't have that. Jacob had been kicked out of

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1 that house months before, and you'll hear testimony to
2 that effect. Jacob did not live there. You'll hear
3 that he came to that house from time to time.
4 Actually, in some of these cherry-picked --
5 cherry-picked Facebook posts that the State is going
6 to provide to you, you're going to see his mother
7 asking him to come over to fix stuff. And on the day
8 in question when they raid this house, first of all,
9 the way that Mr. Epting told it to you made it sound
10 like they found Jacob in the area after all of this
11 had started, after law enforcement had gotten in the
12 house, after they had gone to the house searching for
13 Jacob. And he said that they were searching for Jacob
14 for a failure to appear, and that failure to appear
15 was for a roll call. He didn't show up on a date when
16 he was supposed to stand up and say, hey, I'm here and
17 then leave.

18 But they didn't find Jacob -- or Jacob wasn't in
19 the area after all this started. They found Jacob in
20 the area. And by the way, Jacob in the area -- and
21 you'll hear testimony -- shouldn't be a surprise. It
22 was his birthday. How many people go to their mama's
23 house on their -- on their birthday? They want to
24 infer some constructive possession criminal intent
25 exclusive control over this room in this house when

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1 he's in the area on his birthday. It makes sense to
2 me. But yet, Jacob did turn around and he left and he
3 went -- and he went to North Carolina, and law
4 enforcement knew that. This happened before any law
5 enforcement officer ever got to Jacob's mama's house.

6 In fact, you're going to hear at least one
7 officer testify that he had the knowledge that another
8 deputy had watched Jacob go into North Carolina prior
9 to him -- or as he's on his way to Jacob's mama's
10 house. So when the cops get there, they know Jacob is
11 not there. They make -- they make a short thing of
12 trying to pretend like they're finding Jacob. You'll
13 hear one officer state that he runs to the back of the
14 house to -- because a lot of times people went out the
15 back. Well, he doesn't stay very long because he
16 knows Jacob is not there because he's the one actually
17 that got the direct knowledge that Jacob was in North
18 Carolina. So that's going to be the third question
19 and the third thing that you guys are going to have to
20 decide is whether or what law enforcement did at
21 Jacob's mama's house was lawful, was right.

22 MR. EPTING: Objection, Your Honor. That's a
23 search issue that's already been ruled on.

24 THE COURT: Yeah. I sustain the objection.
25 Lawyers approach.

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1 (Bench conference off the
2 record.)

3 THE COURT: Thank you, Mr. Derieg. If you would
4 proceed.

5 MR. DERIEG: So the cops go to Jacob's mama's
6 house and pretend to search for Jacob, knowing Jacob
7 is in North Carolina. They go into Jacob's mama's
8 house, who is lying in her bed, dying. They proceed
9 to search the house. As you've heard, you're not
10 going to hear one piece of physical evidence --
11 excuse me -- you'll hear of two pieces of physical
12 evidence that Jacob has ever been there. His social
13 security card is found there. My mama has got a copy
14 of my social security card. And they find one
15 envelope there that was -- that had been addressed to
16 Jacob. That's -- that's their evidence that Jacob
17 was ever even in that house. But think about the
18 fact that there are zero fingerprints found of
19 Jacob's in that house, specifically in the room that
20 they searched. And think about the fact that there
21 is absolutely no DNA anywhere in that house of
22 Jacob's, particularly in the room that they find the
23 drugs and guns in that clearly has been cleaned in
24 quite some time. But they find fingerprints of other
25 people, not -- just not Jacob.

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1 Those are the questions you have to decide this
2 week: When are you going to stop calling your mama's
3 house home? Does it make sense that Jacob had
4 exclusive control of a room in a house that wasn't his
5 where his DNA or fingerprints aren't found, but where
6 other people's fingerprints are found? And you'll
7 hear testimony that there were people in and out of
8 that room all the time, all the time. You'll hear
9 testimony that Jacob didn't have a room in that house.
10 You'll hear testimony that he had been kicked out of
11 that house by his mom after an argument several months
12 beforehand. You'll hear testimony that on the
13 occasion that Jacob ever stayed at that house, he
14 slept in whatever room, in bed, or couch was available
15 because there were three other grown men living at
16 that house. There was his dying mother living at that
17 house. And three other grown men, his stepfather, his
18 brother, and a family friend have people over all the
19 time. And there were people in and out of the room
20 that got searched where they found drugs and guns all
21 the time.

22 It's your collective voice, the 12 of you all --
23 and my apologies to the alternates. And if you make
24 it on to the jury for some reason, you'll be a part of
25 this collective voice. But your collective voice, 12

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1 of you all, is the most powerful thing in the criminal
2 justice system. It cannot be questioned. It cannot
3 be questioned. Judge everything that the government
4 presents to you. Be skeptical of everything that they
5 say to you. Just take a look at that example that
6 Mr. Epting gave of what constructive possession is.
7 Don't be manipulated. Be skeptical. Use your common
8 sense. Use your intelligence. Don't let them trick
9 you. You have the power to say no, this is not right,
10 this is not what we do in America, no more. You have
11 the power in your collective voices to stop this, and
12 it cannot be questioned.

13 In a couple of days at the end of this trial,
14 I'm going to ask you to hold the government and law
15 enforcement accountable for what happened with this
16 investigation and who they charged. I told about all
17 the people living in that house. Plus, there was
18 another adult woman with four children found at that
19 house. Not a single one of them got charged with
20 constructive possession of anything. They were there
21 looking to find stuff to charge Jacob with. The
22 people that actually lived in that house and owned
23 that house -- and you'll hear that somebody slept in
24 that room the night before -- none of them got
25 charged. They all got read their Miranda rights. Not

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1 a one of them got charged. The only person that got
2 charged was the one that they knew was in North
3 Carolina. Does that sound right to you guys?

4 Be skeptical. Don't let them trick you. Do the
5 right thing. When you hear this evidence and when you
6 don't hear certain evidence, when you see the lack of
7 actual real evidence, I submit to you all that there
8 is no verdict -- no just verdict -- that can possibly
9 be reached other than Jacob Hall is not guilty. Thank
10 you.

11 THE COURT: Thank you. Solicitor, call your
12 first witness.

13 MR. EPTING: Thank you, Your Honor. The State
14 calls Sergeant Chris Penland to the stand. Sergeant,
15 if you would come forward and be sworn.

16 CHRISTOPHER PENLAND
17 was called as a witness, and having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MR. EPTING:

21 Q Good morning.

22 A Good morning.

23 Q Could you please state your full name for the record?

24 A Christopher Penland.

25 Q And how are you employed?

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1 A With the York County Sheriff's Office Enforcement
2 Division.

3 Q How long have you been with the sheriff's office?

4 A I was hired in September of 2012.

5 Q And what is your current rank?

6 A I'm a sergeant on uniform patrol.

7 Q And you may have already mentioned this, but what is
8 your duties right now as sergeant over patrol?

9 A So my district is District 2, which is the Clover-Lake
10 Wylie area of the county. I'm responsible for three of my
11 subordinates in their day-to-day actions while on shift
12 while responding to calls for service.

13 Q So as a sergeant, do you have supervisor authority?

14 A Yes, sir.

15 Q Bringing your attention, I went to ask you about an
16 incident that occurred on February 24th of last year at
17 Willow Pond Road. Do you remember that -- that day?

18 A Yes, sir.

19 Q Okay. Did you respond to a call relating to that
20 address?

21 A Yes, sir.

22 Q Can you tell the jury about that?

23 A It was a -- it was a call for service for a well-being
24 check at the Willow Pond Road address. The call for
25 service was to check on the well-being of a female and

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1 four children that were on scene. There was some safety
2 concerns. The complainant had called into dispatch to
3 report it, and he felt it a better and safer situation for
4 law enforcement to respond rather than himself due to some
5 feared hostility issues if he were to go. So while we
6 were en route for the well-being check and the safety of
7 the children that he expressed interest and concern for,
8 I, along with one of my subordinates, Deputy Missildine,
9 was advised by dispatch that the subject in this case that
10 the complainant had feared his children to be with had
11 active failure-to-appear bench warrants. Once on scene, I
12 also confirmed that it was active, in-hand bench warrants
13 with that address listed as the defendant's address.

14 Q And when you say on scene, are we talking about Willow
15 Pond Road?

16 A Yes, sir.

17 Q Is that in York County?

18 A It is.

19 Q And are you familiar with Willow Pond Road?

20 A Yes, sir.

21 Q Did you respond to an incident out there in December
22 of the year prior, 2021?

23 A Yes, I did.

24 Q And at that incident, did you speak with Jacob Hall?

25 A Yes, sir. I spoke with Jacob Hall personally on scene

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1 at that incident location.

2 Q Do you see Jacob Hall here in the courtroom today?

3 A I do, sir.

4 Q Can you point him out, please?

5 A He's right there at the Defense table.

6 MR. DERIEG: All right. Your Honor, may the
7 record reflect that the defendant -- that the
8 Sergeant Penland has pointed out Jacob Hall seated
9 there in a blue shirt at Defense counsel table.

10 THE COURT: Thank you.

11 BY MR. EPTING:

12 Q The rules don't allow us to say what people said, the
13 hearsay rules, but who was present when you were
14 responding to this December call?

15 A Jacob Hall and his mother.

16 Q Okay. And without saying what she said, did you speak
17 with his mother?

18 A I did.

19 Q And did you speak with Jacob as well?

20 A Yes, sir.

21 Q And at some point in time, did Jacob tell you which
22 room he stayed in at that Willow Pond Road address?

23 A Yes, sir. He described it intimately where the room
24 was located in the house.

25 Q Do you remember --

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1 A He made it very clear that it was his room.

2 Q -- do you remember what words he used?

3 A I apologize.

4 Q Do you remember exactly what words he used?

5 A He said it was my room, as in his, not mine.

6 Q And he intimately described where it was in the house?

7 A Yes, sir.

8 Q Going back to the February incident, tell -- you said
9 you arrived there with another officer; is that correct?

10 A Yes, sir. I arrived there with Deputy Missildine.

11 Q And tell the jury what you saw as you pulled up to the
12 house.

13 A As -- as we were pulling up to the scene, I had to
14 ensure that we both arrived on scene, just for officer
15 safety concerns, at the same time. As we're pulling up to
16 the driveway, I see a white female in the front yard see
17 the marked patrol units pulling in. We're in fully marked
18 patrol units pulling in the driveway. She immediately
19 dashes quickly inside the residence through the front
20 door. Given my experience in law enforcement -- I've been
21 doing it for several years -- it is a common tactic for
22 someone to go alert somebody for a few different reasons:
23 To -- for them to run, maybe barricade themselves or hide
24 in place, shelter in place, try to evade law enforcement
25 in some manner so that we do not find them. That is a

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1 common thing that I see in this profession. Due to that
2 concern of her darting in and alerting who we believed --
3 we believed Jacob Hall to be in that house because of
4 prior knowledge, I immediately go to the back door to
5 ensure that he has not taken out the back door while
6 Deputy Missildine goes to the front door to secure that
7 area as well.

8 Q Did anybody come out the back door?

9 A No, sir. I stood there for a few minutes. Nobody had
10 come out the back door.

11 Q And again, without repeating exactly what anybody said
12 to you, what were your next steps in your investigation?

13 A So, the next steps. The female that had went into the
14 house came out roughly a couple minutes later. I
15 questioned her as to why she went in the house, who was in
16 the house. Am I allowed to say specifically what I had
17 asked her?

18 Q Let me ask you this: Had you received information that
19 Jacob Hall had been in the area earlier?

20 A Absolutely. This all occurred right around shift
21 change. We were working night shift. We work 6:00 p.m.
22 to 6:00 a.m., or 6:00 a.m. to 6:00 p.m., rotating shifts.
23 It was our rotation to work night shift. Sometime around
24 the timeframe that the call for service coming out to --
25 to me and my deputies, we were advised that the special

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1 operations group that we have that are non-uniformed,
2 unmarked cars, civilian-style, that they had earlier in
3 the day seen Jacob Hall on Willow Pond Road. They
4 attempted to make contact, I believe. And in that course
5 of action, Jacob Hall took evasive maneuvers to avoid
6 contact with law enforcement.

7 Q And how close -- just so the jury is aware of the
8 location and what's around it -- how close is -- is --
9 is -- where that incident happened related to the Willow
10 Pond Road address you were at?

11 A It's safe to say that their backyard is essentially
12 North Carolina. So while the residence is in York County,
13 North Carolina is essentially an extension of their
14 backyard.

15 Q So as part of the welfare check and as far as -- as
16 far as the FTA warrant, what steps do you take as far as
17 going in the house?

18 A So due to there being an active warrant for Jacob Hall
19 at the address and the need for a well-being check, we --
20 we go into the house. Do you want me to describe upon
21 making entry into the house?

22 Q Yes.

23 A Okay. So I make entry to the house. I make contact
24 with a younger juvenile, maybe 7 or 8 years old. I
25 inquire about Jacob Hall's whereabouts. He said he's not

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1 here right now. I was informed that he was --

2 Q Without -- without saying what anybody said, did you
3 ask where Jacob Hall's room was?

4 A I did. I inquired, and there were multiple people in
5 a house that had directed me to the same location that
6 Jacob Hall had told me in December where the room was.

7 Q And is that where you and your partner went?

8 A Yes, sir.

9 Q Tell the jury what the state of the room was as you
10 entered.

11 A So I would say we -- we did make an immediate route to
12 there just for officer safety concerns and prior
13 knowledge. As soon as we entered the room, which is at
14 the top of the staircase. If you're at the top of the
15 stairs, it's about you 11:00, right, to the left of the
16 stairs. We walk in. In extreme disarray. It wouldn't be
17 normal living conditions for -- that anybody would
18 consider normal. There was subflooring, no flooring in
19 it, a box spring and mattress on the floor, no sheets. Am
20 I allowed to discuss what my findings were in the room as
21 I entered?

22 Q We'll get to that just a minute. Did you see writing
23 on the wall indicating that this may have some connection
24 with Jacob Hall?

25 A Absolutely. I saw several references to Jacob Hall's

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1 name specifically and his nickname, which I know is Quik.
2 Multiple references. There was -- do you want me to give
3 specific details as to currently?

4 Q Yes, please.

5 A So there were several rounds of ammunition found,
6 firearms in plain sight. There was a to-do list, almost
7 like if you were to put one on a board, as a checklist of
8 this is what I need to do. Almost as if you have kids
9 with chores, this is your to-do list. And it was a to-do
10 list specifically Jacob Hall's to-do list of guns that he
11 was either fixing or making, and it was a to-do list. He
12 needed to do this gun, this gun, this gun. Several
13 references to his nickname, Quik, as well as several
14 rounds of ammunition throughout the entire room and
15 firearms, and that were seen in plain view.

16 Q Did you see anything in the room that concerned you as
17 far as the well check?

18 A Absolutely. There was roughly a 4-month-old child on
19 the box spring and mattress that I described. No sheets,
20 no covers, anything like that. The child was alone in the
21 room, 4-months old. Initially, the child appeared
22 unresponsive, which absolutely startled me. Anybody that
23 has a child can understand that concern. After visually
24 checking on the child to make sure that he was alive and
25 well, I questioned the white female that had come in as to

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1 the -- inquiring why the child was alone in the room and
2 in a room as such as I've described.

3 Q Going back to the ammo, did you have personal
4 knowledge that Jacob Hall was prohibited from owning ammo
5 or firearms?

6 A Yes, sir, absolutely.

7 Q And you said you secured the firearms; is that
8 correct?

9 A Yes, sir, absolutely. We had -- there was several
10 people in the house, including the four children and the
11 woman that we were called to conduct a well-being check
12 on, as well as a couple of other adults, as you've heard,
13 his mother, his stepfather. We were in there. And due to
14 -- there was only two officers, right, so officer safety
15 is paramount for us. We have to ensure that we go home at
16 night as well. We secure the firearms that were in plain
17 sight. To control it, we place them -- the child had
18 already been removed by the female, it was her child -- we
19 placed the firearms -- we seized the firearms that were in
20 plain view. We seized them in one location so that we
21 could secure the area as best we could, obviously, due to
22 officer safety concerns in the environment that we were
23 in.

24 Q Were you able to ascertain anything about the firearms
25 that you seized and secured?

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1 A As far as?

2 Q Were they all -- were they loaded, were they real?

3 A So there was real firearms. There was one that
4 actually 'looked like a belt-fed machine gun. It turned
5 out to be an Air Soft at a quick glance. And I made
6 numerous phone calls while on scene to people with
7 intimate knowledge of several firearms. And it even
8 stumped me. A reasonable person wouldn't leave one of the
9 items, one of the -- I guess my definition was not a
10 firearm. It would have -- anybody would see it and assume
11 instantly that that was a true firearm. But there was two
12 other firearms as well that were in plain view that were
13 verified as firearms.

14 Q And ammo as well?

15 A Yes, sir, ammo throughout the entire room.

16 Q As a result of your -- of your knowledge of both the
17 unlawful possession as relates to Mr. Hall what, if any,
18 steps did you take to gain a search warrant to more
19 further look into that room?

20 A So with the knowledge that it was Jacob Hall's room,
21 we have to seize what we had in plain sight seized it. At
22 that point, we stopped what we were doing, secured the
23 scene. I notified -- at the time, he was Sergeant Ramsey
24 of the drug unit and CID of our findings.

25 Q All right. So you could do -- who is CID?

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1 A The detective division. I'm sorry. It's slang. Just
2 working knowledge. That is our detective division, people
3 more important than me on patrol.

4 Q Is that normal protocol when it's time to get a search
5 warrant?

6 A Absolutely. That wouldn't be -- because I believe
7 that evening it was just me, Deputy Missildine, and then
8 another deputy working the entire Clover-Lake Wylie area.
9 So they're our support services division detectives. And
10 we secured the scene until they arrived on scene. And
11 they would procure a search warrant or anything that they
12 may need to further that investigation. And our job while
13 on scene while they're there is simply uniformed presence
14 for scene security.

15 Q Do you participate in the search once the search
16 warrant is in hand?

17 A No, sir.

18 Q Okay. Again, what is your role there as far as the
19 search?

20 A We were just uniformed patrol presence for security.
21 As they are doing their job of the more intricate details
22 of the search and the search warrant, we are there just to
23 ensure that they stay safe and everybody else in the
24 residence stays safe during that time.

25 Q And at some point as this is going on, is the house

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1 cleared and Jacob Hall found not to be there?

2 A Yes, sir.

3 Q And do you see Jacob Hall there that night at all?

4 A I did not.'

5 Q That's all the questions I have for you at this time.

6 Please answer any questions Defense counsel may have.

7 A Yes, sir.

8 THE COURT: Mr. Derieg?

9 MR. DERIEG: Yes, Your Honor. Just a second.

10 CROSS-EXAMINATION

11 BY MR. DERIEG:

12 Q I'm sorry. I missed what your title is now. Is it
13 sergeant?

14 A Yes, sir, it is.

15 Q Good morning, Sergeant.

16 A Good morning.

17 Q It's good to see you again. I want to start with that
18 December contact that you -- that you had with Jacob.

19 A Yes, sir.

20 Q You said he described which room it was that was his?

21 A Absolutely.

22 Q And how did he describe that?

23 A Essentially, through words. He described that if you
24 go to the stop of the stairs and you're at the top of the
25 stairs, my room is to the left. If you were to look at

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1 the hands of a clock, if you were to stand at the last
2 step of the stairs, if you were to look at the hands of a
3 clock, it's 11:00. It's the first room to your left when
4 you look at that way.

5 Q And you're sure that room with that description is the
6 one that you guys on -- in February believed to be his,
7 fits that description?

8 A Absolutely.

9 Q You don't go up the stairs, turn left, and then that
10 room that you guys were in is actually on the right?

11 A If you're going to be specific about it while standing
12 on the top step the room is --

13 Q Yes, sir.

14 A -- the -- it's at 11:00. If you were to walk in a
15 straight line rather than just a casual gaze -- or gait,
16 you would immediately take a left and it's immediately on
17 your right. So if you're going to take that path, yes,
18 it's actually your 11:00 at the top step. You're going to
19 take a left and it's on your right. It's at 11:00 at the
20 top step.

21 Q And in December, Jacob told you that his room was up
22 and to the left; right?

23 A He described it as the same location that we had went
24 to.

25 Q Did he use the words that you just described

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1 specifically where the room was? Like, did he ever say
2 anything about going to the right, or did he just tell you
3 his room was on the left?

4 A He inferred that his room is at the top of the stairs,
5 if you look to the left, it's that first one. He did not
6 specifically say at 11:00 while looking at the hands of
7 the clock that -- it was -- it was inferred in great
8 detail.

9 Q But no mention of going to the right, only left;
10 correct?

11 A I don't recall specifics as far as left or right.
12 It's the first room on the right if you take a left, yes.
13 While also that is the same description as it being at
14 11:00 at the top of the stairs.

15 Q So a the description of to the left and a room where
16 you actually have to take a right, those are the same
17 thing?

18 A Oh, I'm just going to continue to say the way it was
19 described to me as there was no need to take a left and
20 continue walking, if that's what you're inferring. It's
21 when you get to the top of the stairs, that's my room
22 right there on the left, if that --

23 Q Fair enough.

24 A -- if that clarifies.

25 Q Fair enough. Who did you receive the info from that

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1 Jacob had been in the area?

2 A I don't remember specifically. It's -- I received it
3 through our -- it was, at the time, the special operations
4 group. SOG is the acronym that they used for it.
5 Somebody had advised me of his whereabouts in that
6 location when I took the call for service, that they had
7 seen him in the area prior to me receiving that call for
8 service.

9 Q So you had gotten information that Jacob was in North
10 Carolina prior to arriving?

11 A Well, there's -- there's no way that I could know his
12 whereabouts without physically checking due to active
13 warrants at the arrest -- or active arrest warrants at
14 that location and officer safety concerns. We just can't
15 take word of mouth for -- for granted. We have to -- we
16 have to see to verify.

17 Q That's not what I asked.

18 A Just saying simply somebody is not there. What's your
19 question? I'm sorry.

20 Q Did -- did you receive information that Jacob was in
21 North Carolina prior to your arrival?

22 A That they had seen him. I had received information
23 that they had fled into North Carolina prior to my
24 arrival, but not moments before my arrival.

25 Q How long?

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1 A Unknown. As I said, we worked from 6:00 a.m. to 6:00
2 p.m., and 6:00 p.m. to 6:00 a.m. This call came out
3 shortly as I arrived -- after I arrived on shift. So I
4 don't have specific timeframes, but with the proximity of
5 that house to North Carolina, it wouldn't be unreasonable
6 to assume that he could have come back to that house
7 dozens of times by the time that myself and other
8 uniformed patrol officers arrived on scene.

9 Q Depending on how close -- closely in time he was seen
10 by that house. And you're saying you didn't know how long
11 this sighting of him going into North Carolina was before
12 you got there?

13 A Right. Even if it had been five minutes, he could
14 have, in theory, come to the house a couple of times with
15 how close it is to North Carolina.

16 Q Who was the -- who was the deputy that actually saw
17 him go into North Carolina?

18 A I was told it was Deputy Whitesides with the York
19 County Sheriff's Office.

20 Q Okay. And you said that he was actually on Willow
21 Pond Road?

22 A That was the information I had received, is Jacob Hall
23 was seen on Willow Pond.

24 Q And did you receive information that Whitesides was
25 actually chasing Jacob?

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1 A I don't know of any active pursuit, as in a
2 failure-to-stop-for-blue-lights type of situation. It was
3 an instance where Jacob Hall had seen the police and what
4 he had recognized to be the police, regardless of it not
5 being uniformed patrol. It was an undercover matter. He
6 had made evasive maneuvers, I guess, is how it was
7 described. I wouldn't call it as an active fleeing from a
8 -- like what you guys would see on TV like -- or on
9 YouTube like a police pursuit. No, it was not that at
10 all.

11 Q Didn't Whitesides follow him?

12 A I can't speak to his actions. I'm not sure. I wasn't
13 there.

14 Q You're aware of how Willow Pond Road runs; correct?

15 A Yes, sir, I am.

16 Q Only one way in, one way out?

17 A Yes, sir.

18 Q And he was able to take evasive maneuvers on a sort of
19 one way in, one way out road?

20 A I understand that --

21 MR. EPTING: Your Honor, I have to object. He's
22 asking about the testimony of another witness.

23 THE WITNESS: -- I can't, yeah.

24 THE COURT: Yeah, I sustain the objection.

25 MR. DERIEG: Your Honor, he just testified that

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1 Jacob made evasive maneuvers. I was just asking him
2 how it was possible for him to have made those
3 evasive maneuvers.

4 THE COURT: He testified that he was informed
5 that he had done that, and he just testified he
6 wasn't there.

7 MR. DERIEG: Okay.

8 THE COURT: He's answered the question. Move
9 on.

10 BY MR. DERIEG:

11 Q You said you saw Jacob's name written on the wall in
12 that -- in that house; right?

13 A Yes, I did, numerous locations.

14 Q What was the middle name of the Jacob Hall that was
15 written on the wall in that house?

16 A I don't recall.

17 Q You don't recall whether it was Dewayne?

18 A I don't recall.

19 Q Possibly Lee?

20 A Again, I don't recall.

21 Q Are you aware that Jacob Hall's son's name is Jacob
22 Lee Hall?

23 A I'm not aware.

24 Q You talked about finding I think what you described as
25 Jacob's to-do list?

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1 A Yes, sir.

2 Q Do you ever make to-do lists for yourself?

3 A My wife is a big fan of them. She's our schedule
4 keeper in the house.

5 Q Okay. Well, when she makes them, how would she title
6 them, like, your to-do list? Would she write your name
7 and then the stuff that you have to do?

8 A I guess this is a theoretical question because we
9 don't -- we don't title to-do lists. We don't have any --
10 I can't -- I have no way of knowing how she would go about
11 titling it. I just know that a reasonable person with a
12 to-do list that would say Jacob Hall's to-do list would --
13 a reasonable person would believe that that is Jacob
14 Hall's list.

15 Q So you believe a reasonable person would write in the
16 third person rather than my to-do list?

17 A I can't inquire about how other people's thought
18 processes works.

19 Q Okay.

20 A I can't make any determinations on how their thought
21 processes works.

22 Q Okay. You described -- you described that room as
23 dirty, filthy, uninhabitable, essentially?

24 A Unfit for -- especially a 4-month-old to be in there
25 alone. Extremely unfit.

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1 Q Was there any smell of chlorine or any other cleaning
2 chemicals?

3 A I don't recall any of that, no, sir.

4 Q Is that no, or you don't remember?

5 A No. I don't recall smelling anything like that, no.

6 Q Okay. Was there any evidence that that room had been
7 cleaned any time recently?

8 A Not from my -- not that I can recall.

9 Q The woman that you saw at the front, ultimately you
10 found -- found out her name to be Kendal Harris; right?

11 A I believe that's correct. Kendal, I believe, is her
12 first name.

13 Q Yeah, Kendal.

14 A Yes, sir.

15 Q As a course of your initial investigation or even
16 subsequent investigation, did -- did you come to learn
17 that Kendal slept in that room?

18 MR. EPTING: Objection to hearsay, Your Honor.

19 THE COURT: I'll overrule the objection.

20 THE WITNESS: I didn't copy.

21 BY MR. DERIEG:

22 Q As a course of your investigation, did you ever come
23 to learn that Kendal slept in that room?

24 A I don't recall ever knowing that she slept in that
25 room.

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1 Q And are you aware whether or not Kendal has the right
2 to possess a firearm?

3 A I am unaware if she has that right or not. .

4 Q How long did your wellness check last?

5 A How long did it last?

6 Q Yes.

7 A I believe I was there for a couple of hours.

8 Q Were you doing a wellness check the whole time?

9 A No. As described earlier, when I made entry into the
10 room, I seen an open safe and firearms in plain view. We
11 had to secure that scene just for officer safety concerns
12 and several small children running around. After making
13 entry into the house, from the approximate age of an
14 8-year-old that I saw, there was no immediate needs for
15 any kind of intervention as far as medical or anything
16 like that. We could see that so far so good, but we have
17 to secure that scene. However, all facets of the call for
18 service were conducted. Prior to me leaving the call for
19 service after detectives and the drug unit arrived on
20 scene, took control of the room and began their search
21 after they obtained a search warrant, I did question
22 Kendal as about -- as to the living conditions of the
23 residence, whether or not there was adequate needs for the
24 children to be met at that residence. So every facet of
25 that call, whether it being the well-being check, the

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1 attempt to locate Jacob Hall for the active arrest warrant
2 that he had with that address listed, every facet of that
3 call was handled and handled thoroughly.

4 Q I was just curious. Out of the hours that you were
5 there, approximately how much time do you estimate that
6 you had spent on the wellness check versus --

7 A I don't recall approximately how much time. It does
8 take a significant amount of time when someone is
9 procuring a search warrant for the scene. We have to
10 ensure that everybody in that house, law enforcement and
11 civilians included, are safe. And it does take -- it does
12 take time. There's logistical issues as far as geographic
13 distance from where the search warrant was obtained for
14 the -- and as according to the -- in relation to the
15 residence. It's a time-consuming thing. But it was done
16 in as much of a timely fashion as we could do, and all
17 facets of it were covered, including the well-being check.

18 Q Okay. What was it that was found that caused --
19 first, was it you that called the drug enforcement unit to
20 come out?

21 A Yes. I had notified our detective division, what I
22 referred to as CID, through a channel of phone calls. The
23 drug unit -- I don't -- I don't know if it was me
24 specifically or the detective that had reached out to
25 them, but they were notified, as proper protocol with the

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1 sheriff's office.

2 Q Of course. Of course. What was found in plain sight
3 that alerted you to contact CID about having the drug,
4 enforcement unit come out?

5 MR. EPTING: Your Honor, may we approach?

6 THE COURT: Yes, you may.

7 (Bench conference off the
8 record.)

9 BY MR. DERIEG:

10 Q Again, Sergeant, what was it that you found in plain
11 sight that triggered you to call CID and whatever process
12 to get the drug enforcement unit involved?

13 A Marijuana usage was -- was obvious in the room. There
14 was clear presence of marijuana and marijuana
15 paraphernalia in the room that the child was in.

16 Q How much marijuana are we talking about?

17 A I don't recall.

18 Q A little bit, a lot?

19 A Again, I can't put a quantitative measure on it.

20 Q What was the -- what was the paraphernalia?

21 A I don't recall. Things that a reasonable person would
22 know that to use marijuana would be the -- I guess the --

23 Q So it was marijuana and marijuana paraphernalia that
24 caused you to get DEU out there, but you don't remember
25 how much or what the paraphernalia was?

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1 A I don't recall specifics as to what the paraphernalia
2 is. There's -- not a state-level charge that we ever
3 charge with paraphernalia, so.

4 Q I guess that's my next question is, when you find
5 paraphernalia, is that -- is that typical to call out DEU?

6 A It is if there's any kind of drug concerns that we
7 have questions about. It's not abnormal by any means to
8 contact our drug enforcement unit because we have
9 protocols in place. We notify them.

10 Q To your knowledge, was anybody ever charged with that
11 marijuana or that paraphernalia?

12 A I didn't make any charging documents in this case, so
13 I'm not sure. It was handed to --

14 Q Are you aware of the charges that were made in this
15 case?

16 A Yes, I am.

17 Q To your knowledge, was a marijuana charge ever made in
18 this case?

19 A I don't believe so, but that would have been a
20 magistrate-level offense. I don't believe
21 (unintelligible) if it was.

22 Q And to your knowledge, was anyone other than Jacob
23 charged in this case?

24 A I don't believe anybody else other than Jacob was
25 charged.

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1 Q And to your knowledge, how many people were living in
2 that house at the time that you went there for the
3 wellness check?

4 A How many people were living in it?

5 Q Yes.

6 A I think it's safe to say his mother and stepfather and
7 him, Mr. Jacob Hall.

8 Q What about -- what about the other people that were
9 there?

10 A Earlier, we -- Mr. Epting, we had said earlier, my
11 conversation with Kendal, can that be discussed?

12 THE COURT: You need to answer his questions.

13 THE WITNESS: Yes, sir.

14 THE COURT: Answer the lawyer's questions.

15 BY MR. DERIEG:

16 Q Other than -- other than Jacob's mother and his
17 stepfather, did you see another adult male there at the --
18 at the scene?

19 A At the premises? Yes, sir.

20 Q Do you know whether or not he lived there?

21 A I do not know.

22 Q And are you aware of whether or not Jacob's brother
23 lived there?

24 A I do not know.

25 Q Are you aware of the things that were found during the

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1 search of the house?

2 A I am not. Again, I'm a uniformed presence for scene
3 security. Once -- once our detective division or the drag
4 unit comes out, it essentially becomes their scene.' And
5 as to their findings, you would have to inquire with them
6 as to what their findings were in the more intricate
7 search after the search warrant.

8 Q So you don't -- so you don't read about any of that
9 stuff?

10 A Again, on that specific night, we were being bombarded
11 with calls. I have other responsibilities as well. I
12 have to monitor calls for service calls, and we have a
13 duty to the civilians in society to still answer our
14 calls. So when it's not on my plate, we have protocols to
15 put it on the plate of whether that be detectives or other
16 support services, like the drug enforcement unit.

17 Q Did you leave on other service calls while DEU was
18 searching?

19 A When I left, DEU was still present, if that's what
20 you're asking.

21 Q Were they done searching?

22 A I can't speak for that. I don't know when their
23 search ended. There were still several members of the DEU
24 there when I left. So I don't like to assume anything, but
25 there were still several of them there when I left.

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1 Q All right.

2 MR. DERIEG: I beg the Court's indulgence.

3 That's all I have at this time, Your Honor.

4 THE COURT: Redirect?

5 MR. EPTING: Very briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. EPTING:

8 Q Could you tell the jury approximately what time you
9 arrived on scene at the Willow Pond Drive [sic]?

10 A It was around -- it was shortly after 6:00 p.m.

11 Q Shortly after 6:00 p.m.?

12 A Yes, sir.

13 Q And going back into the house, there were some
14 questions about a room that was at 11:00 and then a room
15 that was to the left after you turn into the hallway. Did
16 you see the room that was on the left in the hallway?

17 A Yeah, I did, sir. And that room appeared to be almost
18 barricaded and full of things blocking the doorway. It's
19 not an inhabitable room or one that you could even make
20 entry into across from that bedroom.

21 Q So let me ask you this. You were asked about contact
22 with DEU. Is it unusual for them to be contacted for a
23 search warrant?

24 A No, not at all. That is their -- their area of
25 expertise, much more so than uniformed patrol.

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1 Q And what was your understanding about the incident
2 involving Jacob and Whitesides, time-wise, as far as when
3 you arrived at the house?

4 A My understanding is it was, obviously, prior to our
5 call for service, whether that be a couple of hours. I'm
6 not sure of the specific timeframe, but it was absolutely
7 prior to uniformed patrol's response out there for the
8 call for service. So some time had obviously passed. It
9 was --

10 Q And you were asked some questions about the welfare
11 check being one of the reasons you were originally sent
12 there. What, if anything, did he tell Kendal about her
13 ability to stay at that house in that condition?

14 A That house -- I had an intimate discussion with her as
15 far as specific details with her and the children on
16 scene. There were some obvious concerns that if -- if
17 she's there with those kids, that house was not suitable
18 for any child to be staying at, much less sleeping at and
19 staying for any kind of extended period of time. There
20 would have been some intervention necessary if that was
21 her plans, and there would have had to have been other
22 intervention necessary on law enforcement's behalf to
23 ensure that those kids got the proper care that they
24 needed.

25 Q And to your knowledge, did she stay there that night?

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1 A She did not. She had stated she was going to leave,
2 but I -- and take the kids elsewhere due to -- after our
3 discussion -- after my discussion that I had with her.

4 MR. EPTING: I beg the Court's indulgence.
5 That's all the questions I have for you.

6 THE COURT: Recross?

7 MR. DERIEG: No, Your Honor. Thank you.

8 THE COURT: All right. Thank you. Sergeant,
9 you can step down. All right. Ladies and gentlemen,
10 we're going to take a ten-minute break, a ten-minute
11 break. Go back to the jury room. Do not discuss the
12 case among yourselves at all. You all enjoy the
13 ten-minute break. We'll have you back out here
14 again. Everyone remain seated while the panel is
15 excused.

16 (The jury exited the courtroom.)

17 THE COURT: Mr. Epting, who is your next
18 witness?

19 MR. EPTING: Your Honor, we have Lynn Strait,
20 and I think Deputy Whitesides after that. We believe
21 those both to be relatively short witnesses.

22 THE COURT: All right. We'll take a ten-minute
23 break.

24 (Off the record.)

25 (Recess.)

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1 (On the record.)

2 MR. EPTING: Your Honor, could we double-check
3 and see if Lynn Strait is on the witness list?

4 THE COURT: Lynn Strait is not on the witness
5 list.

6 MR. EPTING: Could we ask the jury if they --
7 that was an oversight on my part, Your Honor, and I
8 apologize.

9 THE COURT: I'm sorry?

10 MR. EPTING: Could we ask the jury if they know
11 her or have a close personal connection to her?

12 THE COURT: Mr. Derieg, do you have a position
13 on that?

14 MR. DERIEG: That's what Mr. Epting just
15 proposed we do is what I propose to have that we do.
16 So I think it would be proper to ask if they have any
17 close personal connections or if the fact that she's
18 testifying would bias them in any way. If so, we've
19 got alternates.

20 THE COURT: All right. And what I'll do is if
21 there -- if there's any responses to that, I'm going
22 to ask them to stand or raise their hand and we'll
23 bring them up and talk to them privately with the
24 Court. All right?

25 MR. EPTING: Yes, Your Honor. Thank you.

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1 THE COURT: Anything else?

2 MR. DERIEG: Yes, Your Honor. During my
3 opening, we had a -- had a sidebar and talked -- and
4 talked about me not being able to, essentially, say
5 to the jury that I believe that the -- the search was
6 illegal. And I believe Your Honor instructed me
7 that, out of the presence of the jury, I can renew my
8 motion. One, I sort of wanted your guidance as to
9 when you thought that would be the appropriate time
10 to renew the motion in order to preserve the record
11 for my client; and two, when things are talked about
12 or evidence is entered that I believe is -- would
13 have fallen under my suppression motion, do I have
14 the right to at least stand up and say, subject to my
15 previous objection?

16 THE COURT: Yes. You can do that.

17 MR. DERIEG: All right.

18 THE COURT: We'll deal with that with whatever
19 context of the particular question or evidence is.
20 The testimony or evidence that was been introduced
21 during the suppression hearing does not mean that all
22 of that evidence you're not allowed to refer to it.
23 That still -- there still may be evidence in the case
24 through their case in chief. However, the issue
25 about the legality of the search warrant and asking

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1 the jury or inferring that the jury should determine
2 whether the search warrant was legal or not is
3 improper. That is clearly a legal issue the Court
4 has ruled on.

5 So what I do is, I note your objection, and this
6 is a timely objection made to the ruling or made to
7 the admission of evidence pursuant to the search
8 warrant. A suppression hearing was held before the
9 jury was formed. The Court ruled that the Defense's
10 motion to suppress the evidence due to an invalid
11 search warrant, the Court denied that motion. The
12 Defense has now raised that issue again, and I abide
13 by my prior ruling. As far as the denying the motion
14 to dismiss, I note that the motion had been timely and
15 properly made. But again, I denied the motion to
16 dismiss the evidence after a suppression hearing in
17 which the Court found that the search warrant was
18 legally and properly obtained and executed. All
19 right. Anything else?

20 MR. DERIEG: And just to be clear, Your Honor,
21 I'm not sure that -- that I ever specifically
22 challenged the legality of the search warrants
23 themselves. My point was that the searches began
24 before the -- before the -- the search warrants were
25 obtained. And we've just had an officer that

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1 repeatedly said that no search happened before a
2 search warrant was obtained. And that's -- that --
3 that was my point, that they started searching before
4 the -- the search warrant was obtained. I don't
5 actually challenge the legality.

6 THE COURT: Well, I don't know what you mean --
7 what you're attaching as search. The officers that
8 testified at the suppression hearing indicated that
9 they stood by awaiting the search warrant. When the
10 DEU officers showed up and the call was made from the
11 supervisor that he had received the search warrant,
12 then they began to search. Now, that does not mean
13 that while they were there securing the scene that
14 they had their eyes closed and didn't -- there was
15 testimony to what they did for officer safety and the
16 safety with the children present and things that they
17 did. And so, I note -- I note what -- and again,
18 that goes to the issue of whether it was a
19 warrantless search, and I guess that's maybe what
20 you're (unintelligible).

21 MR. DERIEG: Yes, sir.

22 THE COURT: You can argue but, however, at this
23 point, the -- I find, again, that the officers were
24 preferably [ph] there. There are two issues. One is
25 whether -- if it is a warrantless search, whether he

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1 gets standing to challenge for the warrantless
2 search. The other witness testified that he did not
3 live there, he had not been there. And even if it
4 was a faulty search warrant, the whole issue about
5 the standing of having any expectation -- his
6 expectation to privacy, we'll raise that issue. But
7 again, I stand by my prior ruling for the basis and
8 the factual finding for the basis of that ruling.
9 Anything else?

10 MR. DERIEG: No, Your Honor. Thank you.

11 THE COURT: All right.

12 MR. DERIEG: I just wanted to make sure that I
13 was covering my bases.

14 THE COURT: All right. Thank you. All right.
15 Bring them in. Bring the jury in.

16 (The jury entered the courtroom.)

17 THE COURT: Thank you, ladies and gentlemen.
18 The next witness that the State intends to call is
19 Lynn Strait. Lynn Strait is the -- is the -- is the
20 Deputy Clerk of Court here in the York County Clerk
21 of Court's Office and works in this building. Is
22 there any member of the jury panel who has any close
23 business, professional or social relationship with
24 Lynn Strait, Deputy Clerk of Court here in York? If
25 so, please raise your hand. Does any member of the

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1 jury panel have known of Lynn Strait at all? If so,
2 please raise your hand. Thank you. All 12 jurors
3 and the two alternates indicated that none of them
4 have any knowledge or any type of relationship
5 whatsoever with Ms. Strait. All right. State, call
6 you next witness.

7 MS. ROBINSON: Your Honor, the State would call
8 Lynn Strait.

9 LYNN STRAIT

10 was called as a witness, and having been first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MS. ROBINSON:

14 Q Good afternoon. I know you had a little bit of an
15 introduction there, but could you go ahead and state your
16 name for the record?

17 A Lynn Strait.

18 Q And what is your occupation?

19 A I'm the deputy clerk of the circuit court office.

20 Q Okay. And what are the general responsibilities of
21 the clerk's office?

22 A We maintain court files and records, we collect fees
23 and fines, we maintain courtroom minutes, we work the
24 courtrooms, and administer oaths and affirmations.

25 Q Okay. So fair to say you're kind of the recordkeeper

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1 for the things that happen in the courtroom?

2 A Correct.

3 Q All right. And are those records, does that include
4 records to criminal convictions in York County?

5 A It does.

6 Q And is the clerk's office obligated to keep records of
7 those convictions?

8 A We are.

9 Q All right. And what, specifically, is your title in
10 the clerk's office?

11 A I'm the deputy clerk of the clerk's office.

12 Q And so, what are your responsibilities?

13 A Well, I ensure that those court files and records are
14 maintained as they're supposed to be. I provide support
15 to the judges, attorneys, and other court officials. I
16 oversee the staffing of the office, as well as the
17 courtrooms.

18 Q Okay. Thank you.

19 MS. ROBINSON: Your Honor, may I approach?

20 THE COURT: Yes, you may.

21 BY MS. ROBINSON:

22 Q Ms. Strait, I have handed you what's been marked as
23 State's Exhibit -- proposed Exhibit 32. Did you have an
24 opportunity to review that before court today?

25 A I did.

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1 Q And do you recognize that?

2 A I do.

3 Q What does this record pertain to?

4 A Who or what?

5 Q Let's start with who.

6 A Okay. It pertains to Jacob Dewayne Hall.

7 Q Okay. And what is that a record of?

8 A Of a sentence.

9 Q Okay. What was -- so when you sentence, would that
10 mean that there was a criminal conviction involved?

11 A There was.

12 Q Okay. And what was the charge in reference to that?

13 A Attempted armed robbery.

14 Q And do the records indicate whether or not that would
15 be a violent crime?

16 A It does.

17 Q All right. And would you say that that record fairly
18 and accurately depicts the records kept by your office?

19 A It does.

20 MS. ROBINSON: Your Honor, at this time, I would
21 move to admit State's Exhibit 32.

22 (Plaintiff's Exhibit 32 was
23 offered for admission into
24 evidence.)

25 MR. DERIEG: Without objection.

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1 THE COURT: State's 32 is into evidence without
2 objection.

3 (Plaintiff's Exhibit 32 was
4 admitted into evidence.)

5 MS. ROBINSON: Your Honor, no further questions.

6 THE COURT: Any cross-examination?

7 BY MR. DERIEG:

8 Q Ms. Strait, thank you for your service to York County.

9 A Thank you.

10 THE COURT: I believe that was a statement and
11 not a question, unless you want to add to that
12 Ms. Strait. (Unintelligible.)

13 THE WITNESS: Thank you, Judge.

14 THE COURT: Mr. Epting, call your next witness.

15 MR. EPTING: Thank you, Your Honor. The State
16 calls Deputy Whitesides to the stand.
17 Deputy Whitesides, if you could come forward to be
18 sworn, please.

19 BRIAN (REED) WHITESIDES
20 was called as a witness, and having been first duly sworn,
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. EPTING:

24 Q Good afternoon. Could you please state your full name
25 and rank for the record?

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1 A Yes. I am Senior Deputy Reed Whitesides. I'm with
2 the crime suppression unit here at the York County
3 Sheriff's Office.

4 Q And how are you -- how long have you been with the
5 sheriff's office?

6 A Almost six years.

7 Q What unit were you assigned to in February of 2022?

8 A Still the same unit, but we were previously labeled as
9 the special operations group. So all the same
10 functionalities, slight job differences, but we specialize
11 in violent fugitive apprehension and we've assisted DEU
12 with certain narcotic troubles, any complaints or anything
13 they may get, we assist them with looking into those.

14 Q Were you working on February 24th of 2022 in York
15 County?

16 A I was.

17 Q And without saying how, do you know Jacob Hall?

18 A I do.

19 Q Do you see him here in the courtroom?

20 A I do. He's sitting over here in the blue shirt. I
21 can't -- well, he's behind the podium from me, but I can
22 see his face.

23 MR. EPTING: I would ask the record to reflect
24 that Deputy Whitesides has identified the defendant
25 seated at Defense counsel table.

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1 THE COURT: Noted in the record.

2 BY MR. EPTING:

3 Q Are you familiar with the Willow Pond address that
4 we've been discussing here today with that same house?

5 A Yes. I had just learned of the address probably a day
6 or two prior to the incident we're here for today.

7 Q And did you at some point that day encounter Jacob
8 Hall in that area?

9 A I did. Are you --

10 Q Can you tell the jury about that?

11 A -- I will. So I had some information my unit was
12 investigating.

13 Q Well, let's -- so -- so --

14 A -- and so we were in the area of Fewell road. So
15 Fewell Road -- may I describe where Fewell Road is?

16 Q Sure.

17 A So it runs between Highway 274 and Pole Branch Road.
18 It is just below the North Carolina state line. It pretty
19 much runs parallel with the North Carolina state line. So
20 I was coming from Highway 274. I was actually going to
21 Willow Pond. As I was preparing to make a left, I
22 observed a blue Jeep Grand Cherokee. It appeared as if it
23 was about to take a right onto Willow Pond. It had
24 slowed. We were almost vehicle-to-vehicle together. And
25 just before it made a right, it then accelerated and

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1 continued straight.

2 I was familiar with the Jeep prior, so I had
3 knowledge that the vehicle was displaying a South Carolina
4 license plate that did not belong on the vehicle. I made
5 a U-turn in an attempt to catch up to the vehicle. It
6 appeared to be traveling at a high rate of speed, as I was
7 moving at a very considerable rate of speed trying to
8 catch up to the vehicle. It's not too far of a distance
9 we'd come up to a stop sign with Fewell Road and Highway
10 274. I crawled up to the vehicle just well enough to be
11 able to verify that it was displaying the license plate
12 that I was familiar with which did not belong on the
13 vehicle. The Jeep took a right onto Highway 274, and the
14 state line is right there. Before I could initiate a
15 traffic stop, it crossed the state line, so I was unable
16 to initiate the stop just because our policy will not
17 allow us to cross over the state line with the level of
18 charge that I had for that stop.

19 Q And approximately what time did this encounter occur?

20 A This all happened about noon. I also must add that
21 when I saw the Jeep right before it turned onto Willow
22 Pond, I am familiar with Jacob Hall just from past
23 investigations and I did see --

24 MR. DERIEG: Objection.

25 THE COURT: Sustained.

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1 THE WITNESS: -- I did see and recognize the
2 driver to be Jacob Hall.

3 BY MR. EPTING:

4 Q And how slow were you going when you passed each
5 other?

6 A I was almost at a stop, because I was preparing to
7 turn left and he was at a slow roll himself.

8 Q At some point in time, did you learn that there was a
9 search of that Willow Pond address?

10 A No. I had no knowledge of any search.

11 Q Okay.

12 A To my knowledge, that all happened post my encounter.

13 MR. EPTING: I beg the Court's indulgence.

14 That's all the questions I have for you.

15 THE COURT: Cross-examination?

16 MR. DERIEG: Thank you, Your Honor, very
17 briefly.

18 CROSS-EXAMINATION

19 BY MR. DERIEG:

20 Q Just to be clear, the Jeep that you believed Jacob
21 Hall was driving, did it ever turn onto Willow Pond Road?

22 A It appeared as if it was going to but did not actually
23 turn onto Willow Pond Road.

24 Q Okay. How many houses are on Willow Pond Road?

25 A I'm not familiar. I know it's not a very big

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1 neighborhood. I know that it does -- it's one way in and
2 one way out. It does loop around. I'm not familiar with
3 how many. If I had to guess, I would guess roughly 15, 20
4 houses in the neighborhood.

5 Q Okay. Are you aware that the incident location for
6 what we're here for is on Willow Pond Road?

7 A I am.

8 Q Were you aware that that house is his mother's?

9 A I am.

10 Q Are you aware that the date in question was his
11 birthday?

12 A I did not know that.

13 Q So you observed him slow down and almost turn onto
14 Willow Pond but then decided not to and went to North
15 Carolina?

16 A That is how it appears.

17 Q Would it be fair to say that you were more or less
18 working that area that day?

19 A I was working that area, yes, sir.

20 Q What does that mean?

21 A I was investigating information that I had and I was
22 working on that investigation.

23 Q Okay. And after -- you said that your -- your
24 encounter with Jacob happened somewhere around noon?

25 A It would have been somewhere in the area of noon,

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1 12:00, 1:00 p.m. Somewhere in that ballpark.

2 Q 12:00 to 1:00? After that encounter, did you continue
3 to work the area?

4 A For approximately an hour.

5 Q So that would be what, roughly, 2:00?

6 A Roughly between 1:00 and 2:00.

7 Q Did you ever see anyone you believed to be Jacob Hall
8 come back across the state line while you were working
9 that area?

10 A Not at that time. But there's a lot of -- there's a
11 few different routes that could have brought him back in
12 the area. But we weren't specifically on Willow Pond Road
13 or right by that entrance, we were just in the general
14 area anywhere between Highway 274 right at the state line
15 over to Pole Branch Road. And I know of at least one
16 other road that can lead into the area as well.

17 Q But just for the record, you -- you never saw him
18 again after he drove into North Carolina?

19 A No.

20 Q And you said it was the road you all were on was
21 Fewell?

22 A Fewell road, yes, sir.

23 Q F-E-W-E-L-L?

24 A Yes, sir.

25 MR. DERIEG: Thank you, Your Honor. That's all

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1 I have.

2 THE COURT: Any redirect?

3 MR. EPTING: No follow-up, Your Honor.

4 THE COURT: Thank you. You can step down.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Lawyers approach.

7 (Bench conference off the
8 record.)

9 THE COURT: Ladies and gentlemen, after talking
10 with the lawyers about where we are logistically with
11 who's next, this is an appropriate time for us to
12 take a break for lunch. Be back ready to go in your
13 jury room by 2:00, an hour and a half. It generally
14 takes that long by the time you leave here to go
15 somewhere to eat and come back. It gobbles up to
16 that time. Don't discuss the case among yourselves
17 or with anyone else. During the break, don't use
18 your cell phones or devices to do any type of search
19 for people, places, the law. Don't talk about
20 anything with anybody other than this case. And
21 again, don't even discuss it among yourselves in the
22 jury room. With that, you're allowed to leave and be
23 back ready to go at 2:00. Everyone remain seated
24 while this panel is excused.

25 (The jury exited the courtroom.)

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1 THE COURT: Thank you. We'll be at ease until
2 2:00.

3 (Off the record.)

4 (Recess.)

5 (On the record.)

6 THE COURT: -- person is No. 100. That's Mr.
7 Darren Johnson. That's the foreperson.

8 MR. EPTING: Thank you, Your Honor.

9 (The jury entered the courtroom.)

10 THE COURT: Ladies and gentlemen, the Court did
11 receive a note that Mr. Johnson, you are now the --
12 you've been elected the foreperson. If you'll
13 maintain that seat throughout the rest of the trial.
14 All right. With that, State, call your next witness.

15 MS. ROBINSON: Thank you, Your Honor. The State
16 would call Captain Hogg.

17 TAMYRA HOGG

18 was called as a witness, and having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ROBINSON:

22 Q Good afternoon.

23 A Hello.

24 Q Could you please state your name for the record?

25 A Tamyra Hogg.

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1 Q And what is your occupation?

2 A I'm the administrative captain at the York County
3 Detention Center.

4 Q And how long have you worked there?

5 A 25 years and 11 months.

6 Q Okay. And what are your duties as the administrative
7 captain?

8 A I supervise the medical department, the programs
9 department, recruitment hiring. I supervise internal
10 affairs. That includes professional standards. I
11 supervise the records management clerks as well.

12 Q Okay. And does the detention center provide inmates
13 the opportunity to communicate with individuals who are
14 not in the jail?

15 A Yes.

16 Q And could you describe briefly what the SmartJAIL
17 platform is in terms of how inmates can make use of it?

18 A Okay. With the SmartJAIL platform, they can send
19 messages. You can do video calls and you can use it as a
20 telephone system and check your accounts and things.

21 Q Okay. So terms of how that works, does each inmate
22 have their own account, or how do you administer that?

23 A Yes, each inmate has their account that they would
24 have to sign into.

25 Q Okay. And does the detention center have the ability

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1 to monitor the communications that are made through that
2 platform?

3 A Yes, ma'am.

4 Q And how so?

5 A Well, it's on -- all of the system is Cloud-based
6 system pretty much and the chief jail administrator gives
7 certain people rights to go in to be able to check things
8 out within the system.

9 Q Okay. And how do video visits work on that system?

10 A A third party would set it up, a family member or
11 friend that would set it up and then set the date and time
12 for it.

13 Q Okay. And then, are you familiar with applications
14 like Skype and Zoom?

15 A Yes, ma'am.

16 Q So when they set up a video visit, is it similar to
17 that type of interface?

18 A Just like Skype or Zoom where you're actually seeing
19 the person's face when you're talking to them.

20 Q Okay. And how -- how long can video visits last?

21 A They last 15 minutes.

22 Q And does the SmartJAIL platform monitor those video
23 visits?

24 A Yes, ma'am.

25 Q How does it record those or how does it manage those

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1 visits?

2 A What do you mean?

3 Q Is it actually recorded or is someone live watching
4 it?

5 A It's recorded, yes, ma'am.

6 Q And then, I believe you said it's Cloud-based?

7 A Cloud-based.

8 Q So the data stays in the Cloud related to that system?

9 A Yes, ma'am.

10 Q And what type of information is captured regarding the
11 visits that take place?

12 A The date and time, the person who sets the visit up,
13 also the inmate, the length of the visit. It also just
14 records, actually, the audio and video as well.

15 Q Okay. And are the individuals participating in these
16 visits provided notice that they're being recorded?

17 A Yes, ma'am.

18 Q And are those recordings maintained in the ordinary
19 course of the detention center's business?

20 A Yes, ma'am.

21 Q And I believe you already testified to this. You said
22 the jail administrator makes determinations of who can
23 access those?

24 A Yes.

25 Q Do the individuals who can access that data have the

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1 ability to alter or change the content saved in the Cloud?

2 A No, ma'am. It would corrupt the system if it does.

3 Q Prior to court, did you receive a request to review
4 records of any video visit involving the defendant, Jacob
5 Hall, on SmartJAIL account on December 11th, 2022?

6 A Yes, ma'am.

7 Q Was there a video visit for Inmate Hall on that day?

8 A Yes.

9 Q And were you able to determine whether, in fact, it
10 was Jacob Hall using the account that day as opposed to
11 another inmate?

12 A Yes.

13 Q And what was your conclusion?

14 A That it was Jacob Hall.

15 MS. ROBINSON: Your Honor, may I approach.

16 THE COURT: You may.

17 BY MS. ROBINSON:

18 Q Okay, Captain Hogg. I've handed you what's been
19 marked as State's Proposed Exhibit 33. Do you recognize
20 that?

21 A Yes, ma'am.

22 Q And what is it?

23 A It's the video visit for Mr. Jacob Hall.

24 Q And how do you know that that's what's contained on
25 the item that I handed to you?

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1 A I initialed the disc and dated it.

2 Q Okay. And is it the entirety of the visit or just a
3 portion of it?

4 A A portion.

5 Q Is -- to the extent that it's just a portion, is it a
6 true and accurate copy of that portion of the video visit
7 that was recorded and saved to the Cloud?

8 A Yes, ma'am.

9 MS. ROBINSON: Your Honor, at this time, the
10 State would move to admit and publish State's 33.

11 (Plaintiff's Exhibit 33 was moved
12 for admission into evidence.)

13 MR. DERIEG: Without objection.

14 THE COURT: State's 33 is into evidence without
15 objection.

16 (Plaintiff's Exhibit 33 was
17 admitted into evidence.)

18 THE COURT: You can publish it and show it to
19 the jury.

20 MS. ROBINSON: Your Honor, this is State's 33.

21 (The video call was played.)

22 (The video call was stopped.)

23 MS. ROBINSON: All right. Thank you, Captain
24 Hogg. If you could please answer any questions from
25 the Defense.

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1 THE COURT: Mr. Derieg?

2 CROSS-EXAMINATION

3 BY MR. DERIEG:

4 Q Good afternoon, Captain.

5 A Good afternoon.

6 Q It kind of sounds like you do everything over there.

7 A I supervise those areas.

8 Q You supervise those areas.

9 A Yes, sir.

10 Q So if I want to come get a job, you'd be the one to
11 talk to?

12 A Absolutely.

13 Q All right. I'll keep that in mind. Do you know how
14 many videos of Jacob are -- are stored on that Cloud?

15 A No, sir.

16 Q How did you come to be directed to look at this one
17 particular video?

18 A I was subpoenaed to do so.

19 Q So the prosecution asked you?

20 A Yes.

21 Q At any point -- at any point, were you given a request
22 by the prosecution to send them all the videos that Jacob
23 had -- had made during his time there at -- or his time
24 over there?

25 A No, sir.

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1 Q So do you have any idea how the State came to be
2 directed to this one video?

3 A That have approval to be on the list to check out the
4 videos.

5 Q Oh, so they can access it themselves?

6 A Yes.

7 Q And they can see everything?

8 A Yes --

9 Q Okay.

10 A -- as far as I'm aware.

11 Q Okay. But you know how many -- how many videos he
12 had, do you?

13 A No, sir.

14 Q Like, if he had like five or six a day, like, every
15 day?

16 A No, sir.

17 Q Okay. And you -- you watched this video a few times,
18 I imagine?

19 A No, not a few.

20 Q So you just watched it; right?

21 A Yes.

22 Q Does that video provide any context in terms of a date
23 that he's talking about or a time that he's talking about
24 when he was living at home, like, specifically?

25 A I don't know. It doesn't say a date and time that he

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1 was speaking of in the video?

2 Q Right.

3 A No, sir, not that I know of.

4 Q Okay. That -- that's -- that was my question is just
5 whether or not it -- it specifies a particular time.

6 MR. DERIEG: That's all I have, Your Honor.

7 Thank you.

8 THE COURT: All right. Any redirect?

9 MS. ROBINSON: None, Your Honor.

10 THE COURT: All right. Thank you, Captain Hogg.
11 You can step down.

12 THE WITNESS: Thank you.

13 THE COURT: State, call your next witness.

14 MR. EPTING: The State calls Lieutenant Nick
15 Schifferle to the stand.

16 NICHOLAS SCHIFFERLE

17 was called as a witness, and having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MR. EPTING:

21 Q Good afternoon.

22 A Good afternoon.

23 Q Could you please state your full name for the record?

24 A My full name is Nicholas Edward Schifferle.

25 Q And how are you employed?

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1 A I'm employed for the York County Sheriff's Office.

2 Q And what is your rank?

3 A My current rank is lieutenant.

4 Q How long have you been with the sheriff's office?

5 A Over 18 years.

6 Q And could you tell the jury what your current duties
7 are as a lieutenant with sheriff's office?

8 A Sure. My current assignment is I'm over the criminal
9 intelligence unit and also the crime suppression unit. I
10 work as a supervisor and supervise those two units.

11 Q And were you involved in -- were you working in the
12 same capacity in February of 2022?

13 A I was not. I had a different job assignment at that
14 time.

15 Q What was your assignment then?

16 A I was assigned in the criminal investigative division,
17 what a normal person would consider the detective
18 division. I was assigned to the property crimes division
19 as a supervisor.

20 Q And were you involved in service of a search warrant
21 in February of that year in York County on Willow Pond
22 Road?

23 A I was.

24 Q How did you come to be involved in that?

25 A I was contacted by one of the road sergeants, Sergeant

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1 Penland, and he advised me of what was going on and was
2 asking for advice.

3 Q And did you give that advice?

4 A I did.

5 Q At some point in time, to your knowledge, was a search
6 warrant sought to further search that location?

7 A It was.

8 Q And did you assist in the service of that search
9 warrant?

10 A I did.

11 Q All right. Before we get to that, are you familiar
12 with Jacob Hall?

13 A I am.

14 Q And do you see him in the courtroom today?

15 A I do.

16 Q Can you point him out?

17 A He's that gentleman over there.

18 Q And are you familiar with Jacob Hall, a nickname of
19 any sort?

20 A I am familiar with a nickname associated with him.

21 Q What is that?

22 A The nickname that I'm familiar with is Quik.

23 Q So when you arrive at Willow Pond, what other officers
24 had arrived at the scene?

25 A There were several officers that we already on the

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1 scene. Deputy Missildine was present, Sergeant Penland
2 was present, Investigator Hines, Investigator
3 McClaugherty, Investigator Moore. And I know there was
4 one additional, I just can't remember at that time.

5 Q Were there any federal agencies involved in -- with
6 the search warrant?

7 A Not at that time. I did eventually contact a federal
8 agent to respond.

9 Q And what was that agent's name?

10 A It was Agent Osborne, and he was with the Bureau of
11 Alcohol, Tobacco and Firearms.

12 Q And could you describe the room that you searched?

13 A The room that I searched was on the second floor. It
14 was -- it appeared to have the structure of two small
15 rooms where the wall was removed. The room had two doors,
16 it had two closets, it had a bed inside of it, it had
17 several holes in the wall, it had posters up on the wall.
18 It kind of appeared as if someone was actually living
19 inside the room.

20 Q And what was the nature of the room as far as
21 cleanliness?

22 A It was cluttered.

23 Q And where were the officers located when you arrived
24 on there to assist them in serving the search warrant?

25 A They were basically standing in the center of the

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1 room, gathered up.

2 Q In that same room that appeared to be two rooms?

3 A Yes.

4 MR. EPTING: May I approach, Your Honor?

5 THE COURT: Yes, you may.

6 MR. EPTING: For the record, I'm handing -- I'm
7 handing Lieutenant Schifferle what's been marked as
8 State's 36 and State's 34-A through Z. First,
9 State's 36.

10 BY MR. EPTING:

11 Q Do you recognize State's 36, Lieutenant?

12 A Yes. This is a video.

13 Q Have you reviewed a copy of that video?

14 A Yes.

15 Q Is it a fair and accurate depiction?

16 A It is.

17 MR. EPTING: Your Honor, the State would seek to
18 introduce State's 36 into the record at this time.

19 (Plaintiff's Exhibit 36 was moved
20 for admission into evidence.)

21 THE COURT: Mr. Derieg?

22 MR. DERIEG: No objection.

23 THE COURT: State's Exhibit 36 is into evidence
24 without objection.

25 (Plaintiff's Exhibit 36 was

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1 admitted into evidence.)

2 BY MR. EPTING:

3 Q The other exhibit, I believe, is 34-A through Z; is
4 that correct?

5 A It is.

6 Q Lieutenant, if you could, take some time and look at
7 those photographs. And then,, once you're done reviewing
8 those, look up at me to indicate that you are done
9 reviewing them. Generally speaking, what are -- what do
10 the photos in Exhibit 34-A through Z depict?

11 A These are pictures that were taken inside the room, so
12 they're primary pictures from that room.

13 Q Are you familiar with the room as it existed when
14 those pictures were taken?

15 A I am.

16 Q All right. Are State's 34-A through Z fair and
17 accurate depictions of the state of that room as it's
18 documented?

19 A They are.

20 MR. EPTING: Your Honor, at this time, the State
21 would see, to enter State's Exhibit 34-A through Z
22 into evidence.

23 (Plaintiff's Exhibit 34-A through
24 34-Z was offered for admission
25 into evidence.)

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1 MR. DERIEG: No objection.

2 THE COURT: State's 34-A through Z are into
3 evidence without objection.

4 (Plaintiff's Exhibit 34-A through
5 34-Z was admitted into evidence.)

6 MR. EPTING: Before we get to the pictures, the
7 State would like to publish State's 36 to the jury.

8 THE COURT: All right.

9 (The video was played.)

10 (The video was stopped.)

11 MR. EPTING: Your Honor, at this time, the State
12 would seek to publish 34-A through Z.

13 THE COURT: You can show those pictures.

14 BY MR. EPTING:

15 Q What is publishing currently right now is 34-A. Are
16 you -- are you able to see that on your monitor,
17 Lieutenant?

18 A It is not appearing on this monitor.

19 Q All right. Is your monitor off?

20 THE COURT: Are they showing on the jury's
21 monitors?

22 MR. EPTING: May I approach the witness, Your
23 Honor.

24 THE COURT: Yes.

25 MR. EPTING: It may be it's just off. I beg the

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1 Court's indulgence. Permission for the witness to
2 come down so that he can see the screen?

3 THE COURT: If it will work, he can come down.

4 MR. EPTING: I'm going to have you stand here.
5 This mic will pick you up.

6 THE COURT: Let's be sure -- all right. He's
7 standing in front of that mic. Can everybody see --
8 well, you've got the pictures in front of you. All
9 right. Go ahead.

10 BY MR. EPTING:

11 Q For the record, what is on the screen right now is
12 34-A. Lieutenant, could you tell me what we're looking at
13 here?

14 A So this is a desk that's on the far wall inside one of
15 the rooms. There are several items there on top of the
16 desk, and there's also a safe that's below it. It's that
17 black, square box.

18 Q Were you present when that safe was ultimately opened?

19 A I was.

20 Q And what -- what -- is that where the drugs were
21 located?

22 A Drugs, weapons, and other items.

23 Q Scrolling 34-B. What are we looking at here,
24 Lieutenant?

25 A So this is the top of a desk where there's a magazine,

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1 some keys, some other items that are on top of the desk.

2 And there's a weapons magazine in the bottom corner. Yes.

3 Q And 34-C, is that the magazine you were referring to

4 in 34-B?

5 A Yes.

6 Q And does that appear to contain live ammunition?

7 A It does.

8 Q What are we looking at here on 34-D?

9 A It's ammo cans that are stacked on top of the safe
10 that was in the room.

11 Q 34-E?

12 A That is the safe that's opened.

13 Q Now, that safe is in a different condition as it was
14 when we last saw it; is it not?

15 A That is correct. The safe was secured when we first
16 encountered it. And -- and at this point, it has already
17 been opened by members of the York County Drug Enforcement
18 Unit.

19 Q How were they able to open it?

20 A They had to pry it open, I believe.

21 Q And what are we looking at here?

22 A So inside the safe, you can see several items. You
23 can see a handgun that's visible down on the bottom left,
24 and then a plastic baggie that's above that.

25 Q All right. And 34-F is published for the jury.

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1 A That's one of the revolvers that was removed from the
2 safe.

3 Q 34-G is being published.

4 A That's one of the handguns that was removed from
5 inside the safe as well.

6 Q Do you recall off the top of your head what caliber
7 handgun that is?

8 A It was a 25-caliber Raven Arms.

9 Q 34-H is published for the jury. What are we looking
10 at here, Lieutenant?

11 A So that's the baseplate for a weapon, the bottom half
12 of what -- what most people would consider to be the
13 bottom half of a handgun.

14 Q Have you encountered those in your other
15 investigations?

16 A I have.

17 Q What are they called?

18 A They're called the 80 percent lowers or, you know,
19 firearm blanks.

20 Q And how are they manufactured?

21 A It's basically where you would order them, and an
22 individual would then alter them by drilling them or by,
23 you know, changing how it would be altered to basically
24 complete a weapons kit. Like, you would buy additional
25 parts to add to that blank and, you know, work it out.

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1 Q It is possible to manufacture those at home?

2 A I believe so. I believe you could manufacture them at
3 home.

4 Q All right. In what -- in what way?

5 A I know -- I haven't done it myself, but I know people
6 can 3D print guns, but I believe this one is an actual
7 purchased blank.

8 Q All right. 34-I is being published. What are we
9 looking at here, Lieutenant?

10 A This is the safe. It still has some ammunition that's
11 inside of it. And it's a picture of a social security
12 card that was removed from the safe.

13 Q All right. I'm going to zoom in - see if we can zoom
14 in on that card to see if you can read what is located on
15 it. Can you read a name and a social security number off
16 of that?

17 A Yeah. The name is Jacob Dewayne Hall. The social
18 security number is [REDACTED] -- I can't see if it's an [REDACTED] or
19 a [REDACTED], but I believe it's [REDACTED].

20 Q And your testimony is that was found inside the safe?

21 A Yes.

22 Q Moving on to 34-J. What are we looking at here?

23 A This is a gathering of the weapons that were found
24 inside the safe and where they -- they laid them out on
25 the floor in front of the safe or around the safe.

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1 Q All right. And were you able to identify the black
2 handgun that is on the right?

3 A That is a Hi-Point model handgun.

4 Q All right. And we talked about the 25. And does that
5 appear to be the same lower?

6 A Yes.

7 Q Do you recall the caliber and make on the revolver at
8 the top left of 34-J?

9 A I do not recall.

10 Q What are we looking at here?

11 A So this is to the left of where the desk was. This is
12 a file cabinet that basically has miscellaneous gun parts
13 along with other accessories inside of it.

14 Q Would that -- would having those parts be consistent
15 with having the lower that we saw earlier?

16 A That is correct.

17 Q I'm publishing 34-L. What are we looking at here,
18 Lieutenant?

19 A I believe it's a 3D printer.

20 Q A 3D printer? And here on 34-M published for the
21 jury?

22 A So that is a lower of a firearm and is an upper or
23 part of an upper portion of another firearm. I believe
24 it's an FAL.

25 Q And here, what are we looking at?

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1 A So --

2 Q 34-N. Sorry.

3 A There, there's a sheet that's basically covering the
4 window. There's a file cabinet that's there. There's a
5 TV. You can just barely see the TV that's in the corner
6 of the picture. And there's several boxes and items
7 scattered around it.

8 Q Is there anything of note in the windowsill?

9 A There was a firearm that was found in the windowsill.

10 Q All right. Was that recovered with the rest of those
11 -- with the rest of the firearms that were taken from the
12 room?

13 A It was.

14 Q What are we looking at here, Lieutenant, on 34-Q?

15 A So --

16 Q I'm sorry, 34-O.

17 A So that there is -- it's basically -- it's the part
18 that you would use to drill. It's like a jig. So it's
19 like a guide, a platform for you to modify the blank so
20 you can attach gun parts to it.

21 Q Is that consistent with the lower that we saw earlier?

22 A I believe it's the same make and -- that would work
23 with that style of firearm.

24 Q And you might have testified earlier, but the lower
25 was what -- what -- what make and caliber?

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1 A I believe it was for a Glock-style handgun.

2 Q 34-P, what is 34-P?

3 A So that is a drill press.

4 Q What, if any, connection does that have to the jig and
5 to the lower that saw earlier, the pistol lower?

6 A So on the jig, there are holes. The holes are
7 basically guidelines for you to drill. You would use the
8 drill to alter that base handgun lower that you would get
9 to make the pieces fit inside of it.

10 Q 34-Q, what are we looking at here?

11 A So that is a board that's attached to the wall. It's
12 a marker board where there are several items that were
13 wrote on it, and there's also writing on top of the wall.

14 Q And here, walk -- walk the jury through what, if any,
15 significances this has to this case.

16 A To me, I see things that, you know, where it says
17 Jacob to do. I see where it says finish ten -- what
18 appears to be 10-millimeter. I believe it says finish 17.
19 So where it says finish Uzi, fix Taurus, and fix Jimenez.
20 And then, I believe it says fix, but it's kind of like the
21 fix is scratched out and it's S plus W, which is common
22 for Smith & Wesson.

23 Q Did you find a piece of a firearm or a firearm
24 consistent with a 10-millimeter caliber?

25 A Yeah. We found ammo that was consistent with it. And

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1 I believe that there was a barrel that was located inside
2 that that was a 10-millimeter, but I can't remember
3 exactly.

4 Q Based on the finish 17, is there any significance to
5 that based on what was found inside the room?

6 A For most times when I heard people refer to 17, it
7 refers to a Glock 17 which is a model of Glock, which I
8 believe that base, that brown base firearm lower would be
9 associated with.

10 Q You did not find an Uzi; is that correct?

11 A There -- there was no Uzi found.

12 Q Did law enforcement locate a Taurus?

13 A We did not.

14 Q And did law enforcement locate a Jimenez in the room?

15 A We did.

16 Q Where was that located?

17 A The Jimenez was located in the windowsill.

18 Q And did you find an S&W, a Smith & Wesson inside the
19 room?

20 A There was a Smith & Wesson revolver that was located
21 in between the mattress and box spring.

22 Q So some of those items seemed to be referring to guns
23 that were found inside the room during the search?

24 A In my opinion, yes.

25 Q And it's Jacobs to-do list?

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1 A Yes.

2 Q All right. And that is 34-R just so -- just so the
3 record is clear. All right. 34-S?

4 A It's something that was wrote on the board where it
5 says find stolen guns.

6 Q All right. And moving to the writing on the right.

7 A It's kind of hard to make out. I know that it says --
8 I believe it says taxes. I believe it says finish 17. I
9 believe it says, you know, .30 or -- there's a lot of
10 debate on what -- what that could say. You know, it
11 almost could look -- say 3D, you know, something plus Uzi.
12 And then, it says something. I can't read what it says
13 below that.

14 Q And does the 17 have any significance to what was
15 found again?

16 A To me, it relates back to the blank Glock lower or
17 Glock-style lower.

18 Q What are we looking at here, Lieutenant, on 34-T for
19 the record?

20 A So it's a mail or correspondence package that appears
21 to be opened. The date on it is from 1/31/2022. It has
22 the defendant's name on it. It has the address of [REDACTED]
23 Willow Pond Road, Clover, South Carolina, ZIP Code 29710.
24 And, it appears, from IWI web store returns.

25 Q And is that -- is [REDACTED] Willow Pond Road the same

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1 location the search was committed at?

2 A Yes.

3 Q And this -- and what was the date again?

4 A From 1/31/2022.

5 Q And could you tell the jury the date of the search?

6 A It was 2/24/2022.

7 Q And were you able to ascertain what IWI stands for?

8 A I believe it's Israeli Weapons industry.

9 Q Do they manufacture Uzis?

10 A They do.

11 Q For the record, 34-U. Could you tell the jury what
12 we're looking at?

13 A So this is the area that's, you know, below or close
14 to when the TV would be. You can see like there's like a
15 rolling toolbox that's on the bottom. There's a stool.
16 And then, you can kind of see where there's drywall that
17 kind of covers, you know, where the power outlets are.

18 Q 34-V, what are we looking at here?

19 A So that's the firearm that was found in the
20 windowsill.

21 Q Is that the Jimenez?

22 A That is the Jimenez.

23 Q And it appears -- is it in something or is that just
24 an illusion?

25 A No. It's sitting in some sort of solution.

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1 Q But again, that item was taken into evidence?

2 A It was.

3 Q And what are we looking at here?

4 A So this is the floor. You'll see, like, there's like
5 a toadstool-type little stool or decoration piece. You
6 can see there's a box and it has several envelopes there.
7 You can also see above that there's a blue glove that's
8 present on the floor, like a latex disposable glove.

9 Q All right. And referring to that glove specifically,
10 is that the color of glove the law enforcement would use
11 on the scene that night?

12 A It could be. I have used gloves of that style, but
13 the gloves that I saw being utilized were black and then
14 also like a khaki color.

15 Q So you did not see law enforcement wearing a glove
16 matching that color that night?

17 A I did not.

18 Q What are we looking at here?

19 A So there's a hole that's inside the wall, so this is
20 looking down inside the hole. There's several pieces of
21 ammunition, and also it appears to be a digital scale.

22 Q All right. And did you -- were you -- you were
23 present -- was this hole open like that or did law
24 enforcement have to manipulate to get this view?

25 A I'm not sure. I was not present when that -- I was

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1 notified of it.

2 MR. EPTING: I beg the Court's indulgence.

3 BY MR. EPTING:

4 Q All right. At some point, was there a concern about
5 possible booby traps or danger in retrieving items from
6 places like this.

7 A There was. I was notified that there was a device
8 that was found that kind of raised some concern. I
9 believe it was like a M -- I'm sorry -- M49A-1-style trip
10 flare.

11 Q And was it set up in such a way that it would cause
12 danger to law enforcement?

13 A I don't believe it was. I don't believe it was
14 actually set up in a way to, like, activate. But it
15 brought concern to why is that here.

16 Q Let me ask you. Was it active or was it inert?

17 A I'm not sure.

18 Q For the record, 34-Y is being displayed to the jury.
19 Can you tell us what -- where 34-Y was located within that
20 room?

21 A So this was inside one of the closets. It's a gun
22 safe that's got writing on it.

23 Q And do you recognize a name related to the defendant
24 written anywhere on that safe?

25 A I see the nickname that is associated with him of Quik

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1 down the left side. And then, I see where it says Tiffany
2 below that.

3 Q And 34-Z, what are we looking at here?

4 A This is one of the -- this is a Smith & Wesson
5 revolver that was found under the bed -- I'm sorry -- in
6 between the mattress and the box spring.

7 MR. EPTING: I beg the Court's indulgence.

8 Lieutenant, you can take a seat. Lieutenant, that's
9 all the questions I have. Please answer any
10 questions Defense counsel may have.

11 THE COURT: Mr. Derieg?

12 MR. DERIEG: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. DERIEG:

15 Q Good afternoon, Lieutenant.

16 A Good afternoon.

17 Q Referring to the pictures of -- of those whiteboards
18 that -- that have those lists like the one that had
19 Jacob's to-do list on it, do you know who wrote those
20 lists?

21 A I do not.

22 Q Could those lists potentially be instructions to Jacob
23 for the next time he came around?

24 A I believe so. I wasn't present when they were wrote.

25 Q Does that room seem to you kind of like a workshop?

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1 A It would. It appeared to be lived in. I mean, there
2 was a bed inside of it. So I think it was a combination
3 of everything going on in that room.

4 Q Well, describe the bed.

5 A The bed was - I mean, it was a mattress. It has some
6 blankets on it. I know when the first officers walked in
7 there, there was a child that was asleep on it.

8 Q Pretty awful; right?

9 A I would agree with that.

10 Q Was there any indication to you that that room had
11 been cleaned at any time recently?

12 A No.

13 Q Did you -- did you smell any cleaning products or
14 chlorine or anything that might have been used to clean
15 that room?

16 A I don't recall smelling anything of cleaning products.

17 Q And those are usually pretty kind of
18 hit-you-in-your-face smells where you would probably
19 remember if they were present; right?

20 A Yes.

21 Q All right. Wasn't there -- well, actually, let me
22 back up a second. Would you describe to me again what a
23 lower is?

24 A So a lower basically refers to the lower portion of a
25 firearm, typically associated with where the trigger

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1 mechanism would be in the frame.

2 Q And if someone -- if someone possesses a lower, does
3 that indicate anything to you?

4 A So it depends on what standard you go by. ATF says
5 the lower of certain firearms is a firearm. But to me,
6 like the lower of that Glock is just the lower. I mean,
7 it doesn't have a trigger associated with it or anything
8 yet.

9 Q In your experience as a law enforcement agent,
10 somebody possessing a lower, are they usually
11 manufacturing guns and putting them together?

12 A Yes.

13 Q Wasn't a lower found in Levi Bacot's room in a drawer?

14 A Yes, there was.

15 Q Yet, there's nobody that admits to living in that
16 house that they found a lower in his drawer?

17 A Yeah, I believe it was found in his room.

18 Q So would that indicate to you that he was building
19 guns?

20 MR. EPTING: Objection, Your Honor.

21 THE COURT: I'll overrule the objection. You
22 can answer the question.

23 THE WITNESS: I'm not sure if he was
24 manufacturing or not.

25 BY MR. DERIEG:

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1 Q But he had a piece of the gun?

2 A He did.

3 Q And upstairs was like a workshop to put guns together;
4 right?

5 A And on top of being a bedroom, yes.

6 Q In all those pictures that you just went through with
7 Mr. Epting, how many of those items -- the ammunition,
8 guns, safe, things with Jacob's name on it -- on how many
9 of those items were found Jacob's fingerprints, or do we
10 know?

11 A To my memory, I believe no items were covered -- had
12 his fingerprints or DNA, or anyone else's.

13 Q Are you aware of the two sets of fingerprints that
14 were found on -- on guns in that room?

15 A I was not. I'm not the case agent, so I wouldn't get
16 that report.

17 Q Okay. So specifically, you were just tasked with
18 filming and taking pictures?

19 A Yes.

20 Q Thank you. That's all I have.

21 THE COURT: Any redirect?

22 MR. EPTING: Very quickly.

23 REDIRECT EXAMINATION

24 BY MR. EPTING:

25 Q Defense counsel asked you about equipment found in the

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1 defendant's brother's room, the lower. Did you find any
2 manufacturing equipment in Levi's room?

3 A I did not.

4 Q Any indication that he was manufacturing other than
5 that one lower?

6 A Not in that room.

7 Q And where was the majority of the manufacturing
8 equipment found?

9 A The -- the equipment that I found was mostly in the
10 defendant's room.

11 Q Thank you. That's all the questions I have.

12 THE COURT: Any recross?

13 MR. DERIEG: Briefly.

14 RECROSS-EXAMINATION

15 BY MR. DERIEG:

16 Q How do you know that was the defendant's room?

17 A His social security card was found in it. The
18 information we had was that it was his room.

19 Q So the information that you'd been given was that it
20 was his room?

21 A Yes.

22 Q Who gave you that information?

23 A It was from the law enforcement officers that were
24 there.

25 Q Okay. So you don't have any firsthand knowledge that

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1 that was his room?

2 A I do not have firsthand knowledge.

3 Q And was the door to that room was it padlocked, was
4 there any sort of prevention from people going into it?

5 A I do not know. I wasn't there when the door was first
6 opened.

7 Q Could you see the door?

8 A I did see the door. I didn't notice anything that
9 stood out to me.

10 Q Okay. So just even a brief looking at the door, it
11 looked like a normal door that you could just go in and
12 out of?

13 A Yes.

14 Q So anybody in that house could have just gone in and
15 out of that door?

16 A Yeah. I believe someone would have if there was a
17 child that was inside of it.

18 Q Okay. Thank you. That's all I've got.

19 THE COURT: All right. Thank you. You can step
20 down, Lieutenant. Call your next witness.

21 MS. ROBINSON: The State would call Investigator
22 Martens.

23 MARSCHAL MARTENS

24 was called as a witness, and having been first duly sworn,
25 testified as follows:

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1 DIRECT EXAMINATION

2 BY MS. ROBINSON:

3 Q Good afternoon. Could you please state your name for
4 the record?

5 A Marschal Martens.

6 Q And what is your occupation?

7 A I'm an investigator assigned to the York County
8 Multi-jurisdictional Drug Enforcement Unit.

9 Q Kind of a mouthful. How long have you worked for the
10 -- can we call it the DEU?

11 A Yeah.

12 Q How long have you worked for the DEU?

13 A Going on four years now.

14 Q And how long have you worked in law enforcement?

15 A Next month will be eight years.

16 Q Okay. And what are -- what are your job duties as a
17 member of the DEU right now?

18 A So we focus on investigations involving drug users and
19 drug dealers.

20 Q And were you working in that capacity in February
21 of 2022?

22 A I was, yes, ma'am.

23 Q And on [REDACTED] of 2022, did you respond to [REDACTED]
24 Willow Pond Road in Clover?

25 A Yes, ma'am.

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1 Q Why were you asked to respond to that residence?

2 A We were asked to -- or we were called out to assist in
3 a search warrant with patrol.

4 Q Okay. And about what time did you get out there?

5 A Roughly, 7:15 p.m.

6 Q And when you arrived, were there any other law
7 enforcements already on scene?

8 A Yes, ma'am, Sergeant Penland and Deputy Missildine.

9 Q Okay. And were there other officers that ultimately
10 came as well?

11 A Yeah. The rest of our office, other investigators.

12 Q Okay. So a pretty decent handful of law enforcement
13 officers?

14 A Yes, ma'am.

15 Q And what did you do when you got there?

16 A We were kind of on standby for a moment. We were
17 waiting for the search warrant.

18 Q Okay. And where did you wait at?

19 A Well, actually, we just hung out upstairs.

20 Q Okay.

21 A Yeah.

22 Q Any particular space upstairs that you were waiting
23 in?

24 A Yeah, the room that we were told belonged to the
25 defendant.

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1 Q And once -- you indicated you waited for a search
2 warrant; correct?

3 A Yes, ma'am.

4 Q And once that was obtained, did you participate in the
5 search of the room?

6 A I did.

7 Q What was your role in that search?

8 A Just to assist in searching the residence.

9 Q Okay. And what did you do with items that you found
10 that needed to be seized?

11 A So typically, we try to leave them in place until a
12 photograph is taken and then we place them in an order so
13 they can be documented and taken for evidence.

14 Q And did your duties include being the one who actually
15 took them into evidence?

16 A No.

17 Q So you would search an area and then leave the items
18 there to be seized by another officer; is that correct?

19 A Yes, ma'am, that's correct.

20 Q Did one of the areas that you search include a safe?

21 A It did.

22 Q And where was that located?

23 A So when we walked in the bedroom that was owned by the
24 defendant, it was to the far wall on the left.

25 Q Okay. And about how big was the safe?

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1 A It was a foot by a foot.

2 Q Okay. And were you able to move the safe for
3 inspection?

4 A I was not.

5 Q Why were you not able to move it?

6 A It was bolted or secured to the floor.

7 Q And did that safe have locking mechanism?

8 A It did.

9 Q What type of locking mechanism?

10 A It looked like a padlock. It was a padlock. It
11 looked like it used to have a key entry, but it was broken
12 out.

13 Q Okay. So if the key entry was broken out, what's the
14 method that you would use to get into that?

15 A Some sort of code, number code.

16 Q Okay. So it had a keypad that you enter?

17 A Correct.

18 Q And when you first encountered the safe, was it
19 actually locked?

20 A Yes, ma'am.

21 Q Did you make any effort to unlock the safe without use
22 of force?

23 A Yeah, we did. So I asked the female on scene that I
24 believe was married to the defendant are an ex of some
25 sort that had the kid, the original reason we were out

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1 there for the -- the patrol was out there for service.

2 Q There was a female -- a white female on scene that
3 patrol had gone out to speak with was your understanding?

4 A Yes.

5 Q And you checked with her regarding access to the safe?

6 A Yes.

7 Q And did she provide you any codes to enter that safe?

8 A Yes. She gave me several combinations.

9 Q Did she know for sure that those were the
10 combinations?

11 A She did not.

12 Q What did you do with the codes that she provided to
13 you?

14 A I attempted to place -- place them into the key --
15 keypad.

16 Q Did any of those codes open the safe?

17 A They did not.

18 Q Did you ultimately get the safe open?

19 A I did.

20 Q How did you go about doing that?

21 A We have pry bars in our evidence kit.

22 Q And what items did you see upon opening the safe?

23 A I remember a large bag that looked like
24 methamphetamine, and then I believe there was a firearm,
25 or multiple.

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1 Q And ultimately, were the entire contents of the safe
2 gone through?

3 A They were.

4 Q Was there any identifying information in that safe?

5 A Yeah. At the back of the safe on the bottom was a
6 social security card.

7 Q And who did that social security card reflect the name
8 of?

9 A Jacob Hall.

10 Q And did you search any other areas of the house?

11 A Yeah. I think I went into the other rooms upstairs as
12 well as the room downstairs when we first entered the
13 house on the left.

14 Q Okay. So if you could, can you kind of describe the
15 layout on the second floor?

16 A Yes. So when you come up the front -- or come up the
17 stairs, the room kind of to your left but on the right
18 side of the wall, if you were to make that left-hand turn
19 is the defendant's room, the first -- the one Lieutenant
20 Schifferle described as it appeared to be two rooms at one
21 time and it is now one room.

22 Q And that would be the room where the safe was we just
23 discussed?

24 A Correct.

25 Q Okay. What is on the second floor?

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1 A And along the -- if you take a right off of the
2 stairs, there was -- it's like a balcony overlooking the
3 living room, and on the left-hand side is a bathroom and
4 then two more rooms along it.

5 Q Okay. And did any of those other rooms up there
6 appear to be lived in any way?

7 A Yes. So the -- the first room after the bathroom,
8 once you take that right-hand turn, it looked like there
9 was kids living in it. At one point, I talked to the same
10 female in that room. I don't remember if she said she
11 lived in there. And then, there was an older gentleman on
12 scene that appeared to live in the last room.

13 Q Okay. Were there any other rooms on the second floor?

14 A Yes. So there's a room along that hall on the
15 left-hand side, but it was pretty full of boxes and
16 things. You couldn't really make entry.

17 Q Okay. So did that room appear to be one that's used
18 as a bedroom?

19 A No.

20 Q All right. Now, you indicated that you also were
21 involved with a search of a room downstairs. Can you tell
22 the jury about that?

23 A Correct. We were asked to search -- it appeared to be
24 -- I believe it was the defendant's mother's room and
25 maybe her boyfriend or somebody. But it was -- it was

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1 pretty cluttered as well. And she had a waterbed that
2 popped, so the entire room was soaked.

3 Q All right. So when you entered that room, is it the
4 waterbed pops so the floor is wet?

5 A Yes.

6 Q Do you recall finding anything of note in the other
7 rooms that you searched, besides the room with the safe in
8 it?

9 A Not that I recall.

10 MS. ROBINSON: I beg the Court's indulgence.

11 BY MS. ROBINSON:

12 Q You testified that you searched that lower room and
13 you believed it to be the defendant's mother. Was she
14 present?

15 A She was.

16 Q What was her condition at the time?

17 A She appeared to be bedridden. Yeah, she couldn't get
18 up.

19 Q If you could please answer any questions from the
20 Defense.

21 A Yes, ma'am.

22 THE COURT: Mr. Derieg?

23 MR. DERIEG: Thank you, Your Honor.

24 //

25 //

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1 CROSS-EXAMINATION

2 BY MR. DERIEG:

3 Q Good afternoon, Lieutenant. Does the DEU typically
4 respond to scenes where marijuana paraphernalia is what is
5 found in plain view?

6 A Yes, we can.

7 Q Well, do you?

8 A Yes.

9 Q Frequently?

10 A I'd say frequently, yes, sir.

11 Q Okay. I'm just asking if marijuana paraphernalia is
12 real high up on you all's list of --

13 A No, sir, it's not. But if a patrol asks for our
14 assistance, we tend to go out and assist.

15 Q -- okay. So I believe you said you would -- you would
16 search areas then leave the items to be collected by
17 somebody else; right?

18 A Yes, sir.

19 Q Do you know who it is that would come through and
20 collect those items?

21 A Usually, we would just assign whoever -- we call it
22 the evidence tech. In this case, it was Investigator
23 Hines.

24 Q Investigator Hines was the evidence tech?

25 A Yes, sir.

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1 Q Okay. And you said you were the one that searched the
2 safe where meth and the social security card was found?

3 A Yes, sir.

4 Q 'And were the drugs in bags?

5 A Yes, sir. It was in a -- in a bag, yeah.

6 Q Are you aware of whether or not those banks were
7 processed for fingerprints or DNA?

8 A I don't. I didn't process them.

9 Q Are you aware if anything was processed for
10 fingerprints or DNA?

11 A I'm sure they were, but I don't know.

12 Q So you wouldn't know the results of those -- those --
13 those tests, would you?

14 A 'No, sir, I don't.

15 Q Okay. You said you searched downstairs. Did you
16 search Levi Bacot's room, or Bacot?

17 A I think I did go in. I entered that room. Yes, I
18 assisted.

19 Q Were you the one that found the lower in his room?

20 A No, sir.

21 Q Who would that have been?

22 A I don't know, sir.

23 Q But are you aware that a lower was found in Mr.
24 Bacot's room?

25 A I think -- I'm sure at the time I was -- I do, but I

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1 don't recall.

2 Q Okay. And did you say that you're assuming that
3 everything was processed, you just don't know what the
4 results were?

5 A Yes, sir. That's the job of the evidence tech and the
6 case agent, so.

7 Q Standard protocol?

8 A Yes, sir.

9 Q Since you have to -- when you were talking about the
10 -- the room that was being searched, since you have to go
11 up the stairs, turn left, and then the room is on the
12 right, if someone downstairs was to describe -- told you
13 that their room was the room up the stairs on the left,
14 which room would you think that they were talking about?

15 A If I'm walking up the stairs or, like, if I'm there?

16 Q Yeah, if you just walk up the stairs and turn left.

17 A Well, there's a hallway to -- immediately to the left,
18 so.

19 Q So if someone had said their room was upstairs to the
20 left, would you know exactly what room they were talking
21 about?

22 A Walking through that house, I would assume it would be
23 that -- that -- that room, because there was -- there was
24 no way to enter any other room, so.

25 Q Do you know how long the rooms -- when you say there's

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1 no way to enter any of those rooms, what do you mean?

2 A So when you come up the stairs, it was hard to make
3 access into any other room except that entry.

4 Q And why is that?

5 A There was boxes and things and clutter all through the
6 -- through the hallway and...

7 Q Do you have any idea how long that stuff had been
8 there?

9 A I don't.

10 Q Do you know if that stuff was there in December
11 of 2021?

12 A I don't.

13 Q Have you got any idea whether or not you could access
14 those rooms in December 2021?

15 A I don't.

16 Q Thank you. That's all I have.

17 THE COURT: Any redirect.

18 MS. ROBINSON: None, Your Honor.

19 THE COURT: All right. Thank you. Investigator
20 Martens, you can step down.

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

22 THE COURT: Yes, you may.

23 (Bench conference off the
24 record.)

25 THE COURT: All right. Ladies and gentlemen,

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1 the next witness is likely to be somewhat lengthy and
2 there's some logistics that need to be taken care of
3 before we get to that. So I'm going to take -- we're
4 going to take a -- we'll call this -- even though
5 you've only been there not more than an hour, we're
6 going to take about a 15-minute break and then we'll
7 bring you back in. Do not discuss the case at all
8 among yourselves or talk about the case at all.
9 Everyone remain seated while this jury panel is
10 excused.

11 (The jury exited the courtroom.)

12 THE COURT: Before we break, Mr. Epting, you had
13 indicated the State had a matter of law we needed to
14 take up.

15 MR. EPTING: Yes, Your Honor. We anticipate
16 that through the next witness we will be introducing
17 those Facebook messages that we discussed at pretrial
18 repair that we've pared down to 33 pages from about
19 approximately 900. I noticed during opening
20 statements and several other times Defense counsel
21 has mentioned to the State cherry picking certain
22 parts of that. The State feels that that's an unfair
23 characterization because what we've taken out is
24 either irrelevant to the case or, indeed, prejudicial
25 to his client. I don't think it would be fair for

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1 him to ask the witness whether parts were
2 cherry-picked and, indeed -- or especially to argue
3 to the jury that we have cherry-picked parts of this
4 when, in fact, a big portion of what we kept out is
5 prejudicial to his client involving drug deals, gun
6 sales and all kinds of other things that it's not
7 proper for the jury to hear in this case.

8 THE COURT: Mr. Derieg, any response?

9 MR. DERIEG: I consider what's been going on as
10 being cherry-picking.

11 THE COURT: All right. Well --

12 MR. DERIEG: I don't mind.

13 THE COURT: -- it may not be proper for him to
14 -- in his questioning however, you know, when it
15 comes to closing argument, if he wants to cast things
16 a certain way, the jury can certainly...

17 MR. DERIEG: I don't know that I need to say it
18 again, Your Honor, because when they see these 33
19 pages --

20 THE COURT: All right. Then it won't be an
21 issue. He's indicated he's not going to refer to --
22 call it a cherry-picking from any witness or during
23 his closing. He won't be using the term
24 "cherry-picking."

25 MR. DERIEG: Yeah, I don't need to do it again.

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1 THE COURT: All right. Thank you. We'll be at
2 ease for 20 minutes.

3 (Off the record.)

4 (Recess.)

5 (On the record.)

6 THE COURT: Is the Defense ready?

7 MR. DERIEG: No, Your Honor. I've got a matter
8 I would like to take up. I've got an issue with the
9 way that most of that evidence is -- is labeled. If
10 I could approach?

11 THE COURT: Yes, you may.

12 MR. DERIEG: I'm going to use exhibit, I think,
13 7 -- no, excuse me -- is it -- yes, Exhibit 2 and
14 Exhibit 7 just -- just to demonstrate. Exhibit 2, I
15 think is labeled properly. It just says on chair
16 near closet and bed. Exhibit 7 and, I would say,
17 every other exhibit here says room safe under desk in
18 Jacob Hall's bedroom. Every single one of them say
19 in Jacob Hall's bedroom. And they've testified they
20 believe this is Jacob Hall's bedroom, but I think
21 having evidence that the jury can look at that says
22 from Jacob Hall's bedroom over and over and over and
23 over and over again I think is highly prejudicial, I
24 would just ask that they take a Sharpie or something
25 and just strike through from Jacob Hall's bedroom.

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1 Because it clearly comes from the bedroom that they
2 think is Jacob Hall's bedroom. And they label or
3 describe where they found it, then they throw in from
4 Jacob Hall's bedroom. And I think that last part is
5 highly prejudicial and I would ask that that -- that
6 that be redacted from the labels.

7 THE COURT: Does the State wish to be heard?

8 MS. ROBINSON: Your Honor, I think alternatively
9 the Court could give an instruction at some point
10 that the labeling is based on -- they've testified to
11 it repeatedly. The officers choose to label it.

12 THE COURT: I understand your concern. However,
13 however the officers labeled it, that's what they
14 identified the room to be, the bedroom. You can
15 certainly attack that in cross-examination and you
16 can certainly attack that in the closing argument.
17 But I think if we begin to redact the labels on the
18 evidence it could potentially end up creating bigger
19 issues about redaction. On the other hand, I find
20 that it is prejudicial. However, I find that it does
21 not violate Rule 403. I find it is not more
22 prejudicial than probative, however the officers
23 describe or label the names of the rooms in which the
24 evidence was found. So I note your objection
25 however, I find that it (unintelligible.) I deny

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1 that motion. Anything else?

2 MR. DERIEG: No. I was just going to say I
3 wanted to -- I didn't say it but I, you know, at a
4 point I wanted to make an official objection for the
5 record, that -- about those -- about those labels.
6 And to preserve it, do you want me to continue to
7 object for everyone or is this just going to be a
8 continuing --

9 THE COURT: Well, I'm not in the business of
10 educating lawyers on how to preserve evidence.
11 That's what they have. As a trial strategy issue,
12 you have -- I've made my ruling on that, how you deal
13 with it and what you see fit. Again, it's certainly
14 ripe for cross-examination about why they labeled it
15 the way they did. You have free rein to deal with
16 that any way you feel you need to or in your closing
17 argument.

18 MR. DERIEG: Okay.

19 THE COURT: I don't -- I don't -- I don't think
20 you need -- it appears that you've objected to the
21 different labeling. You requested that the labeling
22 -- each of the labels be redacted, that Jacob Hall's
23 bedroom be redacted from the label. That was your
24 objection on every piece of evidence on there. I've
25 noted your objection. I have denied your motion to

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1 require that, so I -- it appears the Court has the
2 record preserved.

3 MR. DERIEG: Well, if Your Honor will -- will
4 allow, I think I'll object to it once.

5 THE COURT: I'll leave that up to you.

6 MR. DERIEG: Okay.

7 THE COURT: All right?

8 MR. DERIEG: Thanks.

9 THE COURT: Anything further, Mr. Derieg?

10 MR. DERIEG: No, sir.

11 THE COURT: All right. Is the State ready
12 again?

13 MS. ROBINSON: Yes, Your Honor.

14 THE COURT: All right. Let's bring our jury in.

15 (The jury entered the courtroom.)

16 THE COURT: All right. Thank you, ladies and
17 gentlemen. Thank you for your patience. State, call
18 your next witness.

19 MS. ROBINSON: Thank you, Your Honor. The State
20 calls Investigator Hines.

21 JOSHUA HINES

22 was called as a witness, and having been first duly sworn,
23 testified as follows:

24 //

25 //

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1 DIRECT EXAMINATION

2 BY MS. ROBINSON:

3 Q Good afternoon.

4 A Good afternoon.

5 Q Could you please state your name for the record?

6 A Yeah. My full name is Joshua Hines.

7 Q And what is your current occupation?

8 A I'm a deputy at the York County Sheriff's Office.

9 Q And how long have you worked in law enforcement?

10 A Going on seven years now.

11 Q Okay. And what's your current title and job
12 responsibilities?13 A Right now, I'm a deputy. I'm actually assigned to the
14 SRO position at Crowders Creek Elementary.

15 Q What does SRO stand for?

16 A School resource officer.

17 Q Was that the capacity you were working in, in February
18 of '22?19 A No, ma'am. I was actually on the drug unit at that
20 time. I was an investigator.21 Q Okay. And on [REDACTED] of 2022, did you respond
22 to [REDACTED] Willow Pond Road in Clover?

23 A Yes, ma'am.

24 Q What county is that in?

25 A In York County.

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1 Q Why did you respond to that residence?

2 A Because deputies were out there reference a call for
3 service that turned out to be a well-being check. And in
4 the midst of the well-being check, they observed guns,
5 ammunitions and drug paraphernalia and narcotics in plain
6 view.

7 Q And is it common for patrol to call the drug
8 enforcement unit upon observing items like that?

9 A It is. It's part of their protocol. So anytime that
10 narcotics is found on any scenes, they normally call us
11 out in reference to potentially getting search warrants or
12 questions about search warrants. Sometimes we'll type out
13 the search warrants for them when we arrive on scene or
14 they'll type out their search warrants but we have to
15 review them before they send them in to a judge.

16 Q Is it possible that there are times patrol sees
17 paraphernalia and does not call DEU?

18 A That -- it's -- it's -- they're not supposed to, but
19 has it ever happened? It's possible.

20 Q But if they intentionally want -- if they specifically
21 want to do a search warrant, they would do what?

22 A They will call us for the search warrant.

23 Q All right. Do you remember what time you got to the
24 residence?

25 A It was a little after 7:00, right 7:00, between 6:30

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1 and 7:00 when I arrived on scene.

2 Q And were you familiar with the defendant in this case?

3 A Yes, ma'am.

4 Q Do you see him here in the courtroom today?

5 A Yes, ma'am.

6 Q Could you please point him out for the Court?

7 A Yes, ma'am. He's right here in the blue shirt.

8 MS. ROBINSON: And if the Court would let the
9 record reflect that he has identified the defendant,
10 Jacob Hall?

11 THE COURT: All right. He's made that
12 identification.

13 BY MS. ROBINSON:

14 Q And did you know him to have any nicknames at that
15 time?

16 A Yes. Other than his full name, it was either Jay Quik
17 or Quik.

18 Q And were there any other law enforcement officers on
19 scene when you arrived that day?

20 A Yes, ma'am. There was Sergeant Penland, Deputy
21 Missildine. They were initially on scene. And then, when
22 I arrived, it was myself, Investigator Moore, Investigator
23 McClaugherty, Investigator Martens, Lieutenant Schifferle.
24 And then, eventually the ATF agent, Osborne, was on scene.

25 Q And where did you go when you arrived at the house?

JURY TRIAL & SENTENCING

1 A Initially, I went through the front -- front door. I
2 was directed upstairs by Mr. Hall's stepdad, and then I
3 went to enter his room.

4 Q Okay. And you just testified his room. Whose room
5 did you understand that to be?

6 A It would be Jacob Hall's bedroom upstairs.

7 Q Can you help me with this bedroom location?

8 A Yes. So --

9 Q If I am walking up the stairs --

10 A Yes, ma'am.

11 Q -- of this house --

12 A Mm-hmm.

13 Q -- and I'm walking forward and I get to the landing --

14 A Okay, yes.

15 Q -- and let's imagine that's straightforward --

16 A There would be a wall.

17 Q -- if we make that a clock, is 12:00 --

18 A That's a wall. That's correct.

19 Q -- where do I go to get to the room you're discussing?

20 A You turn left to about your 11:00, and that room is
21 directly on your right.

22 Q Can I -- if I -- am I turned enough?

23 A Yes.

24 Q Can I walk straight into the room like this?

25 A You can walk directly right into that room. That's

JURY TRIAL & SENTENCING

1 correct.

2 Q So now I can go through the door?

3 A You can, yes, ma'am.

4 Q Now, if I came up and I stop as soon as I got to the
5 top of the stairs --

6 A Okay.

7 Q -- and then I turn a hard right --

8 A That's correct, yeah.

9 Q -- how many steps forward would I have to take to be
10 even with that door?

11 A Maybe a foot, if that.

12 Q So now I've taken one step --

13 A And you can go directly right into that room.

14 Q -- now it's right to go in?

15 A Yes, ma'am, that's correct.

16 Q It's like a slant if I made a hard turn?

17 A That's correct.

18 Q All right. Now, I got to the top of the stairs --

19 A Yes, ma'am.

20 Q -- and I stop. I make a hard right turn. What
21 happens if I try to take 5, 6, 7 steps down this hall?

22 A Then it comes to the end of a wall. I mean, the end
23 of the -- the walkway.

24 Q Okay. Are there any other doors on my right as I go
25 down this --

JURY TRIAL & SENTENCING

1 A There is a second door on the end on your right, but
2 it's closed off. Somebody built a wall there and there
3 was clutter there, so there was no entrance to that room
4 through the door.

5 Q But if I coo-way-ma'am [ph] my way through it and but
6 through that door, where will I end up?

7 A Into that bedroom.

8 Q The same bedroom?

9 A That's correct.

10 Q Now, I go to the top of the stairs and I stop and then
11 I turn a hard right, 90 degrees. I take a step. What
12 happens if I turn -- all right, excuse me -- I turned --
13 this ain't right --

14 A Yeah, I was confused too. I knew what you meant. I
15 could see it.

16 MS. ROBINSON: Please let the record reflect
17 I've been turning left off the stairs.

18 BY MS. ROBINSON:

19 Q If I turned left again, and now I've made a U-turn --
20 I've taken a step but I've made a U-turn -- now what am I
21 looking at?

22 A You're looking at another door into an entrance of a
23 room.

24 Q And what exactly was that room?

25 A That room is partially open with a lot of boxes of

JURY TRIAL & SENTENCING

1 things. You can see the spiderwebs and so forth through
2 there. There's tons of boxes and things in there.

3 Q Okay. Did it appear to be used as a bedroom?

4 A No.

5 Q Okay. Back to the stairs. And this time, I'm
6 actually going to go right.

7 A Okay.

8 Q So I come up the stairs, stop, turn right, what's
9 going to be ahead of me now?

10 A If you take a few steps to your left, it will be a
11 bathroom.

12 Q Okay. But I turned right a few steps.

13 A Take a left, there's a bathroom.

14 Q A bathroom?

15 A That's correct.

16 Q But if I keep going more than a few steps?

17 A Then you'll -- a few more steps, take a left. There
18 should be another bedroom.

19 Q Okay.

20 A And then, if you bypass that again, there should be
21 another room directly on your left.

22 Q Okay. Let's go to the first bedroom after the
23 bathroom.

24 A Okay.

25 Q Did it appear to be used as a bedroom?

JURY TRIAL & SENTENCING

1 A Yes. It appears that children were staying in that
2 room.

3 Q Okay. And then, the last room, what was going on with
4 that room?

5 A Someone else was living in that room.

6 Q Okay. Another bedroom?

7 A Yes, ma'am.

8 Q All right. Is that -- are there any other rooms --

9 A Upstairs?

10 Q -- that we have not discussed upstairs?

11 A No, ma'am.

12 Q Okay. Did you ultimately go into areas on the lower
13 level as well?

14 A Yes, ma'am.

15 Q Okay. How many rooms on the lower level were being
16 used as bedrooms, so far as you could tell?

17 A That I could tell, only two.

18 Q Okay. And what was your understanding of the
19 occupants of those bedrooms?

20 A If you walk into the house and look to your left there
21 would be Mr. Hall's mother's room.

22 Q Okay.

23 A If you -- the living room is on your right. The
24 kitchen is straight ahead. And if you take a left, you'll
25 see a laundry room and a bathroom. And then, if you keep

JURY TRIAL & SENTENCING

1 straight, it was his brother, Levi's, bedroom.

2 Q Okay. And the rest of the ground floor, what was that
3 area on the rest of the ground floor?

4 A Like I said, it was a lot of things. I mean, a lot of
5 things packages --

6 Q What about --

7 A -- stuff cluttered everywhere. But mostly living and
8 kitchen.

9 Q Okay. Yeah, sorry. I didn't mean to interrupt you --

10 A Sorry.

11 Q -- in terms of items. I meant more of like what types
12 of rooms?

13 A Oh, yes, ma'am. It was just the living room and then
14 the kitchen --

15 Q Okay.

16 A -- straight ahead.

17 Q So you testified that when you got there, you were
18 directed to room upstairs on the left?

19 A Yes, ma'am.

20 Q And that's that one that if you come up you do the
21 11:00 thing?

22 A You can walk directly into that room that way. That's
23 correct.

24 Q All right. So that's where you went when you
25 responded there. And then, what did you do?

JURY TRIAL & SENTENCING

1 A I made entry into that room. I spoke with Sergeant
2 Penland and Missildine in reference to why they were
3 there. And they also -- I saw the guns laying on the bed
4 and I also saw a tray of drug paraphernalia for marijuana
5 usage and also used marijuana.

6 Q And what did you do with that information?

7 A I called my lieutenant, Ramsey at the time, and let
8 him know of the findings and established a search warrant
9 for the residence.

10 Q Okay. Now while -- after you made that phone call, I
11 presume it's not instantaneous for the search warrant be
12 obtained?

13 A No. It takes some time.

14 Q So what did you do while you were waiting for that
15 process to happen?

16 A As I relayed the information to Lieutenant Ramsey, as
17 more investigators came on scene, I actually walked out of
18 that room and saw miss -- his mother laying -- she was
19 bedridden. I saw his stepfather, which was also
20 downstairs. I observed Ms. Harris in the living room area
21 with the kids. And then, I actually went through the
22 residence to make sure that Mr. Hall not present, because
23 I was unsure at the time if they had searched any other
24 rooms. But it's common for us to also double-check behind
25 or deputies to make sure. No offense to them, we just

JURY TRIAL & SENTENCING

1 double-check it for ourselves.

2 Q Okay. And did you find the defendant on scene?

3 A No, ma'am, he was not seen.

4 Q Now, ultimately, a search warrant was obtained;
5 correct?

6 A Yes, ma'am.

7 Q And were you -- did you participate in the searching
8 of the residence?

9 A Yes, ma'am, I did.

10 Q What was your role in that search?

11 A I was the case agent, but I also was the main evidence
12 tech. So I was collecting evidence, taking pictures of it
13 and also seizing it.

14 Q And when you seize items -- or what do you do
15 initially as you're recovering -- seeing items in the home
16 that you intend to seize, what do you do with them?

17 A After packaging them or before packaging them?

18 Q Tell us --

19 A The steps --

20 Q -- before you first see -- when it's located in an
21 area --

22 A So --

23 Q -- and you know you need to take it, what are you
24 going to do?

25 A -- so I'm going to take a picture of the whole room

JURY TRIAL & SENTENCING

1 that it's been located in and take a picture of the actual
2 evidence itself which is, of course, with our phones that
3 are timestamped. And then, we package it and then we
4 label where it was located and the time.

5 Q All right. And did you search areas other than the
6 room to the left?

7 A Yes, ma'am.

8 Q Did you find anything of significance in rooms other
9 than the upstairs room to the left?

10 A Yes. So the bathroom that was upstairs, there was
11 some meth -- well, what was suspected to be
12 methamphetamine inside that bathroom. Down in his
13 brother's room, there was a medicine container with his
14 full name on there of Levi and his last name. And then,
15 also, there was a handgun lower that was also located in
16 his bedroom.

17 Q And did you recover ammunition or -- other than the
18 lower, did you recover a fully functioning firearm or
19 ammunition in other parts of the home?

20 A No, ma'am.

21 Q While you were there, did you take swabs for DNA
22 purposes from the house?

23 A No, ma'am.

24 Q Why didn't you do that?

25 A That's not common practice for us to do on the drug

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1 unit.

2 Q Once you -- okay. So you talked about you take
3 pictures and document the items that you intend to seize.
4 Then what you do then?

5 A Once we have packaged them, we have an evidence cart
6 that we make sure we keep them in, and that goes with me
7 wherever I go.

8 Q How long were you all on scene at Willow Pond?

9 A Wow, a long time. We didn't leave approximately 'til
10 after, wow, 11:00. We were there a long time.

11 Q And you've testified that one of the individuals on
12 scene was Ms. Harris and her children; is that correct?

13 A Yes, ma'am.

14 Q Was she still on scene when you left that night?

15 A I think she left right before we left.

16 Q Once you had the items there on scene in packaging and
17 on a cart, what did you do with them?

18 A Placed them in my patrol vehicle, which I had unmarked
19 at that time, transported back to our narcotics room, and
20 we placed it in a -- we have our own evidence bay or
21 locker secured by lock and key and also 24-hour
22 surveillance as well.

23 Q And so, that's that night. What time would you have
24 gotten -- if you left there about 11:00, what time would
25 you have gotten back to your office?

JURY TRIAL & SENTENCING

1 A We were told -- we were instructed to be back in the
2 office at 8:00 that morning, if not sooner.

3 Q But that night? What time did you get back --

4 A Oh, that night? Oh, wow, maybe like 11:45, 12:00.

5 Q Okay. Where is your office -- where was the --

6 A It's at -- here at the Moss Justice Center. It's
7 downstairs.

8 Q -- okay. And this incident location is where in the
9 county?

10 A Right at between the state lines in -- well, it was
11 the Lake Wylie-Clover district, so it was on Willow Pond,
12 which is off of 274 right near the state line.

13 Q All right. When you brought the evidence back to the
14 office here, you just testified you put it in an evidence
15 area where the drug --

16 A It has a locker. Yes, ma'am. We have a lock and key
17 for that in that if you place that evidence in that locker
18 or whoever does holds that key -- which as the evidence
19 tech, I kept possession of that key so no one else could
20 get in. And if anyone else made entry in there, we'll
21 have video-audio -- we'll have video showing who did make
22 entry in there or attempted.

23 Q Did you do anything else on the case that night?

24 A No, ma'am.

25 Q Why not?

JURY TRIAL & SENTENCING

1 A It was really late.

2 Q When did you next interact with that evidence?

3 A 8:00 that morning.

4 Q The next morning?

5 A Yes, ma'am.

6 Q Okay. And you've testified that you would have had
7 the key; correct?

8 A That's correct.

9 Q And when you interacted with it again the next
10 morning, was there any indication that it had been
11 tampered with in any way?

12 A No, ma'am.

13 Q What were you doing the next day when you interacted
14 with the evidence?

15 A After I released it from the evidence bay, we brought
16 it into our narcotics office where I was assisted with --
17 we ended up taking different -- more pictures of the
18 evidence and then repackaging it.

19 Q Okay. And at some point -- what -- what's the end
20 goal with evidence as you process it the next day? What
21 are you going to do with it?

22 A Once we process it and it's into the proper form
23 labeling, we actually take it to evidence for them to put
24 into their system.

25 Q Okay. And so, -- so you submit items to evidence?

JURY TRIAL & SENTENCING

1 A That is correct.

2 Q And I think you started to testify, did you say
3 officers were helping you with this?

4 A Yes, ma'am. Investigator Moore assisted because it
5 was a -- obviously, a lot of evidence. And we always like
6 to double-check because, I mean, we're humans, we make
7 mistakes. So we wanted to make sure that it was done
8 properly the first time.

9 Q Now, when you submit items to evidence, how are they
10 packaged at that point?

11 A Some in vanilla [sic] envelopes as you see, and then
12 also some in plastic.

13 Q Are they opened or sealed?

14 A They're all sealed, initialed and sealed.

15 Q And what do you physically do to submit items to
16 evidence?

17 A We have to physically hand -- well, we do it -- we
18 place them in the system. We have to do an evidence
19 sheet. We have to do a forensic advantage sheet. And
20 then, once they're complete and sealed, our lieutenant
21 does not let it leave that office until he says it looks
22 good, it matches. And then, we have to physically hand it
23 over to them if they're there. But if they're not there,
24 we have to put it into another lock and key, which we have
25 no access to once it's in there.

JURY TRIAL & SENTENCING

1 Q Okay. So describe what that is, something we don't
2 have access to once you put in there.

3 A So there's two different ways. So there's like -- it
4 looks like a -- the back of a mailbox where you just put
5 your mail in and close it. And then, once it's there, it
6 drops in there, and the only way that opens up is by the
7 evidence techs. And there's also lockers like you see on
8 the wall and it comes with a padlock. And once you put
9 the -- place it into evidence, you padlock it and there's
10 no way out of it.

11 Q Okay. So once you get done documenting, labeling,
12 sealing you put it into -- either give it to an evidence
13 tech or put it into one of these locations --

14 A That's correct.

15 Q -- and the only individuals able to access it are
16 evidence employees?

17 A That's correct.

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

19 THE COURT: Yes, you may.

20 BY MS. ROBINSON:

21 Q Investigator Hines, I'm handing you what's been marked
22 as State's Proposed Exhibit 35-A through 35-Y.

23 A Yes, ma'am.

24 Q If you could take those out of there and just review
25 those briefly. Look up when you're done looking through

JURY TRIAL & SENTENCING

1 them.

2 A Okay.

3 Q Thank you. Did you get a chance to review all of
4 those pictures?

5 A I did.

6 Q And did you recognize them?

7 A Yes, ma'am.

8 Q Do they fairly and accurately depict what you
9 encountered in the upstairs bedroom of Willow Pond on
10 [REDACTED], 2022?

11 A Yes, ma'am.

12 MS. ROBINSON: Your Honor, at this time, the
13 State would move to admit State's Exhibit 35-A
14 through 35-Y.

15 (PPlaintiff's Exhibit 35-A through
16 35-Y were moved for admission
17 into evidence.)

18 MR. DERIEG: Without objection.

19 THE COURT: State's Exhibit 35-A through Y are
20 into evidence without objection.

21 (PPlaintiff's Exhibit 35-A through
22 35-Y was admitted into evidence.)

23 MS. ROBINSON: Your Honor, I ask permission to
24 publish.

25 THE COURT: Yes, you may.

JURY TRIAL & SENTENCING

1 BY MS. ROBINSON:

2 Q All right. Investigator Hines, that screen is not
3 working in front of you, is it?

4 A No, ma'am.

5 Q Can you see from where you're at --

6 A Yeah.

7 Q -- what is on that picture? Okay.

8 A Yes, ma'am.

9 Q Tell us what is appearing here in 35-A.

10 A Yes, ma'am. That is the safe that is open that's
11 inside the bedroom. You can see that there's a
12 crystal-like substance believed to be methamphetamine
13 right there. There is also firearms you can see in there
14 as well as that's like an old '60s, I think, Coca-Cola
15 bottles.

16 Q Okay. And were you in the room when this safe was
17 opened?

18 A Yes, ma'am.

19 Q Was the safe opened when you got in the room or
20 locked?

21 A It was locked.

22 Q So how was it opened?

23 A Forcefully with a crowbar and pry bar.

24 Q And who opened it?

25 A Marschal Martens.

JURY TRIAL & SENTENCING

1 Q If we go to 35-B, what is this an image of?

2 A That is -- once all the contents were out of the safe,
3 that was what was left inside the safe.

4 Q Okay. And if you look in the lower corner, the lower
5 left corner of the safe, what can you see there?

6 A You see ammunition and then you see fragments of the
7 drill marks where it seems to be tacked to the floor.

8 Q Okay. And were you and officers able to move that
9 from where it was in the room?

10 A No, ma'am.

11 MS. ROBINSON: If I may approach, Your Honor?

12 THE COURT: Yes, you may.

13 MS. ROBINSON: If you could go back, B.

14 BY MS. ROBINSON:

15 Q Investigator Hines, I'm handing you what's been marked
16 as State's Proposed Exhibit 7. Do you recognize that?

17 A Yes, ma'am.

18 Q What is that?

19 A This is -- I believe on Exhibit No. 7, this shows that
20 there is ammunition in here from the safe underside that
21 desk, meaning that safe.

22 Q Okay. And are you the person who created the label
23 for that?

24 A Yes, ma'am.

25 Q And you testified earlier that you seal items before

JURY TRIAL & SENTENCING

1 submitting them into evidence.

2 A That's correct.

3 Q Is that item still sealed?

4 A Yes, ma'am.

5 Q Does it appear to have been opened or tampered with
6 since you submitted it?

7 A No, ma'am.

8 Q Now, if you could go to 35-C. What is in this
9 picture?

10 A That is loose ammunition that is on a chair that was
11 by the bed.

12 Q And is that how you encountered it in that room?

13 A Yes, ma'am.

14 Q All right. I've handed you what's been marked as
15 State's Proposed Exhibit 2. Do you recognize that?

16 A Yes, ma'am.

17 Q What is that?

18 A That is the ammunition that is in -- on that chair.

19 Q And you generated that label?

20 A Yes, ma'am.

21 Q And you sealed it before you put it into evidence?

22 A Yes, ma'am.

23 Q Is that package still in the -- in the same sealed
24 condition as when you submitted it?

25 A Yes, ma'am.

JURY TRIAL & SENTENCING

1 Q All right. If you could go to 35-D. What is in this
2 picture?

3 A That is the safe that's inside the bedroom on your --
4 bless you -- that is ammunition that's inside that safe.

5 Q Now, is this the same safe that you just testified to?

6 A No, ma'am, that's a separate safe. That was open when
7 patrol arrived on scene.

8 Q So no one needed to break into this safe?

9 A No. That was in the closet.

10 Q Okay. If you could also go to Exhibit E, 35-E. What
11 is in this picture?

12 A That is the same safe. There's just a different
13 section of that safe, with ammunition as well in that
14 safe.

15 Q I'm handing what's been marked as State's Proposed
16 Exhibit 14. What is that?

17 A This is those rounds outside of that safe.

18 Q And you created that label?

19 A Yes, ma'am, I did.

20 Q Did you seal that box?

21 A Yes, ma'am, I did.

22 Q Does it appear to have been opened since you submitted
23 to evidence?

24 A No, ma'am. It's still in the original form.

25 Q And did you indicate how many rounds of ammunition

JURY TRIAL & SENTENCING

1 would be in that box?

2 A It's showing, if I'm not mistaken, 441 rounds.

3 Q Over 440?

4 A Yes, ma'am.

5 Q Does that box have a little weight to it?

6 A Yes, ma'am.

7 Q Do you want to just set it on the floor for now?

8 A Okay.

9 Q All right. If you could go to 35-F. What was this?

10 A That was a weird thing. It was like a wooden box with
11 white powder. I suspected it to be -- it appeared to be
12 baby powder with ammunition in it.

13 Q I'm handing you State's Proposed 15.

14 A Yes, ma'am.

15 Q Do you recognize that?

16 A Yes, ma'am.

17 Q What is that?

18 A This is 45 rounds of 9-millimeter.

19 Q And did you package that?

20 A Yes, ma'am, I did.

21 Q And label it?

22 A Yes, ma'am.

23 Q Is it still in a sealed condition?

24 A Yes, ma'am.

25 Q 35-G, what is this?

JURY TRIAL & SENTENCING

1 A That is an ammunition box that's on the ground inside
2 that room as well with loose ammunition.

3 Q This is State's Proposed 16. What is that?

4 A This is ammunition from that ammo box.

5 Q Now, when you were doing this and creating these
6 labels, did you -- are these your pictures?

7 A Yes, ma'am, those are my pictures.

8 Q Did you use the pictures to help you make sure you
9 keep track of --

10 A Yes, ma'am, that's correct.

11 Q -- and you submitted that to evidence?

12 A Yes, ma'am.

13 Q Is it in the same sealed condition as when you
14 submitted it to evidence?

15 A Yes, ma'am, it is.

16 Q 35-I, what is that?

17 A That is a desk inside the room. The safe is actually
18 under that desk with magazines containing ammunition as
19 well.

20 Q Oh, this -- this is actually 35-H. Can you go to the
21 next one? So this is 35-I now. What is this one?

22 A That is an ammunition box with also ammunition in
23 there as well.

24 Q This is State's Proposed 21.

25 A Yes, ma'am.

JURY TRIAL & SENTENCING

1 Q And what is that?

2 A This is that ammunition from that ammunition box.

3 Q And you submitted it to evidence?

4 A Yes, ma'am, that's correct.

5 Q Is it still in the same sealed condition?

6 A That is correct, even with the markings on it.

7 Q 35-J. Oh, this is -- go ahead and go back one, two --
8 okay. So H, you testified these were magazines, is that
9 correct, 35-H?

10 A That is correct. Yes, ma'am.

11 Q And did you ultimately seize those as well?

12 A Yes, ma'am, we did.

13 Q 35-J, what is this?

14 A It's a dresser, I guess, or a cabinet that was inside
15 the room. Straight -- if the desk straight ahead once you
16 walk in -- I mean once you go through and take a left, the
17 desk is straight ahead to your right. That is -- the
18 cabinet is right there.

19 Q Did you seize anything from that cabinet?

20 A Yes, ma'am. The jigs for the firearm or lowers were
21 there, and also ammunition.

22 Q This is State's Proposed 24.

23 A Yes, ma'am.

24 Q What is that?

25 A That is ammunition off that white shelf.

JURY TRIAL & SENTENCING

1 Q Okay. 35-K?

2 A That is ammunition from that ammo box on the shelf in
3 a plastic container.

4 Q And 35-L, what is this?

5 A That was a blue crate that was actually close to the
6 door inside that residence -- I mean, inside the room, and
7 it had loose ammunition. It does appear to be .22 rounds.

8 Q State's Proposed 26, what is that?

9 A Yes, ma'am. These are the rounds -- ammunition rounds
10 that I found in that blue crate.

11 Q And did you submit that to evidence?

12 A Yes, ma'am.

13 Q And is it in the same sealed condition?

14 A Yes, ma'am.

15 Q If I could have you go back real quick to 35-J. This
16 was -- you testified this shelf has some ammunition on it;
17 correct?

18 A Yes, ma'am.

19 Q State's Proposed 23. How is that labeled?

20 A It's from the white shelf in Jacob Hall -- well, in
21 the child's bedroom.

22 Q So is that referring to the picture 35-J?

23 A Yes, ma'am, that's correct.

24 Q Okay. And then, is that -- you submitted that to
25 evidence?

JURY TRIAL & SENTENCING

1 A Yes, ma'am.

2 Q And is it in the same sealed condition?

3 A Yes, ma'am.

4 Q And then, you previously testified about State's
5 Proposed 24; is that correct?

6 A Yes, ma'am, about that ammo can.

7 Q And -- and your testimony was that this was next to
8 the white shelf?

9 A Yeah.

10 Q And is that consistent with State's Proposed 24?

11 A That is correct.

12 Q All right. We've talked about 35 -- if you could go
13 to the next one -- L. We did the blue crate; correct?

14 A Yes, ma'am.

15 Q All right. 35-M, what is that?

16 A This is ammunition in a -- in its original container
17 that was on the floor.

18 Q This is State's Proposed 27. What is that?

19 A This is the ammunition round that was found on the
20 floor.

21 Q And did you submit it to evidence?

22 A Yes, ma'am, I did.

23 Q And is it in the same condition sealed?

24 A Yes, ma'am.

25 Q 35-N, what is this?

JURY TRIAL & SENTENCING

1 A Those -- that is a -- in the plastic container, it
2 contained a numerous amount of magazines.

3 Q Okay. And if you could zoom out. Do you see the wall
4 (unintelligible)?

5 A I'm sorry.

6 Q The wall above those magazines --

7 A Yes, ma'am.

8 Q -- what's happening there?

9 A There is -- that is the opening -- excuse me -- that
10 is an opening inside of Mr. Hall's bedroom.

11 Q Did you look at that opening?

12 A Yes, ma'am, I did.

13 Q What was in that opening?

14 A There was loose ammunition within, I guess, the side
15 of that wall. There was a digital scale, but then there
16 was also that -- it appeared like an old World War II
17 smoke flare or trip flare.

18 Q 35-O, what is this?

19 A That is a plastic container with also ammunition in
20 there.

21 Q State's Proposed 29 --

22 A Yes, ma'am.

23 Q -- what is that?

24 A This is the ammunition that was found in that clear
25 tub.

JURY TRIAL & SENTENCING

1 Q And did you submit that to evidence?

2 A Yes, ma'am.

3 Q Has it been opened since you submitted it to evidence?

4 A No, ma'am.

5 Q 35-P, what is this?

6 A That is another container with loose ammunition.

7 Q State's Proposed 30, is that consistent with the
8 ammunition you were describing in this picture?

9 A Yes, ma'am, it is.

10 Q And did you submit that to evidence?

11 A Yes, ma'am, I did.

12 Q Have the seals been broken since you submitted it to
13 evidence?

14 A No, ma'am.

15 Q 35-Q, what is this?

16 A That is a -- I believe that's a Blackstone, if I'm not
17 mistaken, a bag that was right outside the door of
18 Mr. Hall's bedroom.

19 Q Okay. So the background of this picture is what, the
20 doorframe?

21 A Yes, ma'am.

22 Q Did you find anything of interest in that bag?

23 A Yes ma'am, more ammunition.

24 Q State's Proposed 31, what is that?

25 A This is the ammunition that was inside that bag.

JURY TRIAL & SENTENCING

1 Q And did you submit that to evidence?

2 A Yes, ma'am.

3 Q And is it in the same sealed condition?

4 A Yes, ma'am.

5 MS. ROBINSON: Your Honor, at this time, the
6 State would move to admit State's Proposed 2, 7, 14,
7 15, 16, 21, 23, 24, 26, 27, 29, 30, and 31 ammunition
8 located in that room.

9 (Plaintiff's Exhibits 2, 7, 14,
10 15, 16, 21, 23, 24, 26, 27, 29,
11 30, and 31 were moved for
12 admission into evidence.)

13 THE COURT: Mr. Derieg?

14 MR. DERIEG: Your Honor, I do not object to
15 Exhibit 2 being entered into evidence. However, I do
16 object to the labeling of Exhibit 7 and all
17 subsequent pieces of evidence that have just been
18 offered into evidence. The questioning and the
19 testimony that has just been given has given me even
20 stronger and more significant objections to the way
21 these things are labeled that might be heard, Your
22 Honor.

23 MS. ROBINSON: Your Honor, may we approach?

24 THE COURT: Yes. Ladies and gentlemen, we need
25 to take up the matter outside of your presence.

JURY TRIAL & SENTENCING

1 Return to your jury room. Don't discuss anything
2 about the case. We'll have you back in shortly.

3 (The jury exited the courtroom.)

4 THE COURT: All right. Mr. Derieg?

5 MR. DERIEG: Yes, Your Honor. If you listen to
6 the line of questioning and the answers that were
7 given, from Jacob's room was never said a single
8 time, not one time. I was waiting for it to be said
9 a single time, and it was not said a single time. So
10 it is clear that these things can be described
11 without having in Jacob's room on them because that
12 is exactly how Investigator Hines described these
13 pieces of evidence. He described what they were and
14 where they were found, and that is the significance
15 of what they are. The addition of in Jacob's room
16 goes to the very heart and the very key question of
17 this trial that is for the jury to decide. So having
18 in Jacob's room over and over and over again, Your
19 Honor, I would submit, seems to try and take the
20 power of -- and ability of decision away from the
21 jury and make it almost a fact that these are from
22 Jacob's room, when that is the actual key question of
23 the case.

24 I think it seeks to take the jury's ability to
25 decide whether these are from Jacob's room and tells

JURY TRIAL & SENTENCING

1 them that they are as a fact. And taking a jury's
2 ability to decide rather than -- rather -- and telling
3 them what they need to think and that is a -- and that
4 is a fact, and it's said over and over and over again,
5 Your Honor, I feel like it's very unconstitutional.

6 THE COURT: Let me hear from the State.

7 MS. ROBINSON: Your Honor, I think that is all
8 fair argument for the -- I think the jury is going to
9 be clear that the crux of this case --

10 THE COURT: Let me see -- let me see what one of
11 the pieces.

12 MR. DERIEG: Look at No. 2 and then any other
13 piece.

14 THE COURT: All right. Let me see No. 2. I
15 think the testimony of Investigator Hines and what
16 he's testified to, I find this more appropriate that
17 in Jacob's bedroom or Jacob's room be redacted. I
18 don't want to say redacted, just simply get a black
19 marker and just go through those words. It does
20 appear that, you know, that is a conclusion that this
21 officer made based on a lot of things. That's
22 certainly -- it's certainly not a question about the
23 jury being informed of that, every officer having his
24 opinion about whose room it was. That's certainly
25 been the testimony so far. I'm sure it won't be the

JURY TRIAL & SENTENCING

1 last time we hear that, identifying this as Jacob
2 Hall's room. However, I find that the way the
3 labeling is on each of those pieces of evidence of
4 items found in a particular part -- items found on
5 desk or ammo box in Jacob's room that -- I grant the
6 motion to redact that part on all those pieces of
7 evidence.

8 MR. DERIEG: Thank you, Your Honor.

9 THE COURT: All right. Practically, I think
10 what we need to do, we're not intending to open any
11 of these to show to the jury today. Are we even
12 opening them to ever show them to a jury?

13 MS. ROBINSON: The ammunition bags no, Your
14 Honor. I don't believe we need to open any.

15 MR. DERIEG: There's pictures of everything.

16 THE COURT: Which means that there's no need for
17 any of these items to go back to a jury; right?

18 MS. ROBINSON: No, Your Honor, not until the
19 close of the case, obviously, Your Honor.

20 THE COURT: Well, what I'm saying is that --

21 MS. ROBINSON: Or even then. They're --

22 THE COURT: -- practically, if we're not opening
23 the evidence in the courtroom, I'm not going to allow
24 the jury to open the evidence. We normally do that
25 in open court, unseal things. But I think what

JURY TRIAL & SENTENCING

1 you've indicated that you're sending photos of
2 everything back; is that right?

3 MS. ROBINSON: Your Honor, the only thing I
4 would ask if the jury wants to see them that they
5 would be allowed to have them. Each one indicates
6 what ammunition is in there and how much ammunition
7 and --

8 THE COURT: I don't have a problem with that, if
9 that's what they want to do. Or you all may decide
10 to send it back but, practically, all we're sending
11 back is a label. They're not going to be allowed to
12 open the evidence in the --

13 MS. ROBINSON: Agreed.

14 THE COURT: -- in the jury room if it has not
15 been opened here in court.

16 MS. ROBINSON: Yes, Your Honor.

17 THE COURT: So my question is -- I think the
18 best thing to do when the jury comes back, the record
19 is clear, if any of these items go back to the jury
20 or is presented to the jury, we will make sure that
21 in Jacob's room or bedroom or whatever it is, is
22 blacked out or redacted before we do that. It sounds
23 like we might not even get there. It just depends on
24 how you all want to use your evidence. Does that
25 make sense?

JURY TRIAL & SENTENCING

1 MR. DERIEG: Yes, Your Honor.

2 THE COURT: Are we all on the same page?

3 MS. ROBINSON: Yes, Your Honor.

4 THE COURT: All right. Let's bring the jury
5 back in.

6 (The jury entered the courtroom.)

7 THE COURT: Thank you. Let's see where we are.
8 We moved evidence in. Mr. Derieg, anything else?

9 MR. DERIEG: Your Honor, subject to your ruling,
10 I now do not object to any of these pieces of
11 evidence coming -- being --

12 THE COURT: All those -- all those enumerated by
13 the solicitor are now into evidence, subject to the
14 ruling from the Court.

15 (Plaintiff's Exhibits 2, 7, 14,
16 15, 16, 21, 23, 24, 26, 27, 29,
17 30, and 31 were admitted into
18 evidence.)

19 MS. ROBINSON: Thank you, Your Honor. May it
20 please the Court?

21 THE COURT: Yes, you may.

22 BY MS. ROBINSON:

23 Q Investigator Hines, you testified you were the case
24 agent in this case; is that correct?

25 A Yes, ma'am.

JURY TRIAL & SENTENCING

1 Q And you've been present here for the trial; is that
2 correct?

3 A Yes, ma'am.

4 Q Were you present when Sergeant -- Lieutenant
5 Schifferle testified and pictures were shown during his
6 testimony?

7 A Yes, ma'am.

8 Q Were you familiar with those pictures as well --

9 A Yes, ma'am.

10 Q -- in addition to your own pictures?

11 A Yes, ma'am.

12 Q I have published what is State's 34-J. Do you
13 recognize that?

14 A Yes, ma'am.

15 Q What is -- what is in this picture?

16 A Those are the firearms that were inside the safe.

17 Q Okay. And did you seize those items?

18 A Yes, ma'am.

19 Q In terms of evidence processing, you testified that
20 was your responsibility in this case; correct?

21 A That's correct.

22 Q What do you do to process firearms before being
23 submitted into evidence?

24 A Other than wearing gloves to make sure that there's no
25 cross-contaminations, we make sure that there's no live

JURY TRIAL & SENTENCING

1 ammunition inside the firearm. We send a zip tie through
2 it -- so to confirm with our evidence techs -- and they
3 are vacuum-sealed and sent on to the gun lab.

4 Q Is there anything about the firearms that makes them
5 uniquely identifiable?

6 A Serial numbers.

7 Q Okay. And would you have documented serial numbers of
8 the firearms seized in this case to the extent that you
9 did?

10 A That's correct.

11 Q I've handed you State's Proposed 9. What is that
12 item?

13 A This is a 9-millimeter handgun, a Hi-Point.

14 Q And where was that located?

15 A In the safe.

16 Q And did you document a serial number for that firearm?

17 A Yes, ma'am, I did.

18 Q And can you tell us the firearm in that packaging is
19 the same number that you see the documented serial
20 number for on -- when you processed it in the evidence
21 room?

22 A Yes, ma'am, that is.

23 Q And in terms of 34-J, which firearm is that one?

24 A The far black one to your right. It's standing out.
25 It's green [ph].

JURY TRIAL & SENTENCING

1 Q Okay. I handed you State's Proposed 10. What item is
2 that?

3 A This is the Ivory [sic] Johnson revolver.

4 Q And did you go through the same procedure documenting
5 that firearm?

6 A That's correct.

7 Q And did it have a serial number that you documented?

8 A Yes, ma'am, it does.

9 Q Is that the same firearm that you seized from the safe
10 on [REDACTED]?

11 A Yes, ma'am, I do.

12 Q And in this picture, can you tell which firearm that
13 one is?

14 A Yes, ma'am. It appears to be the top revolver to your
15 left.

16 Q So this one here?

17 A Yes, ma'am.

18 Q So the Proposed 9 was on the far end over here, and
19 now Proposed 10 is on the far end this way?

20 A Yes, ma'am.

21 Q Now, I've put up State's 34-F. Do you recognize that?

22 A Yes, ma'am.

23 Q Where was that located in the room?

24 A In the safe as well.

25 Q This is State's Proposed 12. What is that?

JURY TRIAL & SENTENCING

1 A This is the Charter Arms revolver. It was located in
2 the safe as well.

3 Q And in 34-F, there's only one firearm; correct?

4 A I'm sorry?

5 Q In 34-F --

6 A Oh, yes, ma'am.

7 Q -- there's only one firearm?

8 A Yes, ma'am.

9 Q And is that the same firearm you're holding in your
10 hand?

11 A That is correct.

12 Q Did you document a serial number for this firearm?

13 A Yes, ma'am, I did. .

14 Q And is it still consistent with the firearm in that
15 packaging?

16 A Yes, ma'am.

17 Q This is State's 34-Z. What is in this picture?

18 A That is the revolver that's between the mattress and
19 box spring inside that room.

20 Q This is State's Proposed 17. Is that the same firearm
21 that appears in State's 34-Z?

22 A Yes, ma'am, the Smith & Wesson.

23 Q And did you document a serial number for that firearm?

24 A Yes, ma'am, I did.

25 Q And is that the same firearm that's in the packaging

JURY TRIAL & SENTENCING

1 at this time?

2 A Yes, ma'am, it is.

3 Q Do you recognize 34-M in this picture?

4 A Oh, yes, ma'am.

5 Q What was that?

6 A That was the firearm that was initially out on the bed
7 when I arrived on the scene. I can't remember the name of
8 that one.

9 Q I'm handing you State's Proposed 18.

10 A Yes, ma'am.

11 Q Is that the same firearm as in State's 34-M?

12 A That is correct.

13 Q And what kind of firearm is that?

14 A I'm probably going to butcher that name, but it's a
15 308 rifle.

16 Q Okay. And inside that bag -- well, did you document a
17 serial number for it?

18 A Yes, ma'am, I did.

19 Q And is that still consistent with the firearm inside
20 the packaging consistent with what you see in this
21 picture?

22 A That's correct.

23 Q And that rifle, is it assembled right now?

24 A No, ma'am.

25 Q How many pieces are in there?

JURY TRIAL & SENTENCING

1 A There's two pieces.

2 Q And is that the same way that you recovered it at that
3 time?

4 A That's correct, two pieces.

5 Q State's 34-V, as in Victor, do you recognize that?

6 A Yes, ma'am. That was a firearm that was in a
7 container by the window.

8 Q And what else is in the container with that firearm?

9 A It was a -- I don't know the name of it. It was just
10 a fluid that it was sitting in.

11 Q Did you ultimately take the firearm out of the fluid
12 and sieve it?

13 A That's correct. We take it out to let it air-dry
14 before placing it into our packaging.

15 Q This is 35-R. What is that?

16 A That was that the firearm that was inside that plastic
17 container of liquid by the window.

18 Q Okay. So you testified you took it out of the fluid
19 to let it dry before seizing it?

20 A Before putting it in packaging, right.

21 Q Where was this picture taken?

22 A Inside the room.

23 Q Okay. So that's not how you found it, but you took it
24 to the side and then documented --

25 A Yes. It was within the same reach of where it was.

JURY TRIAL & SENTENCING

1 Q -- this is State's Proposed 25. What is that?

2 A This is that 9 millimeter handgun from that container.

3 Actually that's right there.

4 Q All right. And did you record a serial number for
5 that firearm?

6 A Yes, ma'am, I did.

7 Q And is the firearm in the bag consistent with the same
8 firearm you seized that night?

9 A That is correct.

10 Q And based on those serial numbers and what you recall
11 of their appearance, are those same items you collected on
12 [REDACTED], 2022, from that left bedroom on Willow

13 Pond --

14 A Yes, ma'am.

15 Q -- upstairs?

16 A Yes, ma'am.

17 MS. ROBINSON: Your Honor, at this time, the
18 State would move to admit Exhibits 9, 10, 12, 17, 18,
19 and 25, subject to the Court's prior ruling.

20 (Plaintiff's Exhibits 9, 10, 12,
21 17, 18 and 25 were moved for
22 admission into evidence.)

23 MR. DERIEG: Subject to the Court's prior
24 ruling, no objection.

25 THE COURT: Those items are admitted into

JURY TRIAL & SENTENCING

1 evidence.

2 (Plaintiff's Exhibits 9, 10, 12,
3 17, 18 and 25 were admitted into
4 evidence.)

5 BY MS. ROBINSON:

6 Q This is State's 34-G. Do you recognize that?

7 A Yes, ma'am.

8 Q What is that?

9 A That is a handgun.

10 Q Do you recall where that was?

11 A I believe that one was also located in the safe.

12 Q I'm handing you State's Proposed 11. Do you recognize
13 that?

14 A Yes, ma'am, I do.

15 Q What is that?

16 A This is a Raven Arms 25-caliber handgun.

17 Q Does it appear to be the same firearm in the picture
18 of 34-G?

19 A That is correct.

20 Q How can you tell that it's the same firearm?

21 A This one was distinct with a black wire and tape
22 around the handle.

23 Q Electrical tape?

24 A Electrical tape, excuse me. Yes, ma'am.

25 Q Did you recover a serial number for that one?

JURY TRIAL & SENTENCING

1 A I was not able to. We did not manipulate the stuff
2 off of it, no.

3 Q So you didn't manipulate what stuff off of it?

4 A The wire and tape, we did not take it off.

5 Q So it's still on there at this time?

6 A That is correct.

7 Q And based on that appearance, it appears to be the
8 same gun as in 34-G?

9 A That is correct, with the magazine.

10 Q Do you recognize 34-H?

11 A Yes, ma'am.

12 Q What was that?

13 A That was the -- the lower from the safe.

14 Q I'm handing you State's Proposed 8. Do you recognize
15 that?

16 A Yes, ma'am.

17 Q And what is it?

18 A This is the -- the lower, a potential for a Glock.

19 Q And did you document a serial number for that item?

20 A There is no serial number located on this.

21 Q And why is that?

22 A We believe that these -- this was made.

23 Q When you say made, made by a person as opposed to a
24 manufacturing company?

25 A That is correct.

JURY TRIAL & SENTENCING

1 Q And in those situations, those items are not assigned
2 a serial number?

3 A That is correct.

4 Q Can you tell from looking at what's inside that
5 package whether or not it's the same item that appears in
6 34-H?

7 A Yes, ma'am. It appears to be the same.

8 Q Are there distinctive characteristics that lead you to
9 believe it's the same item?

10 A Yes, ma'am. Other than the color, the silver plating
11 under there with no serial number on there.

12 MS. ROBINSON: Your Honor, at this time, the
13 State would move to admit Items 8 and 11, subject to
14 the Court's prior ruling.

15 (Plaintiff's Exhibits 8 and 11
16 were moved for admission into
17 evidence.)

18 THE COURT: 8 and 11 are in --

19 MR. DERIEG: No objection, subject to your
20 ruling.

21 THE COURT: -- 8 and 11 are into evidence
22 without objection.

23 (Plaintiff's Exhibits 8 and 11
24 were admitted into evidence.)

25 BY MS. ROBINSON:

JURY TRIAL & SENTENCING

1 Q Do you recognize State's 34-C?

2 A The picture? Yes, ma'am.

3 Q What was that?

4 A That is the desk inside the bedroom, and there's a
5 magazine with ammunition inside of it.

6 Q And did you seize that item?

7 A We did.

8 Q I'm handing you State's Proposed 19. What is that?

9 A This is a Glock 9 millimeter magazine, 9 millimeter
10 rounds.

11 Q And is that consistent with 34-C?

12 A Yes, ma'am.

13 Q And that is something you seized and submitted into
14 evidence?

15 A Yes, ma'am.

16 Q You've already testified about 35-H; is that correct?

17 A Yes, ma'am.

18 Q And in this picture are items that you seized from the
19 desk; is that correct?

20 A Yes, ma'am.

21 Q I'm handing you State's 20 --

22 A Yes, ma'am.

23 Q -- Proposed 20. Do you recognize that?

24 A Yes, ma'am.

25 Q What is that?

JURY TRIAL & SENTENCING

1 A This is the -- these are the ammunition rounds that's
2 on that desk.

3 Q Okay. Which, specifically? Which one is in 35-H?

4 A Oh, excuse me, sorry. It's the black and gold box
5 with the blue -- with the green sticker on it.

6 Q And did you seize that?

7 A Yes, ma'am.

8 Q And did you submit it to evidence in a sealed
9 condition?

10 A Yes, ma'am.

11 Q And you previously testified about item -- or
12 Exhibit 35-N; correct?

13 A Yes, ma'am.

14 Q That those were magazines?

15 A Yes, ma'am.

16 Q This is State's Proposed 28. What is that?

17 A These are the AR magazines. It's contained in
18 ammunition as well.

19 Q Okay. And you seized those; correct?

20 A Yes, ma'am.

21 Q And you submitted them to evidence in a sealed
22 condition?

23 A Yes, ma'am.

24 Q Going back to 35-A. You testified that this was the
25 contents of the safe; is that correct?

JURY TRIAL & SENTENCING

1 A That is correct.

2 Q And you testified that there was what you believed to
3 be methamphetamine in that safe?

4 A That is correct.

5 Q Do you see what you believe to be methamphetamine in
6 this picture?

7 A Yes, ma'am.

8 Q And how is it packaged in this picture?

9 A Well, there is in -- I would say baggies inside a
10 Ziploc bag.

11 Q Okay. So your testimony is that there is a larger
12 Ziploc bag with then bags inside of it?

13 A That is correct, yes, ma'am.

14 Q How would you have taken it from the scene that night?

15 A As it is.

16 Q Would you have opened the Ziploc bag and gone through
17 everything?

18 A We would -- normally, we would go through it just to
19 see how many bags were in it. But no, as it's -- as it's
20 shown is how it comes back to us.

21 Q Okay. And then, when you bring it back to your office
22 and in Moss Justice Center --

23 A Mm-hmm.

24 Q -- how do you process drugs before you submit them
25 into evidence?

JURY TRIAL & SENTENCING

1 A So what we'll do is, obviously, we'll glove up. We
2 will take pictures of how it was originally found. We
3 will take pictures of it outside that Ziploc bag. And
4 then, we'll kind of count and see how many little baggies
5 was inside that Ziploc bag. We'll -- we'll just randomly
6 choose which one that had the, I guess, loose contents in
7 there and we'll use a testing kit to test it and see if it
8 tests positive from our test kits for methamphetamine.

9 Q Now, that test is a -- do you call that a field test?

10 A A field test, that is correct.

11 Q So it's not necessarily the same level as what a
12 chemist would do?

13 A Yes, ma'am, that's correct.

14 Q And so, it's used as an investigative tool?

15 A That's correct.

16 Q Okay. So when you process the evidence when you came
17 back 8:00 a.m. the next day, one of the things you did is
18 process this drug evidence; correct?

19 A That's correct. We weighed it, took pictures of it,
20 and then repackaged it for evidence -- or to take to the
21 lab, excuse me.

22 Q All right. This is 35-S. Do you recognize that?

23 A Yes, ma'am.

24 Q What is that?

25 A That is the suspected methamphetamine from the safe.

JURY TRIAL & SENTENCING

1 Q Okay. And this bag, I do not see -- or in this
2 picture, I do not see a Ziploc bag; is that correct?

3 A That is correct.

4 Q So tell me what this is.

5 A That is the contents out of that Ziploc bag. That's
6 how it was found.

7 Q So in this picture, the only thing that's been removed
8 is the outer Ziploc bag?

9 A That is correct.

10 Q All right. Now, on 35-S are there more bags inside
11 those bags?

12 A That is correct.

13 Q Okay. So how many bags -- outer bags are there here?

14 A There's only two outer bags that I can see from this
15 picture.

16 Q And then, in processing it, you would have gone in
17 further to do your field test and to process the evidence?

18 A Each bag, that's correct.

19 Q Okay. So now 35-T, what is that?

20 A That is the suspected -- crystallized substance
21 suspected to be methamphetamine outside of that clear
22 plastic bag onto a scale.

23 Q And is that all of the suspected drugs from the bag?

24 A That is just from one single bag.

25 Q Okay.

JURY TRIAL & SENTENCING

1 A That's not altogether.

2 Q Each individual package inside those, you processed
3 separately?

4 A That is correct.

5 Q So we have 35-T. Is that a picture of one of the bags
6 you processed?

7 A Yes, ma'am.

8 Q 35-U, do you recognize that?

9 A Yes, ma'am.

10 Q What is that?

11 A It's methamphetamine.

12 Q So a second bag?

13 A That is correct.

14 Q 35-V?

15 A That would be a third bag of it as well, and then a
16 fourth.

17 Q 35-W?

18 A Yes, ma'am.

19 Q 35-X?

20 A Yes, ma'am, a fifth.

21 Q And 35-Y?

22 A Yes, ma'am, a sixth.

23 Q Now, once you had got out to process it, as we see in
24 these pictures, what do you do with it at that point?

25 A So that -- well, say that -- that piece right here in

JURY TRIAL & SENTENCING

1 the picture, will go into a separate evidence bag. We
2 will label it and then the packaging that it went into
3 goes into a separate bag for testing as well.

4 Q Okay. So this crystal material in this wafer coffee
5 filter-type --

6 A That's correct yes, ma'am.

7 Q -- bag goes into a bag, but not the same bag it came
8 out of?

9 A That is correct, it does not. It goes into a separate
10 one.

11 Q The bag that it came out becomes its own piece of
12 evidence --

13 A That is correct.

14 Q -- that you submit?

15 A That is correct.

16 Q And you do that for each of the six?

17 A Yes, ma'am.

18 Q I'm handing you what's been marked as State's Proposed
19 6. Do you recognize that?

20 A Yes, ma'am, I do.

21 Q What is that?

22 A That is six individual baggies of suspected
23 methamphetamines.

24 Q Okay. So the baggies that are in there are baggies
25 that you created?

JURY TRIAL & SENTENCING

1 A That is correct. And we also label them with the DEU
2 so they know that that came from us and not from the
3 house.

4 Q Okay. But there's six of them to preserve what was in
5 each individual bag?

6 A That is correct.

7 Q And then, what did you do with the six bags that you
8 had?

9 A They go into their own separate bag as well.

10 Q Is that in Exhibit 6?

11 A I can't really tell. It's kind of crammed in here.

12 Q Is the bag that you submitted into evidence in
13 Exhibit 6?

14 A Oh, yes, ma'am, that is. Sorry.

15 Q So you take your six DEU bags and put them in an
16 evidence bag --

17 A Mm-hmm.

18 Q -- and then what do you do with it?

19 A And then, it gets sealed and then it goes into
20 evidence.

21 Q Okay. So you submit it as a sealed bag with six
22 smaller bags inside?

23 A Yes, ma'am.

24 Q Okay.

25 A It would go in separate bags or evidence bags if it

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1 was found in six different locations. But since it came
2 out of one location, we kept them together.

3 Q Okay. That's why you put the six together?

4 A Because it came out of one central location. If it
5 came in separate locations, then they would be labeled
6 separately from different locations.

7 Q And I believe earlier you testified that you found
8 what you suspected to be methamphetamine in the upstairs
9 bathroom; is that correct?

10 A That is correct.

11 Q Is that methamphetamine in there?

12 A No, ma'am, it is not.

13 Q Is that -- would that have been packaged separately?

14 A That is correct.

15 Q Now, relative to what you have there, what was the
16 amount of suspected methamphetamine in the bathroom?

17 A To my memory, maybe close to a gram.

18 Q What you believe to be close to a gram?

19 A Yes, that's correct.

20 Q Is that substantially more or less than what you have
21 in front of you?

22 A What was found in the bathroom was absolutely less.

23 Q Now, you testified that you had been on the drug
24 enforcement unit for some years?

25 A Three-and-a-half years.

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1 Q And how many drug investigations would you have worked
2 on during that time?

3 A A lot. If I knew the number, it would awesome.

4 Q Would you say it's more than a dozen?

5 A Absolutely. Yes, ma'am.

6 Q More than 50?

7 A Yes, ma'am.

8 Q Would we get into the hundreds, potentially?

9 A We would, because based off of all three
10 (unintelligible).

11 Q And in your work for the drug enforcement unit, were
12 you ever privy to investigations where an individual
13 either bought methamphetamine on behalf of the drug
14 enforcement agency as part of the investigation or speak
15 to individuals who are maybe addicts who might have told
16 about their experience buying drugs?

17 A Both.

18 Q And based --

19 MR. DERIEG: Your Honor, I'm going to object to
20 relevancy.

21 THE COURT: I'll overrule the objection. Go
22 ahead.

23 BY MS. ROBINSON:

24 Q -- and based on your investigation, what was your
25 understanding of the average street price of a gram of

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1 methamphetamine at that time?

2 A Around that time, you can -- you can get a gram for
3 between \$40 to \$60 a gram, depending on which dealer you
4 went to.

5 MS. ROBINSON: I beg the Court's indulgence.

6 BY MS. ROBINSON:

7 Q Now, after the search of the home on [REDACTED],
8 2022, was there any follow-up investigation regarding the
9 defendant's residency at that home or involvement with
10 seized items there?

11 A Yes.

12 Q What was another step that was taken in the
13 investigation?

14 A If I remember correctly, once everything was done
15 (unintelligible), we attempted to locate Mr. Hall by --
16 whether if it was countersurveillance at the residence or
17 just looking around through word of mouth.

18 Q Okay. But beyond -- in terms of -- I mean,
19 specifically in regard to follow-up investigations in
20 regard to his residency at the home or involvement with
21 items seized from the home.

22 A We -- well, also we did a search warrant for his known
23 Facebook. There were -- I believe there was no phones
24 that were located to go through.

25 Q All right. And what was the user name of the account

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1 of interest?

2 A That was Jay Quik.

3 Q And why that name?

4 A That's one of his suspected street names that he used.

5 Q And did you -- you said there was a search warrant
6 obtained to get that data?

7 A That is correct.

8 Q Did -- did Facebook slash -- are you aware if Meta
9 owns Facebook at this point in time?

10 A Yes, ma'am, I do know.

11 Q Did that corporation respond to the search warrant and
12 provide data to your agency?

13 A They did.

14 Q And did the records that they provided, did they
15 provide a certification that records provided were, in
16 fact, records of regularly conducted activity recorded in
17 the course of Meta's business at the time of the activity
18 by the Meta user?

19 A That is correct.

20 Q Sorry. That was a mouthful. I've handed you State's
21 Proposed 37.

22 A Yes, ma'am.

23 Q Do you know what that is?

24 A This is the activity -- this is the activity from the
25 Facebook.

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1 Q Okay.

2 A With the certified record.

3 Q And how many -- does that include the certification
4 from Meta about that?

5 A That is correct.

6 Q And roughly, how many pages are in that?

7 A Roughly, 33.

8 Q Okay. And are those 33 pages consistent with the data
9 turned over by Meta?

10 A That is correct.

11 MS. ROBINSON: Your Honor, at this time, the
12 State would move to admit State's Exhibit 37.

13 (Plaintiff's Exhibit 37 was moved
14 for admission into evidence.)

15 MR. DERIEG: Without objection.

16 THE COURT: State's 37 is into evidence without
17 objection.

18 (Plaintiff's Exhibit 37 was
19 admitted into evidence.)

20 MS. ROBINSON: Your Honor, permission to
21 publish?

22 THE COURT: Yes, you may.

23 BY MS. ROBINSON:

24 Q All right. Investigator Hines, I know you don't have
25 your screen on right in front of you. You can also --

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1 I'll try to refer you to what page. But that -- that's
2 the very first page in that State's 37; correct?

3 A Yes, ma'am.

4 Q And what is that?

5 A This is the authenticity of the domestic records of
6 regularly conducted activity by Mr. Matthew Poole.

7 MS. ROBINSON: Your Honor, could we have the
8 lights dimmed a little bit?

9 BY MS. ROBINSON:

10 Q All right. So that's the certificate that you talked
11 about of it being regularly conducted business?

12 A Yes, ma'am.

13 Q And the third page in your packet, which I believe is
14 labeled 25 the top of the page --

15 A Yes, ma'am.

16 Q -- okay. If you go about three-quarters of the way
17 down or two-thirds of the way down --

18 A Yes, ma'am.

19 Q -- what is the date of birth that was by this user?

20 A It is showing [REDACTED] -- [REDACTED] [REDACTED] 1993.

21 Q To your knowledge, is it consistent with the
22 defendant?

23 A That is correct.

24 Q And if you go to the page before. You testified that
25 the profile of interest was for Jay Quik; correct?

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1 A Yes, ma'am.

2 Q And is that consistent with the name displayed there?

3 A Yes, ma'am.

4 Q How is Quik spelled?

5 A Q-U-I-K.

6 Q Is that consistent with evidence in the room at [REDACTED]
7 Willow Pond?

8 A Yes, ma'am.

9 Q If I could direct you to page 26 of the records, but
10 it's the fourth page of your packet.

11 A Yes, ma'am.

12 Q Did the user identify anybody as family?

13 A Yes, ma'am. It shows that family -- it shows brother,
14 Levi.

15 Q And is that consistent with your understanding of the
16 defendant's family?

17 A That is correct.

18 Q Now, the next two pages, if you go to page 39 of the
19 records, what's happening on the bottom half of that page?

20 A It's showing that wall post of -- it was to Jay Quik
21 from different individuals stating happy birthday.

22 Q And did those posts actually occur on the defendant's
23 birthday?

24 A [REDACTED] of 2022. Yes, ma'am.

25 Q Okay. So it appeared others were aware that the

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1 defendant used this is account?

2 A Yes, ma'am.

3 Q Now, I'm going to jump you around. It is the 22nd
4 page of that packet. It is labeled page 407.

5 A 407?

6 Q If you go to the third from the last message from the
7 bottom of the page.

8 A Mm-hmm.

9 Q What is being sent to him?

10 A The third to the last message says -- it's from
11 Ashley. The subject says, Jacob I seriously need to talk
12 to you.

13 Q So even though the user is Jay Quik, somebody referred
14 to him as Jacob?

15 A Yes, ma'am.

16 Q Now, earlier in the messages from that same person, is
17 there a reference to Levi?

18 A That is correct. Ashley states, and Levi wants to buy
19 back the crossbow.

20 Q And do you recall seeing a bow in the room at [REDACTED]
21 Willow Pond Lane on the left up the stairs?

22 A That is correct, yes, ma'am, as well as the message
23 above.

24 Q I've jumped back briefly here to 35-C. Do you see the
25 bow that you were referring to just now in this --

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1 A Yes. It -- I don't know if you're able to -- but it's
2 directly behind that chair. You can kind of --

3 Q Is it this corner of the upper corner of it?

4 A That's correct. Yes, ma'am.

5 Q Now also on that same page where Levi wants to buy the
6 crossbow, there's a message regarding a 3D printer; is
7 that correct?

8 A It also states by Ashley, hey -- well, it says, I've
9 got someone who wants to buy the 3D printer -- the 3D
10 printer for \$350.

11 Q And do you recall seeing a 3D printer in the room
12 upstairs on Willow Pond?

13 A Yes, ma'am.

14 Q The 31st page of the Exhibit, which is page 569 --

15 A Yes, ma'am.

16 Q -- there's an exchange with a Danny Britner; is that
17 correct?

18 A Yes, ma'am.

19 Q And does Danny Britner appear to have concerns about
20 who she's speaking to?

21 A It does, she does.

22 Q What does she say?

23 A She says, what up, boo? The next message says, yo.

24 Then the next message says, Jacob question mark, question

25 mark. Then it says four squares and says -- well, I'm not

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1 going to say -- heck, yeah, I want to make sure. And
2 then, it's stated author Jay Quik says, yep.

3 Q Now, two pages beyond that, page 33, which is 695 --

4 A Yes, ma'am.

5 Q -- who is Jay Quik interacting with on this page?

6 A Ms. Sandy Hall Birch, his mother.

7 Q So you believe the author user name to be consistent
8 with his mother?

9 A Yes, ma'am.

10 Q And the content of these messages, what is she often
11 speaking to him about?

12 A It shows that her old Facebook crashed and she had
13 hers -- her IMs. She's talking about food and dogs are
14 loose in the house.

15 Q Okay.

16 A And then, it's also stating that the kitchen is a mess
17 and she can't find stuff, just (unintelligible) pintos
18 [ph], someone put dirty dishes in the -- in the broken
19 dishwasher, please put the Bubble Wrap on the windows in
20 our room, cold air hits -- hits my face all night, sucks,
21 you still have cheesecloth.

22 Q Okay.

23 A And it states, itchy, can you pick up some paper
24 cupcake holders, please. And it shows like please sell
25 something, waterbed still leaking, Jimmy and I need

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1 electric blankets, we're freezing, please help.

2 Q And how does Jay Quik respond?

3 A Okay, I'll handle it.

4 Q Now, is the name Jimmy consistent with what you
5 believe the individuals walking around that house that
6 day?

7 A I believe that was his stepfather.

8 Q Okay. And if you could go to the next page, which is
9 34, it is page 697 on the Facebook exhibit --

10 A Yes, ma'am.

11 Q -- does Jay Quik identify himself on this page? You
12 don't need to read the whole message. I believe it's the
13 1/28/2022. What's the last sentence -- or the last two
14 sentences or three sentences of that?

15 A Yes, ma'am. It says, you can Google me for facts,
16 Jacob Hall, Clover, South Carolina, check me out.

17 Q Now, if you could go back a couple of pages to 292 --
18 or no, excuse me, 566.

19 A Yes, ma'am.

20 Q Now, the last entry on that page indicates what?

21 A It shows that you sent a photo, is what it says.

22 Q Okay. And what date did that occur on?

23 A February 15th, 2022.

24 Q And it is sent by who?

25 A Jay Quik.

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1 Q Okay. And if you go to the next page, do you
2 recognize a person in that photo?

3 A Yes, ma'am.

4 Q Who is that?

5 A That is Jacob Hall.

6 Q If you go to the next page, did anyone respond to that
7 picture?

8 A Jen.

9 Q What's their inquiry at that time?

10 A What's wrong, and then --

11 Q And then, L-O-O-K-I-N-G?

12 A -- sorry.

13 Q -- in looking at the picture, where did Jacob Hall
14 appear to be in that picture?

15 A In a -- in a hospital -- or emergency room.

16 Q If you could go to pages 292 to 294, pages 14 through
17 16, so about halfway through.

18 A All right. You said 292; is that correct?

19 Q Yes.

20 A Yes, ma'am.

21 Q What's the entry on page 292?

22 A It says that Jay Quik sent a photo.

23 Q And what's the date of that entry?

24 A That is the same date.

25 Q All right. So it was the same date. And then, on the

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1 next page is the picture; correct?

2 A Yes, ma'am.

3 Q And does that appear to be the same picture?

4 A Yes, ma'am.

5 Q Is the person that he sent this to appear to respond
6 on page 294?

7 A That is correct.

8 Q And what's their response?

9 A What's wrong with you, homie? Jay Quik's response is,
10 my foot, I find out shortly if it's infected, reached the
11 bone or not --

12 Q Okay.

13 A -- SMH, if it did, they may -- they -- they are
14 admitting me and amputating it.

15 Q Okay. And what day is that sent?

16 A Same day, February the 15th, 2022.

17 Q Okay. If you could jump to page 76 and 77 on pages 9
18 and 10 in your packet.

19 A Okay. I'm on 76.

20 Q All right. What's the last entry on 76?

21 A It says that Jake Hall sent a photo.

22 Q Now before that -- I'm sorry, I should have gone to
23 this picture -- what is the inquiry right before that?

24 A It says, who is this and why are you on my brother's
25 messenger.

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1 Q And who sent that?

2 A Axle Tinsley -- Tinsley.

3 Q What date did they send it?

4 A That is March the 2nd, 2022.

5 Q Okay. And so, then it reflects that Jay Quik sent a
6 photo on that same day; is that correct?

7 A Yes, ma'am.

8 Q And then, if you go to the next page, do you have the
9 photo?

10 A Yes, ma'am.

11 Q Who is in that photo?

12 A It is Jacob Hall.

13 Q Now, if you could go to page 309, which is the 20th
14 page --

15 A Yes, ma'am.

16 Q -- if you could, what -- who is this an exchange
17 between?

18 A It appears to be Jay Quik and Kevin.

19 Q Okay. And what's the date that this is occurring?

20 A It appears -- it's showing January the 29th, 2022.

21 Q And if you could start with Kevin says okay and then
22 from there.

23 A And then, Kevin says, okay, and then Kevin also says
24 what's your road name, bro. Kevin says, I'm on the way
25 now. Kevin says, yo, and Quik responds, Willow Pond.

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1 Kevin says, okay, I'll be there in a minute, do you want
2 me to just -- do you want me getting out or just -- or are
3 you coming out. Kevin says, or what you want me to do.

4 Q That's good enough.

5 A Yes, ma'am.

6 Q If you go to page 12 and 13 -- we're going to start on
7 12 -- which is the data pages 221 and 222.

8 A I'm sorry. Say that one more time.

9 Q 221 and 222.

10 A Yes, ma'am.

11 Q And if I could direct you, who is this between?

12 A Jay Quik -- and is that Taylor?

13 Q Okay. And I apologize. I'm having trouble with the
14 scroll here. If you could start -- is there a message
15 regarding a motorized bike?

16 A That is correct. It says, all I got is a motorized
17 bike. Where are you staying out these days, anyway. And
18 Jay Quik says, come to the same -- come to the same place.
19 He states, I don't know, I don't remember what that is,
20 bro, LOL. Page 222 continues. I suppose it doesn't
21 matter, either way, I'm sure you're too far away for me to
22 travel. Jay Quik responds, [REDACTED] Willow Pond Road.

23 Q And what date was that exchange?

24 A That was January 31st, 2022.

25 Q Now, page 295, it's just a couple of pages later --

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1 A Yes, ma'am.

2 Q -- what are the -- what's the date of the exchanges on
3 this page?

4 A February the 15th, 2022.

5 Q Okay. And starting with Jay Quik, yeah, I left.

6 That's about the middle the page?

7 A Yes, ma'am.

8 Q If you could read that.

9 A It says, yeah, I left. And then, he also states, I'm
10 out of town. Mr. Allison says, okay, be safe, yo. Jay
11 Quik says, got you. Jay Quik's response back says, I'm
12 back, and then Allison says, where you at. Jay Quik says,
13 the cabin.

14 Q Okay. Page 561, which is the 27th page towards the
15 end --

16 A Yes, ma'am.

17 Q -- what date is this exchange?

18 A The same day. It's going to be -- it shows February
19 15, 2022.

20 Q All right. And if you could start from where there's
21 a reference to the Walmart in Lake Wylie.

22 A Yeah. Miller says, you mobile. Jay Quik says, yes.
23 Miller says, I'm at Walmart in Lake Wylie. Jay Quik says,
24 I live right down the street from there. Jay Quik says,
25 five minutes.

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1 Q All right. Are you familiar with that area of York
2 County?

3 A Yes, ma'am. It's on 274.

4 Q And the Lake Wylie Walmart, about how far is that from
5 [REDACTED] Willow Pond?

6 A It's approximately five to six minutes.

7 Q Page 298. We're just about halfway through the
8 exhibit.

9 A Okay.

10 Q A couple messages down where it starts on 227 at
11 19:38, what's the exchange here?

12 A 227 at 19:38 with Allison. Got -- ain't got it on
13 cash, bro. Been sick as F, yo, and cops are following me
14 from Memory [ph] Street three-deep, bro. Had to throw my
15 stuff out of the window. And then, Jay Quik says, that's
16 MMF, bitch. DEA was at my house, keep your eyes open.
17 And then, Allison says, okay, bro, be safe, yo, and Feds
18 is around. And Jay Quik says, I know it. They literally
19 just hit my house.

20 Q Okay. What's the date again of that?

21 A That is -- that was February 27th, 2022.

22 Q So that is a couple days after the search; is that
23 correct?

24 A Yes, ma'am.

25 Q Was there a DEA agent at his house?

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- 1 A No, ma'am. that was an ATF agent.
- 2 Q And is ATF a branch of --
- 3 A The federal government, yes, ma'am.
- 4 Q -- is DEA also federal government?
- 5 A That is correct.
- 6 Q Now, I'm going to direct you to pages 445 is where
- 7 we're going to start and we're going through 448, just a
- 8 couple of pages later.
- 9 A Okay.
- 10 Q The last entry on page 445 indicates what?
- 11 A [REDACTED], 2022, it shows Jay Quik sent a photo.
- 12 Q What's the time that that says?
- 13 A It shows 2:20 Universal Time.
- 14 Q What is Universal Time?
- 15 A That's the -- I guess the world time, universal.
- 16 Q Okay. Is it a different time zone, essentially?
- 17 A It is a different time zone.
- 18 Q Is it the same thing as Eastern Standard Time?
- 19 A Well, to make it Eastern Standard Time, you have to
- 20 subtract five hours.
- 21 Q Okay. So this 2:20:56 entry, if you subtract five
- 22 hours from that, takes you to the day before [REDACTED]
- 23 [REDACTED]; is that correct?
- 24 A That is correct.
- 25 Q And so, this is an entry that he sent a photo at

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1 roughly 9:20 p.m. the day before; correct?

2 A Yes, ma'am.

3 Q And that would be the day before the search; correct?

4 A Yes, ma'am.

5 Q All right. And then, what -- the next page is more
6 data, is that correct, 446?

7 A Yes, ma'am.

8 Q And then, page 447, do you see the photo that was
9 sent?

10 A Yes, ma'am.

11 Q And do you recognize where this picture was taken?

12 A That is in the bedroom at Willow Pond.

13 Q And how do you recognize that as being in the bedroom
14 at Willow Pond?

15 A Based off of the flooring. I can see the red toolbox
16 in the top right-hand corner and the belongings also in
17 the top left-hand corner.

18 Q All right. And does the person respond to this
19 picture that it was sent to?

20 A On page 448, they did.

21 Q And what did they say?

22 A It says, how much, and then --

23 Q And what did Jay Quik respond?

24 A He sent a phone number.

25 Q Is the item in the hand in this -- in the picture on

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1 page 447 consistent with anything you seized?

2 A I'm sorry?

3 Q Is the item that's in the hand of this picture
4 consistent with any items you seized from Willow Pond
5 Lane?

6 A Yes, ma'am.

7 Q What is it consistent with?

8 A Consistent of the methamphetamine.

9 Q If I direct you now to page 74, which is early in the
10 exhibit, it's the 7th page in --

11 A Yes, ma'am.

12 Q -- if you go to the very last entry, I believe, on
13 this page, what's the date of that?

14 A It is February the 25th, 2022.

15 Q And what's the UTC time they give?

16 A It gives 8:48.

17 Q And so, your testimony was that you subtract five
18 hours from that?

19 A That's correct, to make it Eastern Time.

20 Q And so, that -- the message that is sent is then at
21 3:48 a.m; would that be correct?

22 A Yes, that's correct.

23 Q And if you turn to the next page, what does he say?

24 A Someone broke into my safe.

25 Q And who sent that message?

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1 A It was Jay Quik.

2 Q All right. What's the next message sent?

3 A Jay Quik sent chrome Raven Arms 25, Smith & Wesson
4 1909, 13' long -- long black grips with lead-tripped FMJ --
5 tipped FMJs, black Ivory [sic] Johnson 32 long, and then a
6 tan Glock 20 ghost lower.

7 Q And how does the person respond?

8 A Dang, bro, I'm sorry to hear that.

9 Q Okay. So I believe you testified earlier you left
10 that house at about 11:00 p.m.

11 A That is correct.

12 Q And then, this is -- [REDACTED] is the very next
13 day; correct?

14 A That is correct.

15 Q And this is before 4:00 a.m. the next day?

16 A That is correct.

17 Q If you would go to page 311, which is the 21st page.
18 Do you see an exchange that occurs around a similar time?

19 A Let's see. That is correct. Close to the bottom of
20 the page to Kevin, Jay Quik says, someone broke in my
21 safe. Jay Quik also replies, keep an eye out for someone
22 with a lot of dope who don't use any. And then, he states
23 the same firearms. Would you like to me to say them as
24 well?

25 Q No, that's okay. So that's the same -- the second

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1 part is the same?

2 A Same continent -- contents from the previous message
3 to someone else, and then he says, dang, bro.

4 Q Now, in your experience as a drug investigator, what
5 does dope mean to you?

6 A Narcotics, whether it be methamphetamine, cocaine,
7 crack.

8 Q So in your investigations, it has at times referred to
9 different types of drugs?

10 A That's correct.

11 Q But at times, has it been consistent with
12 methamphetamine?

13 A That is correct. .

14 Q If you could go back two pages. It will be page 299.
15 Is there a reference to the safe on this page?

16 A That is correct, with Allison.

17 Q All right. Here we go. What day did that happen?

18 A That happened March the 1st, 2022.

19 Q Okay. But what time does that reflect?

20 A That's 2:34 Universal Time.

21 Q So again, if we subtract five hours, then end up on
22 the -- actually the day before; is that correct?

23 A That's correct.

24 Q So actually, February 28th?

25 A Yes, ma'am.

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1 Q And that was just a few days after the search; is that
2 correct?

3 A Yes, ma'am.

4 Q And he indicates that he knows who broke into his
5 safe?

6 A Just call me on my cell, I know who broke into my
7 safe.

8 Q Okay. And did the person indicate that they did try
9 to call him on his cell and the number they tried?

10 A It says, you missed a call from the Allison subject.
11 And he says, on my cell. And then, he says, I did, and he
12 stated a number.

13 Q Okay. Now, if you go to page 187 --

14 A Yes, ma'am.

15 Q -- is there a similar message on that day to a
16 different person?

17 A Yes, ma'am, to Lamar.

18 Q Okay.

19 A It states, on March 1st, 2022 at 2:34 Universal Time,
20 he states, call me on my cell, I know who broke into my
21 safe.

22 Q Okay. So that's going to be, again, on February
23 28th; correct?

24 MR. DERIEG: What page again?

25 MS. ROBINSON: It is the 11th page. It is --

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1 THE WITNESS: 187.

2 MS. ROBINSON: -- 187.

3 BY MS. ROBINSON:

4 Q Is that correct, it would be on February 28th is when
5 it was actually sent?

6 A Yes, ma'am.

7 Q And the person responded in some way?

8 A Yeah, responded with a heart to the message.

9 Q Okay. And then, page 590, which is towards the end.
10 It's the (unintelligible).

11 A Yes, ma'am.

12 Q Is there a similar message on that page?

13 A I'm on 590.

14 Q The second-to-the-last message with Kimberly Nicole?

15 A Kimberly Nicole, where he says he was sleeping in the
16 driveway?

17 Q Right. But the second-to-the-last message in that set
18 of messages says what?

19 A It says, have serve call -- Swerve call my cell,
20 please. I know who broke in my safe. And then, Kimberly
21 says, I haven't seen him since this morning.

22 Q Now, are you --

23 MS. ROBINSON: I beg the Court's indulgence.

24 BY MS. ROBINSON:

25 Q -- are you familiar with when the defendant was served

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1 his warrants in this case?

2 A April the 20th.

3 Q Okay. So at the time these messages are sent -- we've
4 talked about some in March, at the end of February -- he
5 had not been served his warrants yet; is that correct?

6 A That is correct.

7 MS. ROBINSON: Your Honor, that's all for the
8 six direct.

9 THE COURT: All right. And this is a good place
10 for us to stop. We'll start our cross-examination in
11 the morning. Ladies and gentlemen, that's all the
12 testimony you'll hear today. You will be excused for
13 the evening. And again, I told you you'd get tired
14 of me saying this, but you're going to hear it again.
15 Don't discuss the case with anybody, even among
16 yourselves in the jury room. Don't be using
17 electronic devices. Don't Google people, places, or
18 things or anything remotely related to this case.
19 Enjoy your evening, and we'll see you back at 9:30
20 the morning. Everyone remain seated while this panel
21 is excused.

22 (The jury exited the courtroom.)

23 THE COURT: Thank you. We'll start back in the
24 morning at 9:30. Detective Investigator Hines, let
25 me remind you, you are under oath, which means that

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1 you're still under oath, which means you cannot
2 discuss the testimony you have given with anyone, you
3 can't discuss any of the testimony that you might
4 give tomorrow with anyone. It is as if you are on
5 the stand until we complete your testimony. So don't
6 discuss your case, don't discuss your testimony with
7 anyone. You're still on direct.

8 THE WITNESS: Yes, sir.

9 THE COURT: Do you understand that?

10 THE WITNESS: Yes, sir, I do.

11 THE COURT: All right. Thank you.

12 THE WITNESS: Yes, sir.

13 THE COURT: We'll be at ease 'til 9:30 in the
14 morning.

15 MR. DERIEG: Your Honor, just sort of for
16 planning purposes.

17 THE COURT: You can come on up.

18 MR. DERIEG: I'd ask the State how many more
19 witnesses they -- they plan to call.

20 THE COURT: Where are we as far as the
21 witnesses?

22 MS. ROBINSON: Your Honor, I believe we would
23 probably rest about lunchtime tomorrow, depending on
24 how long cross takes.

25 THE COURT: Well, the question is, how many

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1 witnesses?

2 MS. ROBINSON: I believe we have -- not counting
3 the cross -- I believe we have three more.

4 THE COURT: That's not an unrealistic view.

5 MR. DERIEG: Well, my cross might be a little
6 while.

7 MS. ROBINSON: So I don't expect all of those
8 three witnesses. I realize the cross might take a
9 while, but some of these will not take long.

10 THE COURT: We'll -- you'll have as much time as
11 you need. We're in no hurry.

12 MR. DERIEG: Thank you.

13 THE COURT: We'll finish when we get there. All
14 right. We're at ease until in the morning.

15 (The proceedings were adjourned
16 until 9:30 a.m., February 14,
17 2024.)

18 **FEBRUARY 14, 2024**

19 THE COURT: Is the State ready to proceed?

20 MS. ROBINSON: Yes, Your Honor.

21 THE COURT: Is the Defense ready?

22 MR. DERIEG: Your Honor, I did want to bring
23 just one thing to the Court's attention, and it
24 potentially has to do with scheduling. This morning,
25 one of my potential witnesses had animal control show

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1 up at her house unannounced. And she is an
2 administrative nurse at the nursing home and had to
3 (unintelligible) at her job this morning and so she
4 couldn't stay. And so, animal control said that they
5 were going to back at her house for some anonymous
6 report that her -- that her animals weren't doing
7 well. And they wouldn't tell her who made this
8 report, but they said they were going to be back at
9 her house at noon, potentially with sheriffs
10 deputies. And judging by the timeframe or timeline
11 that the State gave us yesterday that they would
12 potentially be resting right before lunch, if we --
13 if we decided to call her, that -- that may be an
14 issue with her having to deal with her animals.

15 THE COURT: We'll deal with that if and when we
16 get to that point.

17 MR. DERIEG: Yes, sir. I just wanted to bring
18 it to your attention and let you know ahead of time.

19 THE COURT: All right. Thank you. Is she under
20 subpoena?

21 MR. DERIEG: Yes, sir.

22 THE COURT: All right.

23 MR. DERIEG: And other than that, the Defense is
24 ready to go.

25 THE COURT: All right. Then let's bring the

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1 jury in.

2 (The jury entered the courtroom.)

3 THE COURT: All right. Thank you. Thank you,
4 ladies and gentlemen for your promptness. I have
5 been informed, I believe there's one juror that has
6 some foot issues and may need to stand up. Feel free
7 to do whatever you need to do so you're comfortable.
8 On the other hand, if you get -- if you feel like you
9 need to take break, just simply raise your hand and
10 we'll take a break if that's what you need to do.
11 And then, just for the record, Juror No. 45, one of
12 the alternates in the case, has reported this morning
13 that he has some health issues. In fact, he's in
14 urgent care. And so, Juror 45, an alternate, is
15 excused from the case. And so, my next alternate,
16 you can sit in either one of those two chairs
17 throughout the rest of the trial.

18 All right. with that, we need Investigator Hines
19 back on the stand. Thank you. Investigator Hines,
20 you're still under oath.

21 THE WITNESS: Yes.

22 THE COURT: We're now at the point where the
23 Defense has an opportunity to do cross-examination.
24 Mr. Derieg?

25 MR. DERIEG: May it please the Court, Your

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1 Honor.

2 CROSS-EXAMINATION

3 BY MR. DERIEG:

4 Q Is it deputy or investigator at this point?

5 A Whichever one you like. No, it's just Hines. I'm not
6 big on titles.

7 Q Investigator sounds fancier, though.

8 A It sounds beautiful. Thank you so much.

9 Q Good morning.

10 A Good morning.

11 Q I want to start with something you said yesterday on
12 direct testimony that it's not common practice for the
13 drug unit to take DNA swabs; is that right?

14 A That is correct.

15 Q Who would do that?

16 A Normally, we'll get forensics out there to do that.

17 Q Are you aware if forensics came to the scene?

18 A They did not come to the scene.

19 Q Who -- who makes that call as to whether or not
20 forensics comes out?

21 A That would be our supervisor that does that.

22 Q And that would be?

23 A That would have been Lieutenant Ramsey.

24 Q Lieutenant Ramsey?

25 A That's correct.

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1 Q So it's his -- his decision not to have forensics come
2 out?

3 A It's not common practice for the drug unit to have any
4 type of DNA swabbing at that time on any scene.

5 Q Okay. Well, you've worked in -- well, how long have
6 you been in law enforcement?

7 A For almost seven years, sir.

8 Q And is all that with sheriff's department?

9 A No, sir.

10 Q I guess, could you reiterate your -- your law
11 enforcement background?

12 A Absolutely. I started at the City of Clover Police
13 Department here in York County. I started on patrol. I
14 had some traffic unit interdiction. And then, I was hired
15 on with the York County Multi-jurisdictional Drug
16 Enforcement Unit. I've been there ever since. And then,
17 I switched over to the sheriff's office full-time.

18 Q Okay. So you don't work with the drug enforcement
19 unit now?

20 A That's correct, I do not.

21 Q What do you do now?

22 A I'm an SRO at Crowders Creek Elementary.

23 Q I'm sure that's quite a change.

24 A It is.

25 Q So in your -- in your law enforcement experience,

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1 since is not the drug enforcement unit's common practice
2 to call for forensics to do DNA swabs, typically, just in
3 general, in a -- in a case, typically, when -- when would
4 forensics be called to do a DNA swabbing?

5 A To be honest with you, I can't say. Normally, that's
6 why we use gloves so -- because we don't touch anything.
7 So then when we send it to the lab, they'll do that
8 testing.

9 Q So at the lab they can do that too?

10 A Yes, sir.

11 Q Okay. And are you aware of any DNA testing that was
12 done in this case?

13 A Yes, sir. I did submit all the items for DNA and
14 swabbing.

15 Q Did -- did you get the results from that?

16 A I did not get the results from that. I didn't find
17 out about the results until right before the court case.

18 Q Okay. So you do know what the results are?

19 A Yes, sir.

20 Q Would you care to share those with us?

21 A Yeah, I don't mind. I was informed that when they
22 tested the guns and the packaging that nothing came back
23 to Jacob Hall.

24 Q And specifically about the packaging material, you
25 testified that there was smaller baggies placed into a

JURY TRIAL & SENTENCING

1 larger bag?

2 A That's correct.

3 Q Were all the individual baggies tested?

4 A Yes, sir.

5 Q Not just the larger bag?

6 A That's correct.

7 Q Okay. So there were no fingerprints or DNA on any of
8 it?

9 A That I believe that no one came back to.

10 Q Okay. Specifically in regards to fingerprints, when
11 you submitted those items for I guess processing, did
12 they -- did they check for fingerprints?

13 A I believe so.

14 Q And do you know what those results are?

15 MR. EPTING: Your Honor, we're going to object
16 to this line of questioning. That witness will
17 testify, and it's more properly asked of that --

18 THE COURT: I'll overrule the objection. It's
19 cross-examination. He can ask him what he knows or
20 what was done. Go ahead.

21 BY MR. DERIEG:

22 Q Do you know what the results of those fingerprints
23 were (unintelligible)?

24 A No, sir, other than that nothing came back to him on
25 those baggies that I believe.

JURY TRIAL & SENTENCING

1 Q Okay. And what all was tested?

2 A All the firearms, I believe anything that had the
3 narcotics in it. That's the only -- to my knowledge, it
4 was just those, anything that had the narcotics and the
5 firearms.

6 Q And was it just the firearms or would it have been
7 things like the magazines or the lowers that are parts of
8 a firearm?

9 A I believe so.

10 Q Those were tested too?

11 A Yes, sir.

12 Q Okay. And so, rt of just for my edification, do you --
13 we saw a bunch of magazines separated from firearms. Do
14 you know whether or not those magazines matched up or fit
15 with any of those firearms?

16 A We did not check that.

17 Q You didn't check that?

18 A No, sir.

19 Q Would that be something that you typically check?

20 A No, sir.

21 Q I believe on direct testimony that you testified that
22 along with a lower in Levi Bacot's drawer that there was a
23 medicine bottle found in his room?

24 A That is correct.

25 Q Do you know what was in that medicine ball?

JURY TRIAL & SENTENCING

1 A I do not. I believe it was his personal medication,
2 but I had no reason to take it.

3 Q Okay. You didn't check to see what was in it?

4 A No, sir.

5 Q How long have you been on the drug enforcement unit?

6 A Three-and-a-half years.

7 Q Throughout your three and a half -- you said
8 three-and-a-half years?

9 A Yes, sir.

10 Q Throughout your three-and-a-half years, do you ever
11 see illegal narcotics stored in a medicine bottle?

12 A Yes, sir.

13 Q So why in this case didn't you check to see if there
14 were any illegal narcotics in that medicine bottle when
15 you knew there were illegal narcotics in the house?

16 A So when I looked -- if I stand correctly, on that day,
17 when we looked into it, I don't believe there was any
18 medication in the bottle so there was no reason for me to
19 open that cap of that.

20 Q Fair enough. Do you remember what was -- what type of
21 medication was in there?

22 A I do not.

23 Q So you're the one that -- we've heard testimony that
24 law enforcement officers were going in to do a search and
25 find stuff and then, like, sort of leave it in place --

JURY TRIAL & SENTENCING

1 A That's correct.

2 Q -- for somebody else to come to collect?

3 A Yes, sir.

4 Q And you're the one that comes to collect?

5 A Yes, sir, on that case. Yes, sir.

6 Q Okay. So you were the one that collected all of this
7 evidence?

8 A That is correct.

9 Q And I think you went sort of painfully through the
10 process of how it gets into the evidence lockers and
11 there's no -- no tampering, no -- no risk of
12 contamination, none of that?

13 A That is correct. It's a -- it's a tedious process.

14 Q And you take pride in your work, don't you?

15 A Absolutely.

16 Q You want to make sure you do it right?

17 A Absolutely.

18 Q And to that effect, you actually searched the home for
19 Jacob, didn't you?

20 A Yes, sir, I did.

21 Q Are you aware of any other law enforcement agents that
22 actually went through the whole house to search for him?

23 A I remember there was one other that did. Oh,
24 Investigator Moore did as well.

25 Q Who was that?

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1 A Investigator Moore.

2 Q And who is he?

3 A He's also currently on the drug unit at this time.

4 Q So he would have gotten there with you guys?

5 A Yes, sir.

6 Q When the DEU --

7 A Yes, sir, he was on the scene. Yes, sir.

8 Q So you all kind of get there together?

9 A It depends on where we are throughout the county.

10 Yes, sir.

11 Q Gotcha. But all relatively --

12 A At least within a reasonable time.

13 Q Okay. And you did a real welfare check on Kendal
14 Harris and her kids, too; right? "

15 A That is correct.

16 Q You talked about -- we had this long demonstration
17 about pretending to go up the stairs and turning right and
18 turning left and so forth. I believe it was your
19 testimony that if you went up the stairs and turned
20 immediately left, that first room there on the left was a
21 room where the door was partially opened but it was sorta
22 blocked by a bunch of stuff?

23 A Yes, sir. That is correct.

24 Q And this is in February of 2022?

25 A Yes, sir.

JURY TRIAL & SENTENCING

1 Q Do you know the condition of that room in December
2 of 2021?

3 A No, sir.

4 Q Do you have any idea of when all those boxes got --
5 got put in that room?

6 A No, sir.

7 Q Did it appear to you that somebody was living in -- in
8 that primary room where all the drugs and guns were found?

9 A Do I believe that someone lived -- yes, sir.

10 Q And why is that?

11 A Just based off of -- I remember we stated that it
12 looks like between a workshop and also living conditions.
13 But you can see that somebody either brought in snacks,
14 foods and drinks that was inside that residence, whether
15 they were already eaten or just sitting there.

16 Q Did the presence of that bed sort of indicate to you
17 that somebody might be living there?

18 A With the blankets? I mean, potentially, yeah.

19 Q And that's a -- that's -- my next question is, did you
20 collect the sheets and blankets from that bed?

21 A No, sir.

22 Q Did you submit those for testing?

23 A No, sir.

24 Q Had you done that and submitted it for DNA testing,
25 wouldn't that have helped us figure out who it was that

JURY TRIAL & SENTENCING

1 was living in that room?

2 A I don't believe so.

3 Q You don't think the DNA from the bed would have helped
4 determine who was living in that room? '

5 A It could have been anyone. It would have showed I
6 don't know how many people's DNA on that bed.

7 Q That's the thing, we don't know.

8 A Don't know.

9 Q So it was the -- it was the presence of -- of food and
10 drink and snacks and stuff that -- that led you to believe
11 that -- besides the bed that somebody --

12 A That -- I mean, then I believe there was a -- I can't
13 say if it was an Xbox or a PlayStation with a TV that was
14 inside of the room, but it looks as if someone was staying
15 in that room.

16 MR. DERIEG: I beg the Court's indulgence for a
17 moment. I'm sorry, Your Honor. I'm just looking for
18 the pictures that were submitted into evidence.

19 THE COURT: Let's do this. If you'll all come
20 up here and do that.

21 BY MR. DERIEG:

22 Q I'm showing you what's been marked as --

23 MR. DERIEG: -- may I approach, Your Honor?
24 Judge may I approach?

25 THE COURT: Yes, you may.

JURY TRIAL & SENTENCING

1 BY MR. DERIEG:

2 Q I'm showing you what's been marked as State's 35-H. I
3 believe most of your testimony yesterday was centered,
4 around the firearms or firearm parts that were -- that are
5 in that picture; right?

6 A That is correct.

7 Q What else do you see in that picture?

8 A I see shaving cream, cigarette packets, gun oil. It
9 appears to be shampoo, moisturizer. And then, I don't
10 know that the -- it just says plus. I don't know what
11 that bottle is.

12 Q Would you characterize a lot of those -- those bottles
13 in there as potentially female haircare products?

14 A I see one that -- that is.

15 Q Okay.

16 A I think it's Pantene Curl.

17 Q Did any of that -- any that get collected?

18 A No, sir.

19 Q So I guess none of it got tested for prints or DNA to
20 see who was -- because those are indications of somebody
21 living in that room; right?

22 A That's correct.

23 Q And none of those were tested to see who it was that
24 with living in that room?

25 A No, sir, they were not.

JURY TRIAL & SENTENCING

1 Q Okay. I'm showing you what's been marked as State's
2 35-Q.

3 A Yes, sir.

4 Q What is that?

5 A A Blackstone bag.

6 Q Does it look like a shipping bag, like some type of --
7 does it look like one of those shipping bags where you --
8 you mail something?

9 A No, sir.

10 Q No?

11 A It looks like a carryout bag if you went to the store
12 itself.

13 Q To the store itself?

14 A Yes, sir.

15 Q Did that get collected?

16 A The bag, I don't believe the bag did get collected, if
17 I'm not mistaken.

18 Q Do you know what was in the bag?

19 A Yes, sir. It was 9 millimeter rounds.

20 Q 9 millimeter rounds were in there, but the bag didn't
21 get collected at the time?

22 A I don't believe so.

23 Q So it didn't get tested either?

24 A I don't believe so.

25 Q (Unintelligible.)

JURY TRIAL & SENTENCING

1 A Yes, sir.

2 Q I'm going to show you what's been marked as State's
3 Exhibit 35-L.

4 A Yes, sir.

5 Q Your testimony yesterday was about the, what,
6 ammunition in that picture?

7 A Yes, sir, that is correct.

8 Q Do you see any pill bottles in that picture?

9 A Yes, sir, I do.

10 Q Do you know whose name is on the pill bottles?

11 A Yes, sir. They came back to his mother.

12 Q To his mother?

13 A That is correct.

14 Q Oh. And also, do you see that soda can there?

15 A Yes, sir. It appears to be Mountain Dew.

16 Q Were the pill bottles or the soda can collected?

17 A I'm sorry. Did you say were the pill bottles or?

18 Q Were the pill bottles the Mountain Dew, were they --
19 were they collected?

20 A No, sir, they were not.

21 Q So they weren't submitted or tested?

22 A No, sir.

23 Q So we've got no idea whose prints or DNA is on those?

24 A No. That is correct.

25 Q Why -- why wasn't that stuff collected and tested?

JURY TRIAL & SENTENCING

1 A Because there was not a common practice that we
2 actually take people's drinks or other people's belongings
3 from there if it's not part of the investigation.

4 Q Well, isn't part of the investigation -- really, the
5 heart of the investigation proving that my client lived in
6 that room?

7 A The primary of our investigation was the narcotics and
8 the guns that were -- and the ammunition that was found in
9 there. It was a drug investigation.

10 Q But in terms of proving who had control over it and
11 possession over that stuff, that's -- that's an important
12 part of the investigation, too; right?

13 A That is correct.

14 Q And potentially testing all these different things
15 that were in the room could have helped to determine who
16 it was that had been in that room and had custody and
17 control over those drugs and guns and ammunition; right?

18 A It's possible.

19 Q But that just wasn't done?

20 A That is correct.

21 Q All right. I'm going to show you what's been marked
22 as State's 37.

23 A Yes, sir.

24 Q Those are the Facebook messages that we so
25 painstakingly went through yesterday?

JURY TRIAL & SENTENCING

1 A Yes, sir.

2 Q During your testimony, Ms. Robinson had you jump
3 around a lot and not very sequentially through those
4 pages, right, kind of jumping back and forth --

5 A Yes, sir.

6 Q -- going back to that timeframe? And those pages
7 themselves aren't exactly sequentially numbered either,
8 are they?

9 A They are numbered.

10 Q Right. But you know what I mean when I say
11 sequentially; right?

12 A You can explain yourself. I don't mind.

13 Q I just mean one number right after another.

14 A As in like 1, 2, 3, 4, and so forth? Yeah, I get
15 that. No, it's not -- it's not that way -- in that order.

16 Q I think I'm going to jump around a little bit, too.
17 So if you wouldn't mind turning to page 569.

18 A Yes, sir.

19 Q If you go about 22 lines down, there's -- there's an
20 entry in this Facebook message from Danny Britner at
21 11:29:49 UTC. Do you see what I'm talking about?

22 A I'm trying to find that for you. 11:29, yes. March
23 4th, 2022, 11:29 UTC.

24 Q And next to the -- the body of what the message was,
25 what does that say?

JURY TRIAL & SENTENCING

1 A It says Jacob, question mark, question mark.

2 Q Would that seem to indicate that Danny was making sure
3 that that was Jacob that was actually using that Facebook
4 account?

5 A Yes, sir.

6 Q Do you have any idea why Danny would need to
7 double-check to make sure that -- well, excuse me -- go
8 down two more messages in the body. Then Danny -- the
9 next message that Danny writes is what?

10 A It says, heck, yeah, LOL, I wanted to make sure.

11 Q So that would seem to indicate that Danny had some
12 concern as to whether or not it was actually Jacob?

13 A I believe so.

14 Q And if you'll turn to page 76.

15 A Yes, sir.

16 Q And this is Facebook messages with Axel Tinsley?

17 A Yes, sir.

18 Q If you'd go to Line 8. It's at 11:15:44.

19 A Yes, sir.

20 Q What does the body of -- of that message say?

21 A Yes, sir. It says, who is this and why are you on my
22 bro's messenger?

23 Q So there's a couple people that clearly think that
24 other people could be using this -- this messenger
25 account?

JURY TRIAL & SENTENCING

1 A I believe so.

2 Q Yeah. In your law enforcement experience,
3 particularly with working with the DEU, are you aware of
4 other people in the area with the nickname Quik or Jay
5 Quik?

6 A No, sir.

7 Q Really?

8 A No, sir.

9 Q All right. Let's turn to page 695.

10 A Yes, sir.

11 Q And I know this was -- this was one of the -- the
12 pages that you testified about yesterday. But if you'll
13 start at Line 17 just under 1:29:15 UTC, a message by
14 Sandy Hall Birch. Well, first of all, who is Sandy Hall
15 Birch?

16 A That's his mother.

17 Q That's his mother. And what does that -- that body
18 say in -- in that message?

19 A Which one are you referring to? I'm sorry. Mine
20 doesn't say Line 17 in there.

21 Q Well, under 1:29:15 UTC.

22 A Okay. In reference to the kitchen is a mess?

23 Q Yeah.

24 A Okay. It states, the kitchen is a mess, I can't find
25 stuff -- or am I allowed to say the word that's listed

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1 there, Your Honor?

2 THE COURT: I'm sorry?

3 THE WITNESS: May I use the profanity that's in
4 the message?

5 THE COURT: Answer his question.

6 BY MR. DERIEG:

7 Q I'm fine with -- we have kids in here -- I'm -- I'm --
8 I'm okay with you just (unintelligible.)

9 A Okay. I just wanted to double-check that that was
10 okay.

11 Q If you want to say S-word (unintelligible).

12 A Okay. It says, the kitchen is a mess, I can't find S.
13 Just very point -- just very good pintos. Someone put
14 dirty dishes in the broken dishwasher. Please put
15 overwrap on my -- on windows in our room. Cold air hits
16 my face all night, it sucks. Do you still have
17 cheesecloth?

18 Q So does that sound like a mother complaining to her
19 son about things that are broken in the house and asking
20 for her son's help?

21 A That is correct.

22 Q Okay. Go to the -- to the next message under 1:30:19
23 UTC?

24 A Yes, sir. It says, can you pick up some -- some paper
25 cupcake holders, please?

JURY TRIAL & SENTENCING

1 Q And you saw Sandy Birch when you went into the house;
2 right?

3 A Yes, sir.

4 Q What kind of condition was she in?

5 A She was bedridden. She was speaking with us, but she
6 was -- she was ill.

7 Q So she wasn't very mobile?

8 A No, sir.

9 Q Wasn't able to do a whole lot of things for herself?

10 A That is correct.

11 Q And can you pick up some paper cupcake holders is her
12 asking her son for help?

13 A Yes, sir.

14 Q Okay. Go to the next message.

15 A Yes. It says, please sell blank something. Please
16 sell something, waterbed is still leaking. Jimmy and I
17 need electric blankets, we are freezing. Please help me.

18 Q So we've got a helpless mother literally begging for
19 help from her son?

20 A Absolutely.

21 Q And what does the -- the next message say?

22 A It states, okay, I'll handle it.

23 Q And so, that's a son telling her -- his bedridden
24 mother that he's going to help her?

25 A That is correct.

JURY TRIAL & SENTENCING

1 Q And then, what does the -- the next message say?

2 A Yes, sir. It says, no one has time for us. Jimmy
3 probably has less than six months, so I bury again.

4 Q So sort of a mother complaining to her son about her
5 isolation --

6 A Yes, sir.

7 Q -- and the state that she and her -- her husband are
8 in?

9 A Yes, sir.

10 Q And then, the message that you weren't asked about
11 yesterday, read that -- that -- that next message.

12 A Yes, sir. It states, three grown men live in this
13 house and cannot do -- and cannot do a kitchen 'til I can
14 fix Jimmy -- Jimmy some grits and eggs. I'm getting sick.
15 Oh, I knew I would, sleeping on a cold waterbed. I knew I
16 would, sleeping on a cold --

17 Q And so, three grown men being her husband, her son
18 Levi, and Michael Garrett?

19 A I'm not sure.

20 Q Well, you were in the house. Those three men had
21 lived in that house; right?

22 A Yes, sir. When I spoke with Michael Garrett, he said
23 that he just got there.

24 Q Okay. So three grown men living in the house. And
25 her husband and her son, Levi, and Michael Garrett lived

JURY TRIAL & SENTENCING

1 in that house when -- when you were there; right?

2 A Yeah. He said he just moved in there. Yes, sir.

3 Q Okay. Let's turn to page 407.

4 A Yes, sir.

5 Q Actually, I'm sorry. I'm sorry can you go back to --
6 go back to 695 where we just were, that -- that last --

7 A Yes, sir.

8 Q -- cell phone message?

9 A Yes. I'm on it.

10 Q What's the date on there?

11 A Which one?

12 Q The -- the --

13 A The ones we just read?

14 Q -- well, really -- yeah. The --

15 A Yes, sir. It shows March 29th through -- I mean,
16 excuse me, January 29th through January 31st of 2022.

17 Q And you came to arrive at this residence approximately
18 three weeks later?

19 A Yes, sir, approximately.

20 Q Okay. And these are -- on this page you see Facebook
21 messages between Jacob and his mother; right?

22 A Yes, sir.

23 Q Wouldn't it have been easier for her to just talk to
24 him if he lived at that house?

25 A It's possible.

JURY TRIAL & SENTENCING

1 Q It kind of doesn't make sense, does it?

2 A It kind of does at a certain age. Some people have
3 cell phones that are in use and some don't. So sometimes
4 people use the Wi-Fi to communicate with the others.

5 Q But people who live together usually just talk to each
6 other rather than message each other across the house;
7 right?

8 A If he was in -- if he was in the house, I don't
9 believe they would be messaging each other.

10 Q Okay. Thank you.

11 A Yes, sir.

12 Q Now, page 407.

13 A Yes, sir.

14 Q If you look at sort of in the middle of the page at
15 005516.

16 A Yes, sir.

17 Q What does that say?

18 A It says, and Levi wants to buy back the crossbow.

19 Q Did you guys find a crossbow in that house?

20 A There was a bow in that house, yes, sir.

21 Q And Levi was living in that house; correct?

22 A Yes, sir, downstairs.

23 Q And did you -- when you were -- where was the
24 crossbow?

25 A It was upstairs in the top bedroom that we were

JURY TRIAL & SENTENCING

1 searching.

2 Q The -- the primary room that --

3 A Yes, sir.

4 Q -- that was being searched?

5 A Yes, sir.

6 Q When you -- when you went into that room, did you it
7 appear to you that there was anything preventing free
8 access into that room from anybody that was inside that
9 house?

10 A The bottom -- are you talking about the primary room
11 there we were searching or the one -- or Levi's bedroom?

12 Q The one -- the one that you were searching where the
13 crossbow was found.

14 A No, there was nothing that restricted anyone from
15 going in and out.

16 Q So if Levi had, in fact, bought his crossbow back and
17 put it in that room he would have had free access to that
18 room?

19 A Yes, if he wanted to, absolutely.

20 Q Okay. And let's see, look at page 221. And I'm kind
21 of going in the order that you went in yesterday to --

22 A Yes, sir.

23 Q -- second-to-the-last -- second-to-the-last message,
24 what does that say?

25 A With the motorized bike or the one after that?

JURY TRIAL & SENTENCING

1 Q The one after that.

2 A Okay. It says, come to the same place.

3 Q That doesn't say come to my house, does it?

4 A No, sir, it does not.

5 Q It just says, come to the same place?

6 A Yes, sir.

7 Q Page 447.

8 A Yes, sir, 447.

9 Q Now, these -- records reflect when the message -- the
10 message was sent; right?

11 A Yes, sir. That is correct.

12 Q And there has been indication by at least two people
13 in these messages believing that someone other than my
14 client had access to this Facebook Messenger; right?

15 A Yes, sir.

16 Q And does anything in -- on page 447 or the previous
17 page that talks about when -- when this picture was sent?
18 Does it indicate at all when the picture was actually
19 taken?

20 A It does not indicate when the picture was actually
21 taken, just when the picture was sent.

22 Q And is there any way to identify whose hand is in that
23 picture?

24 A No, sir, it does not.

25 Q And again, there were at least two people in these

JURY TRIAL & SENTENCING

1 messages that potentially think that other people have
2 access to this messenger?

3 A This is a different person that was requesting
4 something from him.

5 Q Let's go to page 75.

6 A Affirmative, 75.

7 Q Yeah, page 75.

8 A Yes, sir.

9 Q The very first line, what does that say?

10 A The very first line says, someone broke in my safe.

11 Q Okay. Now, let me take you back to being inside the
12 primary room in question.

13 A Yes, sir.

14 Q Was there more than one safe in that room?

15 A That is correct. There was a closed safe and an open
16 safe.

17 Q So there were two safes?

18 A Yes, sir.

19 Q Could you tell whether or not that open safe had been
20 broken into or had been opened normally?

21 A Oh, it appeared to be an opened normally.

22 Q And what -- what gave you that impression?

23 A Because there was no -- everything that was currently
24 on that safe was intact and there was no pry marks or
25 damage to that safe, that door.

JURY TRIAL & SENTENCING

1 Q Okay. And in the next message down, what -- what --
2 what do those say?

3 A It said, chrome Raven Arms .25, S&W 1909.32 long rifle
4 grips with lead-tipped FMJ, black Ivory [sic] Johnson 32
5 long, and then there's a tan Glock 20 ghost lower, gun
6 lower.

7 Q Are those consistent with any that you found in that
8 room?

9 A Yes, sir.

10 Q Where did you find those?

11 A Those -- those were in the safe.

12 Q And was that Smith & Wesson under the mattress?

13 A That was, yes, sir. There was a Smith & Wesson under
14 the mattress. That is correct.

15 Q Yeah. So it indicates Jacob knew what had been taken
16 from the safe and was able to name them. A lot of that
17 stuff was found in the open safe, and one of those guns
18 was found under a mattress?

19 A No. That was the closed safe. Those items were in
20 the closed, the one that we broke open.

21 Q Oh, it was in a closed safe?

22 A Yes, sir. Those were in the closed safe that we broke
23 open. The only one that you've shown that -- that Smith &
24 Wesson, I mean, that one was -- there was one inside the
25 safe and there was also one also under the bed.

JURY TRIAL & SENTENCING

1 Q Gotcha. And it goes on to say -- well, turn to
2 page 187.

3 A Yes, sir.

4 Q Go to the message on 3/1/22 at 2:34:10 UTC.

5 A Yes, sir. Oh, it says, call me on my cell, I know who
6 broke in my safe.

7 Q And there are multiple throughout these -- these
8 Facebook messages that have been printed out where he says
9 he knows who broke into a safe; right?

10 A That is correct.

11 Q Levi had access to that safe anytime he wanted, didn't
12 he?

13 A To the closed or the open safe, sir?

14 Q Either.

15 A Either.

16 Q So he had full access to everything that was in that
17 room?

18 A Everyone did.

19 Q And he was trying to get a crossbow back and there was
20 a crossbow found in that room?

21 A Yes, sir. It was open. That crossbow was sitting
22 behind the chair near the open safe.

23 Q And remind the jury again, what was found in his -- in
24 his drawer?

25 A I'm sorry? That was found in Levi's drawer?

JURY TRIAL & SENTENCING

1 Q Levi's drawer.

2 A Yes, sir. Yes, sir. There was a lower Glock as well,
3 one of the ghost lowers.

4 Q So part of the firearm?

5 A Yes, sir.

6 Q So he's got part of a firearm hidden in his drawer and
7 full access to everything upstairs?

8 A Yes, sir.

9 Q And -- and Jacob clearly thinks that he believes that
10 he knows who broke into his safe; right?

11 A Based off these messages, yes, sir.

12 Q Go to page 590. And this was just something that I
13 was -- I was curious about -- curious about yesterday, and
14 I figured -- you know, one of the reasons I asked you
15 about how -- how long you had spent with the -- the drug
16 enforcement unit in -- in law enforcement is you kind of
17 get to know a lot of people that -- just a lot of people
18 around; right?

19 A Yes, sir.

20 Q If you look at the message 2:35:07 from 3/1/22. I
21 believe yesterday on -- on testimony when you read the
22 body of that message, you said have Swerve call my cell
23 phone, please, I know who broke into my safe. I was just
24 curious how -- how you knew to change the word "serve" to
25 "Swerve."

JURY TRIAL & SENTENCING

1 A That's what I believe that it was, have Swerve.

2 Q And I'm just curious why you believe that when it says
3 serve?

4 A Have Serve call me on my cell phone. Because that's
5 -- that's in slang. That ain't -- that's slang for
6 Swerve, not serve.

7 Q And how would you have come --

8 A Because I've been in -- if I may say for the record,
9 in the narcotics world, everyone uses nicknames. They
10 don't use their real name. And so,metimes they spell it
11 in a proper manner, but it doesn't mean in that proper
12 manner.

13 Q .Okay. You recognize when you saw serve you recognized
14 that that should have been Swerve?

15 A Yes, sir.

16 Q I was just genuinely curious.

17 A I don't mind answering any questions, sir. Yes, sir.

18 MR. DERIEG: I beg the Court's indulgence, Your
19 Honor.

20 BY MR. DERIEG:

21 Q When you were at the home, were you the one that went
22 into Levi's room and found the pill bottle when you found
23 the lower?

24 A Yes, sir.

25 Q How did you get into that room?

JURY TRIAL & SENTENCING

1 A That room -- if I'm not mistaken, that room was open.

2 Q You didn't have to break the door?

3 A I don't believe I -- I don't believe I had to break

4 the door. When I came to that room after coming from

5 upstairs, that door was open, so I just walked right

6 directly in.

7 Q Do you know if somebody before you had gone in that

8 room?

9 A I'm not sure.

10 Q Were -- were any pictures taken of -- of that room?

11 A I don't -- I took the pictures of the items in there,

12 but I don't know if the whole shot was in there. I didn't

13 have a body camera on that day. Mine was broken.

14 Q Gotcha.

15 MR. DERIEG: Thank you, Your Honor. That's all

16 I have.

17 THE COURT: Thank you. Any redirect?

18 MS. ROBINSON: Yes, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. ROBINSON:

21 Q Good morning, Investigator Hines.

22 A Good morning. Yes, ma'am.

23 Q Thanks for being back with us today. In your

24 cross-examination, you testified that you're not aware of

25 anything coming back to the defendant in terms of

JURY TRIAL & SENTENCING

1 fingerprints and DNA?

2 A That is correct.

3 Q Are you aware of anything coming back to anyone in
4 particular, any known individual?

5 A Not -- not of my records. I don't know.

6 Q There -- you gave testimony that you came in and you
7 checked the rest of the rooms to determine if the
8 defendant was in the home; is that correct?

9 A That is correct.

10 Q And that Officer Moore also did that?

11 A Yes.

12 Q Are you aware -- do you know for certain where
13 officers had been in the home before you arrived there?

14 A I'm not sure. That's why I double-checked.

15 Q So that's the reason why you checked?

16 A Yes.

17 Q And you were testifying -- you testified a couple of
18 times about the -- the pill bottle in Levi's room. Did I
19 understand correctly, are you saying the pill bottle
20 itself was empty?

21 A Yes.

22 Q Going back to the fingerprints and DNA, there were
23 lots of questions about other items that you did not take
24 into custody.

25 A That is correct.

JURY TRIAL & SENTENCING

1 Q If you were to get DNA or fingerprint results on any
2 given item there or elsewhere, do the results tell you how
3 or when the fingerprints or DNA got on that item?

4 A It does not. It does not.

5 Q You looked at page 569 in the record of Facebook,
6 State's 37.

7 A Yes, ma'am, 569.

8 Q This was an exchange between Jay Quik and Danny
9 Britner; correct?

10 A That is correct.

11 Q And this was the individual who asked Jacob and said I
12 wanted to check?

13 A Yes.

14 Q Can you tell from that page how recently that the user
15 had connected with Jay Quik on Facebook?

16 A It shows March 2nd -- March 2nd through March the 4th.
17 Excuse me.

18 Q And so, that -- and then when is the inquiry into who
19 this is?

20 A March 4th.

21 Q So this is relatively early in their interacting on
22 through Facebook together?

23 A Yes, ma'am.

24 Q In reference to the messages with his mother, do you
25 recall that?

JURY TRIAL & SENTENCING

1 A Yes, ma'am.

2 Q I believe there was testimony about three grown men in
3 that house, and you testified that that occurred -- those
4 messages were in late January; correct?

5 A That is correct.

6 Q And it's your understanding that Michael Garrett had
7 just arrived when you were there on [REDACTED]?

8 A That is correct.

9 Q Is it possible that three grown men refers to her
10 husband, Jimmy, Levi, and the defendant?

11 MR. DERIEG: I'm going to object to speculation.

12 MS. ROBINSON: He asked the question.

13 THE COURT: I'll overrule the objection.

14 BY MS. ROBINSON:

15 Q Is it possible it refers to those three men; Levi,
16 Jimmy, and the defendant?

17 A Yes, ma'am.

18 Q And would that be consistent with the way she's
19 complaining about the situation in the house?

20 A Yes, ma'am.

21 Q You also testified about whether or not it makes sense
22 for these messages to be conveyed between people who live
23 together. Did you also testify that his mother was in a
24 bad condition and appeared bedridden?

25 A Yes, ma'am.

JURY TRIAL & SENTENCING

1 Q Is it possible that Facebook Messenger would be a way
2 to reach somebody who's on a different floor of the house?

3 MR. DERIEG: Again, speculation.

4 THE COURT: I'll overrule the objection.

5 THE WITNESS: Yes, ma'am.

6 BY MS. ROBINSON:

7 Q On page 221 --

8 A Yes, ma'am.

9 Q -- you testified about the message where Jay Quik
10 says, come to the same place.

11 A Yes, ma'am.

12 Q What was the question that preceded him saying that?

13 A All I got is a motorized bike. Where are you staying
14 at these days, anyway?

15 Q Okay. Where are you staying at these days?

16 A Yes, ma'am.

17 Q And then, he says -- Jay Quik says, same place. And
18 then, there's still a request for further clarification;
19 is that correct?

20 A Yes, ma'am.

21 Q And then, on the next page, what does Jay Quik say
22 about where he's stayed these days?

23 A He states, [REDACTED] Willow Pond Road.

24 Q Now, you also testified a good bit in reference to
25 that room being open and other individuals, particularly

JURY TRIAL & SENTENCING

1 Levi, having full access to that room; is that correct?

2 A Yes, ma'am.

3 Q Now, when you testified about them having full access,
4 you also included the safe in that matter; correct?

5 A That is correct, the open safe.

6 Q Now, the safe, when you encountered it, that contained
7 the firearm was locked when you first encountered it;
8 correct?

9 A That is correct.

10 Q And so, even if somebody could walk into that room and
11 walk up to the safe, to open it would have required either
12 breaking into it or the code; is that correct?

13 A That is correct.

14 Q So unless Levi had the code or chose to break into it
15 himself, he would have access to get to the safe but not
16 necessarily the contents; is that correct?

17 A That is correct.

18 MS. ROBINSON: I beg the Court's indulgence. No
19 further questions, Your Honor.

20 THE COURT: Any recross?

21 MR. DERIEG: Very briefly, Your Honor.

22 RECROSS-EXAMINATION

23 BY MR. DERIEG:

24 Q On redirect, you were asked about a bunch of other
25 items that -- that weren't collected and whether or not

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1 they would tell -- even there was DNA or fingerprints,
2 whether or not it would tell how or when those things got
3 there; correct?

4 A Yes, sir.

5 Q And I believe you testified that it wouldn't be
6 definitive as to how or when those things got there;
7 right?

8 A I'm sorry. Can you say that again? I couldn't really
9 hear you.

10 Q Did you say it wouldn't -- it wouldn't be definitive
11 as to how or when those things got there, regardless of
12 the presence of fingerprints or DNA; correct?

13 A You couldn't tell the timeframe, that's correct.

14 Q But it would show someone's presence in that room;
15 right?

16 A That is correct.

17 Q On page 569, you were asked -- and I believe you were
18 asked about the interaction there on page 569, and I
19 believe Miss -- Ms. Robinson characterized it as that
20 being early in their interaction on Facebook?

21 A Yes, in March. Yes, sir.

22 Q How do you know that?

23 A It states March the 2nd of '22.

24 Q Right. But how do you know that this is early on in
25 the interaction between -- between this person and my

JURY TRIAL & SENTENCING

1 client on Facebook?

2 A I only see -- I'm only reading off what it has here.

3 Q Do you have any idea if they had been Facebook
4 messaging for years or --

5 A I do not. I just have these limited pages. I don't
6 have the full --

7 Q You don't have -- you don't have the information to be
8 able to characterize it as early on in their Facebook
9 interaction, do you?

10 A That is correct.

11 Q All right. Thank you.

12 A Yes, sir.

13 Q Can you say exactly when Michael Garrett moved into
14 that house?

15 A I cannot say. When I met him that morning -- well,
16 that evening, excuse me, he said that he just moved in.
17 His belongings were in their front living room is what he
18 told me.

19 Q He said he just moved in?

20 A Yes, sir.

21 Q Did he --

22 A -- and he said his belongings were in the -- in the --
23 I'm sorry.

24 Q -- did he give you a definitive date or --

25 A He did not.

JURY TRIAL & SENTENCING

1 Q -- time period?

2 A He stated that he had just moved in and I will find
3 his belongings in the front living room in the Tupperware
4 -- well, tote. Excuse me.

5 Q Okay. Also on page -- you were asked about 695.
6 There in the middle on 1/29/22 at 1:29:15 UTC.

7 A Yes, sir.

8 Q That last -- will you reread that last sentence,
9 please?

10 A Do you still have cheesecloth?

11 Q Does that sound like somebody had borrowed or taken
12 something and her wanting it back?

13 A That is correct. It says in question mark, yes, do
14 you still have cheesecloth.

15 Q Do you know if Levi had the code to that safe?

16 A I'm not sure.

17 Q Did you ask him?

18 A He was not present.

19 Q Do you know if anybody ever asked him?

20 A No. I never had -- I never had contact with Levi.

21 Q Just the -- you never had contact with Levi, you just
22 had interaction with the -- the lower that was being
23 hidden in his drawer?

24 A That is correct.

25 Q I believe the first question that you were asked on

JURY TRIAL & SENTENCING

1 redirect was about whether or not you were aware of the
2 items that got processed whether or not anything came back
3 to anybody specifically; right?

4 A That's correct.

5 Q And did -- were you guys able to identify anybody from
6 what came back?

7 A That, I do not have the records of, sir.

8 Q So how were you able to answer Ms. Robinson's question
9 that -- well, you're not aware of what the results are
10 so --

11 A No, sir, I'm still --

12 Q -- so you don't know whether or not anything came
13 back, any hits, nothing?

14 A No, sir.

15 Q Fair enough.

16 MR. DERIEG: That's all I've got, Your Honor.

17 Thank you.

18 THE COURT: Thank you, Investigator Hines. You
19 can step down.

20 THE WITNESS: Yes, sir.

21 THE COURT: State, call your next witness.

22 MR. EPTING: I beg the Court's indulgence. The
23 State calls Barbie Traylor to the stand.

24 MR. DERIEG: Say that again.

25 MR. EPTING: Barbie Traylor.

JURY TRIAL & SENTENCING

1 (The witness was sworn in.)

2 THE COURT: The lawyers -- okay. Go ahead.

3 Sorry.

4 BARBARA TRAYLOR

5 was called as a witness, and having been first duly sworn,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. EPTING:

9 Q Good morning.

10 A Good morning.

11 Q Could you please state your full name for the record?

12 A It's Barbara Traylor.

13 Q I'm sorry about that. We called you Barbie, but your
14 official name is Barbāra; is it not?

15 A That's correct.

16 Q Could you tell the jury how you're employed?

17 A I'm employed with the York County Sheriff's Office.

18 Q And how long you been with the sheriff's office?

19 A 22 years.

20 Q And what are your duties at the sheriff's office?

21 A I'm an evidence technician.

22 Q And what does the job of an evidence technician
23 entail?

24 A We receive evidence, we store it until it needs to go
25 to court or it's destroyed after court proceedings, and

JURY TRIAL & SENTENCING

1 then we just keep it secure.

2 Q How does the evidence come into your possession as an
3 evidence technician?

4 A We have drop lockers. They are -- we also have
5 dropbox that's similar to a mailbox, and then sometimes
6 it's handed to us if we're present.

7 Q Can you describe how the dropbox works for the jury?

8 A Yes. The dropbox is a metal box, somewhat like a
9 mailbox, like what you would see with a handle that pulls
10 down. It has a lock on it that we only have the keys to.
11 And then, we have those lockers that have padlocks that we
12 only have the keys to.

13 Q And who all works with you down in the evidence room?

14 A Do you want the names or just --

15 Q Let's just say, how many numbers and then the names,
16 if you can give them off the top of your head?

17 A Okay. We have a lieutenant, and then there are three
18 evidence techs.

19 Q Who are the evidence techs?

20 A It's myself and Paul Willie and Terrence Robinson.

21 Q Are those -- is that in an area of limited access?

22 A Absolutely.

23 Q And if items come to you in a matter that is improper,
24 if they appear to be tampered with or open what, if
25 anything, do evidence techs do to document that?

JURY TRIAL & SENTENCING

1 A We would reject it. We would call the deputy or
2 investigator to come and fix it before we would actually
3 take it into our room.

4 Q Is it common for items that have been submitted into
5 evidence to be taken out for various purposes?

6 A Yes.

7 Q For drug testing?

8 A Yes.

9 Q For forensics testing?

10 A Yes.

11 MR. EPTING: Do you need to see these? I think
12 we saw all of them yesterday. If I may approach the
13 witness, Your Honor?

14 MR. DERIEG: Judge?

15 THE COURT: Yes?

16 MR. EPTING: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes.

19 BY MR. EPTING:

20 Q I'm handing you what's been marked as State's 6,
21 State's 19, State's 20, and State's 28. Do you recognize
22 those items?

23 A I do.

24 Q Do they appear to have gone through the evidence room
25 downstairs where you work?

JURY TRIAL & SENTENCING

1 A Yes, sir.

2 Q Do they appear to have been tampered with improperly
3 in any way, shape, or form? .

4 A No, sir.

5 Q How do you document the hands that -- that these items
6 sometimes go through?

7 A We have a chain of custody on each item with our
8 signatures.

9 Q Do you see a chain of custody on the four items that I
10 handed to you?

11 A I do.

12 Q Have you become kind of an expert at recognizing
13 chicken scratch? .

14 A Somewhat.

15 Q Do you recognize any signatures on there that -- that
16 should not be there, people who don't work with the
17 sheriff's office or as an evidence tech?

18 A I do not.

19 MR. EPTING: I beg the Court's indulgence.

20 BY MR. EPTING:

21 Q Now, as part of your duties -- we mentioned things
22 being taken out to be tested and fingerprinted, perhaps,
23 or tested like for drugs. Do the evidence techs ever open
24 those packages themselves?

25 A No, sir.

JURY TRIAL & SENTENCING

1 Q All right. And if that were to have happened
2 accidentally, then would that have been documented in some
3 way, shape, or form?

4 A Yes. Mm-hmm.

5 MR. EPTING: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes, you may.

8 MR. EPTING: Your Honor, at this time, the State
9 seeks to enter State's 19, 20 and 28.

10 (Plaintiff's Exhibits 19, 20 and
11 28 were moved for admission into
12 evidence.)

13 MR. DERIEG: Prior to your previous ruling
14 yesterday, I have no objection.

15 THE COURT: 19, 20 and 28 are into evidence,
16 subject to the ruling -- prior ruling of the Court.

17 (Plaintiff's Exhibits 19, 20 and
18 28 were admitted into evidence.)

19 MR. EPTING: Thank you, Your Honor. That's all
20 the questions I have. Please answer any questions
21 Defense counsel may have.

22 THE WITNESS: Certainly.

23 THE COURT: Mr. Derieg?

24 MR. DERIEG: I beg the Court's indulgence, Your
25 Honor. Just a second, Your Honor.

JURY TRIAL & SENTENCING

1 THE COURT: Any questions for this witness,
2 Mr. Derieg?

3 MR. DERIEG: Yeah, very briefly. .

4 BY MR. DERIEG:

5 So basically, you've testified to the safeguards and
6 the procedure of storing the -- storing the evidence.

7 A Yes, sir.

8 Q Do you do any of the testing?

9 A No, sir.

10 Q Just -- just the storage?

11 A Yes, sir.

12 Q Just to make sure that it wasn't contaminated by
13 anything?

14 A Yes, to make sure when it was -- when it comes to us,
15 that it's sealed.

16 Q So if there are any fingerprints or DNA on those items
17 that you receive, it got on those items prior to you
18 receiving them?

19 A Correct.

20 MR. DERIEG: That's all I have, Your Honor.

21 Thank you.

22 THE COURT: Any redirect?

23 MR. EPTING: No, Your Honor.

24 THE COURT: Thank you. Ms. Traylor, you can
25 step down. State, call your next witness.

JURY TRIAL & SENTENCING

1 MR. EPTING: The State calls Greg Gardner to the
2 stand. If you would please come forward to be sworn.

3 (The witness was sworn in.)

4 THE COURT: All right. Solicitor?

5 MR. EPTING: Thank you, Your Honor.

6 GREGORY GARDNER

7 was called as a witness, and having been first duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. EPTING:

11 Q Good morning.

12 A Good morning.

13 Q Could you please state your full name for the record?

14 A Gregory Hansen Gardner.

15 Q And how are you employed?

16 A I'm a deputy with the York County Sheriff's Office.

17 Q Are you in any particular unit with the sheriff's
18 office?

19 A Yes, sir. I'm in the forensic services unit.

20 Q How long have you been in this forensic services unit?

21 A A little over three years.

22 Q Can you tell the jury a little bit about what the
23 forensics unit does?

24 A We respond out to crime scenes, whether that be death
25 investigations, B&E autos or burglaries, and we process

JURY TRIAL & SENTENCING

1 the scene for evidence, collect that evidence, documented
2 it, and write reports on that.

3 Q Do you ever test items that are submitted to you for
4 -- for testing?

5 A Yes, absolutely.

6 Q And do you require training and classes to do that?

7 A Yes, sir.

8 Q Can you tell -- let's focus on fingerprints
9 particularly. What, if any, training have you received to
10 compare and identify fingerprints?

11 A I have taken two classes so far for a combined total
12 of 40 hours in training in fingerprints, comparison and
13 analysis, specifically.

14 Q And as part of your duties, have you been asked to
15 collect fingerprints?

16 A Yes, sir.

17 Q Have you been asked to identify fingerprints?

18 A Yes, sir.

19 Q And have you been asked to compare fingerprints?

20 A Yes, sir.

21 Q Approximately how many times?

22 A In official duties, probably about 150, but with
23 training and everything, close to 1,000.

24 Q And once a fingerprint comparison is made and a
25 conclusion found, is that double-checked in any way?

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1 A Yes, sir. Every print is peer-reviewed.

2 MR. EPTING: Your Honor, at this time, the State
3 would seek to enter this witness as an expert in
4 latent print identification, comparison and
5 examination.

6 MR. DERIEG: No objection.

7 THE COURT: All right. I find that he is
8 qualified to testify as an expert on latent
9 fingerprint comparison and analysis. I'm going to
10 give you a brief instruction, ladies and gentlemen of
11 the jury, about expert witness. Normally, a person
12 cannot give opinion testimony. Normally, when a
13 person testifies, they must testify as to what they
14 either saw, heard or said sensed by smell or
15 something of that nature. However, there is an
16 exception when someone is qualified because of
17 education and experience. They're permitted to give
18 their opinion in certain areas if the Court qualifies
19 them that way. This witness is qualified in the area
20 as an expert in latent fingerprint analysis --
21 examination and analysis, and he's qualified to give
22 opinion testimony in that area. That does not mean
23 that you must accept the opinion, but it is evidence
24 for you to use in any way you see fit and give the
25 weight and credibility that you believe is important.

JURY TRIAL & SENTENCING

1 Okay. Solicitor?

2 MR. EPTING: Thank you.

3 BY MR. EPTING:

4 Q As we begin, can you explain to the jury what a latent
5 fingerprint is? What are we talking about when you say
6 that?

7 A A latent fingerprint is -- you know, everybody has got
8 fingerprints. They're all unique to you, yourself. And
9 each print has ridges in it and has different minutiae.
10 And your fingerprints secrete oils, and as you touch
11 surfaces, that is an impression of those oils onto that
12 surface.

13 Q Is it possible to touch somewhere and not leave a
14 latent fingerprint?

15 A Absolutely.

16 Q And can you -- are certain surfaces better or worse
17 for fingerprints to be able to adhere to?

18 A Absolutely. There's way better surfaces than others.

19 Q Give me an example of a good surface for a
20 fingerprint.

21 A A glass is a great surface, smooth plastic, things
22 like that.

23 Q Give me an example of a bad surface for a fingerprint.

24 A A brick.

25 Q A brick? And why is a brick bad?

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1 A It's rough, porous, it doesn't absorb the oils as well
2 as it could.

3 Q And is that part of the consideration of the surface
4 area that you're examining?

5 A Yes, sir.

6 Q Okay. What we mean by that?

7 A You kind of need enough area to deposit enough of a
8 print for us to analyze. The ridges as they move, they
9 break off, they end, and we call those points minutiae.
10 And we need a certain amount of minutiae in order to make
11 a confirmation and comparison. So certain surface areas
12 don't have enough room to get enough of a fingerprint on
13 there.

14 Q Are you often called out to scenes to process
15 fingerprints?

16 A Yes, sir.

17 Q And are you often given items to process for
18 fingerprints?

19 A Yes, sir.

20 Q Walk us through how you process those items.

21 A There's several different ways. Some ways with
22 cyanoacrylate esters but superglue. I would put that in a
23 fuming chamber with heat, and it turns that superglue into
24 a vapor which circulates in the chamber. And the
25 superglue vapor adheres to the oils that are left behind

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1 by that fingerprint. There's a myriad of different
2 chemicals and things that can be used.

3 Q Okay. Just speak to me like I'm a caveman. You have
4 treated an item and you're looking for fingerprints. How
5 do you know whether you have something that's worth your
6 time to follow up on?

7 A Examination under magnification. And like I said,
8 we're looking for those points of minutiae. And we're
9 trying to get ten because that's what at least our agency
10 requires to be the minimum standard to be able to make any
11 kind of confirmation.

12 Q And as you're examining, is it more likely or less
13 likely to find an identifiable fingerprint as you're
14 examining an item?

15 A It is less likely to find an identifiable.

16 Q Is it fair to say it's kind of rare to find one?

17 A I wouldn't say rare, but less common.

18 Q Less common? So if you -- you're going through your
19 process, you fume these things, you see something that
20 looks to you like it might be suitable for comparison,
21 what is your next step?

22 A The next step would be to photograph it and upload it
23 to our computer.

24 Q Okay. And in this case, were you asked to process
25 items?

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1 A Yes, sir.

2 Q And was that related to a search warrant that occurred
3 in February?

4 A Yes, sir.

5 Q Can you tell the jury what items you processed?

6 A I can. These are just copies of my reports. I was
7 asked to process plastic bags, a brown Glock-style ghost
8 lower, a Hi-Point model C 9-millimeter, an Iver Johnson --
9 I believe that was a rifle -- a Raven Arms model P-25, a
10 Charter Arms Incorporated undercover 38 special, Smith &
11 Wesson revolver, a Fuzil Cara rifle, a Jimenez Arms
12 handgun, a black Glock-style ghost lower with no serial
13 number, Glock magazines, a box of 45 38 special rounds,
14 two firearm jigs, and a series of AR magazines.

15 Q And based upon the comparison of those items, were you
16 able to identify any fingerprints that were suitable for
17 comparison?

18 A One. Yes, sir.

19 Q Does that mean nobody touched those items?

20 A Absolutely not.

21 Q Does that mean the defendant did not touch those
22 items?

23 A No, sir.

24 Q If somebody from forensics were to touch those items
25 with, say, a rubber glove, would you expect as a forensic

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1 expert for that to leave a fingerprint?

2 A No, sir.

3 Q So you -- so two -- how many brands did you find?

4 A I found two. One was suitable for entry into the
5 database, the other one was not.

6 Q You mentioned -- and you mentioned a database earlier.

7 A Yes, sir.

8 Q If somebody applies for a job or a concealed weapons
9 permit, are their fingerprints entered into a database?

10 A Yes, sir.

11 Q Is that part of the database that you're mentioning
12 here?

13 A Yes, sir.

14 MR. DERIEG: I'll withdraw my objection, Your
15 Honor.

16 BY MR. EPTING:

17 Q All right. So you found one that was suitable for
18 entry; is that correct?

19 A Yes, sir.

20 Q And was there any identification made? Did it match
21 to anyone?

22 A No, sir.

23 Q And you said you looked at another that you thought
24 might be?

25 A Yes, sir. I thought it might be, and then I examined

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1 it under magnification on the computer and it didn't have
2 enough minutiae in it.

3 Q If you were to have found a fingerprint, let's say
4 that defendant's fingerprint on one of these items, would
5 that tell you when that item was touched?

6 A No, sir. You can't date fingerprints. There's no
7 good science behind it.

8 Q Would that tell you at what location the item was
9 touched?

10 A No, sir.

11 Q Would that tell you in what manner the item was
12 touched?

13 A No, sir.

14 Q What does it tell you?

15 A That they touched it.

16 Q And -- and did you compare the one suitable
17 fingerprint to inked prints to Mr. Hall?

18 A Yes, sir.

19 Q And what was your conclusion as to that?

20 A It was not a match.

21 Q Not a match?

22 A Yes, sir.

23 Q So the items, when they come into your possession, how
24 are they packaged, typically?

25 A They're packaged in envelopes as you see here, sealed

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1 with red tape and signed on that tape.

2 Q And after you're done analyzing them what, if
3 anything, do you do?

4 A I placed it back into the bag, seal it with that same
5 kind of tape on the cut that I made separate from their
6 tape, and initial and give it back to the evidence
7 (unintelligible).

8 Q And again, say those bags were touched by a person who
9 is wearing a glove, would you expect to find their
10 fingerprint?

11 A No, sir.

12 MR. EPTING: I beg the Court's indulgence.

13 That's all the questions I have. Please answer any
14 questions Mr. Derieg has for you.

15 THE COURT: Cross-examination?

16 MR. DERIEG: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. DERIEG:

19 Q Do you go by Deputy Gardner?

20 A I go by middle name, Hansen, but --

21 Q Hansen?

22 A -- yes, sir. My mother gave me that curse.

23 Q It's not that bad. So Hansen --

24 A Yes, sir.

25 Q -- could you -- could you tell us again the -- the

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1 items that you examined specifically?

2 A Yes, sir. A Glock with a magazine, Evidence Item 19,
3 a box of 45 special rounds, two firearm jigs, a collection
4 of AR magazines, plastic bags, a brown Glock-style ghost
5 lower with no serial number, a Hi-Point model C handgun,
6 Iver Johnson Cadet rifle -- I believe those are files, I
7 don't recall -- a Raven Arms model P-25, a Charter Arms
8 undercover 38 special, a Smith & Wesson revolver, Fuzil
9 Cara rifle, a Jimenez Arms handgun, and a black
10 Glock-style lower with no serial number.

11 Q And did you say you -- you examined ammunition?

12 A There was ammunition amongst those items. Yes, sir.

13 Q So you actually had to go through and examine every
14 little piece of ammo?

15 A It depends how it is. So I spoke earlier about
16 certain items don't have a good surface area. Bullets
17 tend to be one of those. Latent prints can be deposited
18 onto bullets, but the surface area just really isn't
19 there. They would have to hold the bullet and pretty much
20 roll their finger onto it to provide good prints. So
21 typically in practice, we don't process the individual
22 bullets. That top bullet in the magazine is processed
23 because there could be transfer from the magazine onto
24 that casing that would create enough minutiae there,
25 though.

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1 Q Okay. So it's more -- do you more frequently find
2 fingerprints on, say, a clip or a magazine rather than --
3 or the -- the handle of a gun as opposed to the actual
4 bullets?

5 A Yes, sir.

6 Q And where, exactly, did you find the two identifiable
7 fingerprints?

8 A They were on the plastic bags.

9 Q They were on the plastic bags?

10 A Yes, sir.

11 Q Was it on the -- the big one, the big plastic bags or
12 the little individual ones?

13 A The smaller individual.

14 Q Okay. Both of them were -- were on the bags?

15 A Yes, sir.

16 Q Not on the guns?

17 A No, sir.

18 Q Not on the magazines?

19 A No, sir.

20 Q Not on the ammo?

21 A No, sir.

22 Q And the one identifiable print did not match my
23 client, did it?

24 A The one that I could run, no, sir, it did not.

25 Q And with the -- with the -- I guess with the resources

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1 that you had to try to and identify whose print that was,
2 you weren't able to identify whose print that was, were
3 you?

4 A No, sir. It didn't have enough minutiae to even enter
5 it.

6 Q Fair enough. Thank you for being here.

7 A Sure.

8 THE COURT: All right. Any redirect?

9 MR. EPTING: No, Your Honor.

10 THE COURT: All right. Thank you, Officer
11 Gardner. You can step down here. Ladies and
12 gentlemen, we're going to take a short break. It's
13 an appropriate time for a break. We'll take about a
14 15-minute morning break. Do not discuss the case
15 among yourselves at all while you're in the jury
16 room. Refresh yourselves. We'll have you back out
17 here in about 15 minutes. Everyone remain seated
18 while this panel is excused.

19 (The jury exited the courtroom.)

20 THE COURT: Solicitor, who's your next witness?

21 MS. ROBINSON: Ms. Holly Tobias, the chemist,
22 the drug chemist.

23 THE COURT: All right. And will you have any
24 witnesses after Ms. Tobias?

25 MS. ROBINSON: No, Your Honor.

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1 THE COURT: All right. Who's -- who's the adult
2 here with the -- the school group? Come on up here
3 just a minute and let me ask you some questions. I
4 promise you, if you keep your distance, I won't give
5 you my cold.

6 (Off the record.)

7 (Recess.)

8 (On the record.)

9 THE COURT: Let's bring the jury in.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Thank you, ladies and
12 gentlemen. We're ready to resume the trial.
13 Solicitor, call your next witness.

14 MS. ROBINSON: Thank you, Your Honor. The State
15 calls Holly Tobias.

16 (The witness was sworn in.)

17 HOLLY TOBIAS

18 was called as a witness, and having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ROBINSON:

22 Q Good morning, Ms. Tobias. Could you please state your
23 full name for the record?

24 A My name is Holly Tobias.

25 Q And what is your occupation?

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1 A I'm a forensic chemist.

2 Q Okay. And where do you work?

3 A I work for the York County Sheriff's Office.

4 Q How long have you worked for the sheriff's office?

5 A I have worked for the York County Sheriff's Office for
6 right over five years.

7 Q How long have you been -- tell me again -- a chemist,
8 but how did you phrase it?

9 A Forensic chemist, forensic drug chemist.

10 Q How long have you been a forensic chemist?

11 A Eight years total.

12 Q And what does it mean to be a forensic chemist?

13 A A forensic chemist, my duties are to analyze
14 substances brought to the lab. It could contain powders,
15 tablets, plant material, any substance. And I am to
16 determine if a controlled substance is present or not.

17 Q And do you have any particular education or training
18 that qualifies you to be a forensic chemist?

19 A I do. I attended Wofford College and received a
20 bachelor of science and chemistry. And from there, I have
21 attended training, continuous training through my career
22 to keep up-to-date with drug chemistry and drug analysis.

23 Q Okay. And in that training, you would learn the
24 different procedures that you can use to identify
25 chemicals and substances?

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1 A That is correct.

2 Q And there's different instruments in chemistry that
3 can be used to do that?

4 A We learn the instruments, the techniques, everything
5 that we need to do for our job.

6 Q Okay. And in your time as a forensic chemist, have
7 you ever been qualified in court as an expert in drug
8 identification and analysis?

9 A I have.

10 Q About how many times?

11 A I believe about 13.

12 Q Okay.

13 MS. ROBINSON: Your Honor, the State would offer
14 Ms. Tobias as an expert in the analysis and
15 identification of illegal drugs and controlled
16 substances.

17 MR. DERIEG: Without objection, Your Honor.

18 THE COURT: All right. Ms. Tobias is qualified
19 to testify as an expert in the area of drug
20 identification and analysis. Thank you.

21 MS. ROBINSON: May I approach?

22 THE COURT: Yes, you may.

23 BY MS. ROBINSON:

24 Q I've handed you State's Proposed 6. Can you tell if
25 you've interacted with that before?

JURY TRIAL & SENTENCING

1 A I have.

2 Q And how can you tell?

3 A My initials are on all the packagings.

4 Q Okay. And where did you get it from?

5 A I received this from the evidence room, one of our
6 evidence techs.

7 Q Okay. And when you received that bag, did it appear
8 to have been tampered with in any way?

9 A No.

10 Q Was it still completely sealed?

11 A It was completely sealed. If it was not, we would not
12 have accepted it into the drug lab.

13 Q Okay. And while the evidence is with you in the drug
14 lab, are measures taken to ensure that it can't be
15 tampered with in the drug lab as well?

16 A That is correct.

17 Q What was contained in that bag when you received it?

18 A May I refer to my report? When I received the bag,
19 which would be this inner bag with the blue around it,
20 when I received that, there were six Ziploc bags, each
21 containing a crystal substance.

22 Q And so, you -- there's an evidence bag you said that
23 has the blue seal --

24 A Yes.

25 Q -- and then six additional bags inside; is that

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1 correct?

2 A That is correct.

3 Q And what do you do with that evidence?

4 A When I receive evidence, I will take one case out at a
5 time. So I would get the evidence bag with the blue on it
6 within. I sign my initials and the date that I'm actually
7 working it on the side. I cut it open from the bottom,
8 and then I take all of the contents out and start my
9 analysis from there.

10 Q And when this bag, in particular, you said has six
11 smaller bags inside; is that correct?

12 A That is correct.

13 Q Did you process each of the six smaller bags?

14 A I analyzed each of the six bags.

15 Q Okay. And would that have been following the same
16 procedures and testing that you have background in
17 education in?

18 A That is correct.

19 Q Then once you have completed your testing, what do you
20 do with it?

21 A Once I have my full analysis on the drugs, I put them
22 in this clear outer bag, put them back in with the
23 original evidence bag, and then I initial and date it,
24 heat-seal it, and then it is stored and locked away until
25 I return it back to the original evidence room.

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1 Q And is that still in the bag that you sealed after
2 testing today?

3 A Yes, it is.

4 Q Does it appear to have been tampered with or opened
5 since then?

6 A It does not.

7 Q Now, based on your testing were you able to identify
8 the substance in those six bags?

9 A I was.

10 Q What did you determine that substance to be?

11 A The substance was determined to contain
12 methamphetamine.

13 Q And would that -- is in reference to all six of the
14 bags inside the -- the one evidence item?

15 A That is the six bags were all determined to contain
16 methamphetamine.

17 Q Now, in your work as chemist, does some of your
18 analysis also include determining a weight for those
19 substances?

20 A Yes.

21 Q And did you do that with this evidence?

22 A Yes. So for the total weight, which will be the six
23 bags combined, I got a total weight of a 166.74 grams.

24 Q And can you tell when that evidence was taken into
25 custody initially by law enforcement?

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1 A According to the original evidence bag, it says date
2 and time collected was [REDACTED] of 2022.

3 Q And when did you perform your testing in this case?

4 A I performed analysis on July 26th of '22.

5 Q All right. Would the delay in the time between the
6 time it's seized and the time of your analysis change
7 anything regarding your chemical identification of the
8 substance?

9 A It will not.

10 Q And does it impact the weight of the substance?

11 A It does not.

12 Q Did you prepare a report in this case?

13 A I did.

14 Q And did you bring it with you today?

15 A I did bring it.

16 Q Okay. If we could hand that to the court reporter.
17 This has been marked State's 38. So for State's Proposed
18 38, you said you -- that's your report that you brought
19 with you?

20 A That is correct.

21 Q And it fairly and accurately reports the results that
22 you obtained in your testing?

23 A That is also correct.

24 MS. ROBINSON: Your Honor, at this time, the
25 State would move to admit State's 6 and State's 38.

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1 (Plaintiff's Exhibits 6 and 38
2 were moved for admission into
3 evidence.)

4 THE COURT: Mr. Derieg?

5 MR. DERIEG: Your Honor, subject to your prior
6 ruling, I have no objection.

7 THE COURT: All right. State's Exhibit 6 and
8 State's Exhibit 38 are now into evidence, subject to
9 the prior ruling of the Court. Thank you.

10 (Plaintiff's Exhibits 6 and 38
11 were admitted into evidence.)

12 MS. ROBINSON: Thank you, Ms. Tobias. If you
13 could please answer any questions from the Defense.

14 THE WITNESS: Thank you.

15 CROSS-EXAMINATION

16 BY MR. DERIEG:

17 Q Good morning. Is it Ms. Tobias?

18 A Yes.

19 Q Do you have an official title like deputy
20 investigator?

21 A Drug chemist. I just typically go by Holly or Tobias.

22 Q Okay, cool. I'm curious about how that testing
23 actually happens, like how do you test a substance like
24 that that you found for methamphetamine?

25 A So for example, a Ziploc bag. Once I get that Ziploc

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1 bag out, I would take the contents of the bag out, I will
2 perform a color test. A color test is just a presumptive
3 test to give me an idea of what it potentially could be.
4 It is not confirmatory.

5 Q Let me stop you right there. Do you have -- do you
6 have an idea of -- of sort of what it is or a presumptive
7 idea of what it is before you even start testing?

8 A I can have an idea just based on the physical
9 properties of what it looks like. Officers may have an
10 idea, but that does not determine what my findings are.

11 Q Were there any field tests in this case done?

12 A I have no idea if there was any field tests done by
13 the officer.

14 Q Okay. If one is done, does that come to you too to
15 just sort of give you a heads-up on what -- presumptively
16 what at least law enforcement thought it was?

17 A It does not. I perform my own color test. It does
18 not matter if the officer did a field test prior or not.
19 I will do my own color test.

20 Q Okay. Thank you. Please go on.

21 A Once I do the color test, in this case for a crystal
22 substance, I will take a representative sample and perform
23 basically a confirmatory test which is, in our case, an
24 instrumental analysis. That is on the GC-MS, which is
25 also known as gas chromatograph mass spectrometer. From

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1 there, that's a two-part test, it runs. Once I receive
2 the data, I go through each piece of the data just to
3 confirm this matches, it matches to our library. And from
4 there, I will determine what the substance is.

5 Q What goes on inside that mass spectrometer? I've
6 actually kind of always wondered.

7 A So a mass spectrometer -- well, GC-MS, the whole
8 thing, is a two-part. So the GC part, the sample is
9 injected into the instrument. It heats up, so it gets to
10 a very temperature, and the components within the
11 substance fall off at different times, based on the size
12 of the component. That is the first part. That's the GC.

13 Q You said they fall off. What do you mean?

14 A They fall off the -- it's a column. It's the piece
15 within the instrument, and it gives us retention times.
16 So larger molecules hang on longer than a lot of smaller
17 ones. So when I say fall off, that's when the peak comes
18 out for our data.

19 Q Okay.

20 A And then, once you go from there, it goes into a mass
21 spec, which -- we all have different fingerprints, right?
22 Every drug has it's own fingerprint, as we call it. So it
23 will determine that peak that came from the GC, it will go
24 in and say this is the fingerprint for it, and it is our
25 job to say, yes, that fingerprint matches the fingerprint

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1 of, in this case, meth.

2 Q And so, you said you tested a representative sample?

3 A Yes.

4 Q How do you determine the size of the representative
5 sample?

6 A It does not take much sample. Most of the time,
7 especially like meth, a tiny piece of crystal can be
8 taken. It's not a significant amount of weight. It's
9 just enough that the instrument can test it.

10 Q So when the instrument tests it, if there were -- if
11 -- if the substance contained meth and something else,
12 would that -- would that test show up in the something
13 else, too?

14 A If there is more than one substance, whether it's one
15 or ten substances, the instrument will break it into each
16 substance that is in that. So that way, I can call every
17 controlled substance I found.

18 Q And so, when you're -- you're taking this tiny piece,
19 a small -- small amount of a substance from, in this case,
20 the evidence that was given to you, where do you take that
21 small piece from? Is it on the edges, in the middle?

22 A So when I dump the sample, the substance out of the
23 bag, to me, it's mixed up because it's dumped out.

24 Q So it's not all -- it's not all one big piece, there's
25 a bunch of pieces?

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1 A It could be. There's smaller crystal shards and then
2 there's larger crystal shards. They're all mixed in there
3 together. So the larger ones, I tend to take a sample
4 from the large crystal. And then, if it's a mixture, I
5 tend to take more from the middle of the group of
6 substance.

7 Q Okay. So six bags get dumped sort of in the middle of
8 the table and you take samples from the big pieces?

9 A I would take one bag at a time, analyze that one. So
10 I would take it, dump it out, do my color test, do my
11 sampling, take my weight, it is resealed -- it is re-put
12 back into its original Ziploc. I clean up my area before
13 I will open the next Ziploc bag. That way, there is no
14 cross between them.

15 Q And that's what I was getting after. What -- I guess
16 what -- what controls and what prophylactic measures were
17 -- were taken to make sure the -- so you tested something
18 from each bag?

19 A Yes.

20 Q What is -- well, you get to give your opinion on this.
21 What is the reliability of that small piece that you test
22 from each bag being wholly representative of the rest of
23 the bag? Like, how -- how can you -- are there any
24 safeguards or controls to, I don't know, make sure that
25 there aren't other substances mixed in with those other

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1 pieces that you don't test?

2 A So for example, in this case, the entire substance in
3 this bag looks the same. When I do a spot test, I take it
4 from different areas of the substance. Meth in particular
5 has a certain color it turns --

6 Q What color is that?

7 A -- which is orange, so a very dark almost
8 reddish-orange. So I take samples and then -- for my
9 color test. And then, once I go to take a sample for the
10 instrument analysis, I take a sample from a different area
11 within. So you're getting more than one area I am
12 analyzing in a way. But to me, it's reliable because it
13 all looks the same throughout.

14 Q Thank you. That's all I have. I appreciate it.
15 That's very informative.

16 A Thank you.

17 THE COURT: Thank you. Any redirect?

18 MS. ROBINSON: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. ROBINSON:

21 Q When you tested each of the six bags separately, the
22 result was methamphetamine for all six bags; is that
23 correct?

24 A That is correct.

25 THE COURT: All right. Thank you. Recross?

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1 MR. DERIEG: No, Your Honor.

2 THE COURT: Thank you. Ms. Tobias, you can step
3 down.

4 THE WITNESS: Thank you.

5 THE COURT: All right. Solicitor, call your
6 next witness.

7 MS. ROBINSON: Your Honor, at this time --

8 THE COURT: Let's see, if that's the report, it
9 needs to stay up here.

10 MS. ROBINSON: -- we'll bring it up there. Your
11 Honor, at this time, the State would rest.

12 THE COURT: All right. Ladies and gentlemen, at
13 this point, it appears that the State has rested.
14 What that means is they do not intend to produce
15 anymore evidence at that this point. And so, we're
16 going to take a break. There's some matters we need
17 to take up outside of your presence. During the
18 break, once we deal with those issues, we'll have you
19 back here in the courtroom. So even though you've
20 heard what the State has indicated is their evidence
21 and they've rested, the case is not concluded until
22 the Court instructs you on the law and how that's to
23 be applied (unintelligible) is going to be
24 appropriate in this case. We're not at that point
25 yet. So do not discuss the case. Anything you've

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1 heard in the courtroom or seen, do not discuss at all
2 among yourselves during the break. Everyone remain
3 seated while this panel is excused to the jury room.
4 We'll have you back here in just a few moments.

5 (The jury exited the courtroom.)

6 THE COURT: Thank you. Any motions, Mr. Derieg?

7 MR. DERIEG: Before I make my motion, Your
8 Honor, there was a matter I wanted to take up
9 earlier. During Investigator Hines' testimony, he
10 talked about having just received a DNA test or a DNA
11 report or the -- I guess the results from a DNA
12 report. I was not aware of any such report, and I
13 just would ask that I -- I get a copy of whatever it
14 is that he was -- that he was talking about that he
15 had just found out about.

16 THE COURT: I believe he indicated that he
17 received -- his words were a report about the DNA
18 sometime shortly before trial. Solicitor, do you all
19 know no anything about it?

20 MS. ROBINSON: I'm not aware of anything going
21 to the DNA lab. I'm not aware of any reports. I
22 believe he may have been mistaken with the
23 fingerprint results in terms of the report that came
24 in at the --

25 THE COURT: All right.

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1 MR. DERIEG: And if he says that's the case,
2 then I'll take him at his word at it. Because I just
3 didn't know about any DNA testing that had been done
4 at all in this trial, so when he said that he had
5 just seen a DNA report, it surprised me.

6 THE COURT: Well, all right. Let's do this.
7 This is a discovery issue. This is a question about
8 discovery. Mr. Hines -- Investigator Hines, if you'd
9 come back up.

10 THE WITNESS: Absolutely.

11 THE COURT: Place Detective Hines under oath.

12 JOSHUA HINES

13 was sworn to tell the truth, the whole truth, and nothing
14 but the truth:

15 THE COURT'S EXAMINATION

16 THE COURT: You don't have to take the stand.
17 We're having a discussion about a report that you
18 indicated you received a report on DNA. Whatever
19 report means to you, what did that mean?

20 THE WITNESS: I mean not as in like as the blood
21 DNA, meaning the samples from those same -- from
22 forensics on all the baggies and so forth.

23 THE COURT: The question is, did you receive a
24 written report?

25 THE WITNESS: No, sir, I did not.

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1 THE COURT: All right. And when you say you
2 received a report, how did you receive it.

3 THE WITNESS: I seen it from the discovery that
4 Ms. Robinson showed me.

5 THE COURT: All right. And was there -- there's
6 something in discovery that indicated there was no
7 DNA present --

8 THE WITNESS: That's correct.

9 THE COURT: -- is that what you're referring to?

10 THE WITNESS: Yes, sir.

11 THE COURT: Does that satisfy you, Mr. Derieg?

12 MR. DERIEG: Yes, sir. I -- I actually thought
13 he might have misspoke and was talking about a
14 fingerprint report instead of a DNA report, but...

15 THE WITNESS: No.

16 THE COURT: Yes.

17 THE WITNESS: Okay. Yeah, no. I mean all the
18 testings from the -- the items here. There was no --

19 THE COURT: We're not going to rehash all that.

20 THE WITNESS: Okay.

21 THE COURT: It was simply a question of whether
22 the State had complied with discovery.

23 MR. DERIEG: I'm satisfied.

24 THE COURT: Based on his --

25 MR. DERIEG: I'm satisfied.

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1 THE COURT: -- all right. Thank you.

2 THE WITNESS: No worries.

3 THE COURT: All right. Your motion, Mr. Derieg?

4 MR. DERIEG: Now, Your Honor, I would make a
5 motion for a directed verdict. I do not believe that
6 the State has proven every element on all three
7 charges. I particularly don't believe the State has
8 proven that, even in the broadest sense of
9 constructive possession that Mr. Hall -- that Jacob
10 was in possession of any of those things. There's no
11 physical evidence to suggest that he was in
12 possession of those things. There's no physical
13 presence to suggest that he was in possession of
14 those things. But rather, there were multiple adults
15 that lived in that house that all had access to that
16 room who subsequently weren't -- weren't charged with
17 constructive possession though they lived in that
18 house. And Jacob not living in that house got
19 charged with these things. I do not believe the
20 State has met its burden in proving the element of
21 possession or even, like I said, the broadest
22 definition of constructive possession.

23 Therefore, it would also cause the other two
24 charges to fail being that if Jacob is not in
25 possession of this methamphetamine, then he's also not

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1 in possession -- he's not committing a violent crime.
2 So he is also not in possession of a weapon during the
3 commission of a violent crime. And if he is not in
4 possession of the guns that were also in the room
5 where the -- the drugs were found, even under the
6 broadest construction of constructive possession, he
7 is -- they have failed to prove the requisite elements
8 of possession of a firearm by a person convicted of a
9 violent crime.

10 THE COURT: All right. Thank you. Does the
11 State wish to be heard?

12 MS. ROBINSON: Yes, Your Honor. The State --
13 obviously, the DV motion is considered in the
14 evidence in a light most favorable to the State. And
15 the State has presented evidence that the defendant
16 had knowledge of these items and had the intent to
17 exercise dominion and control over them. He claims
18 the safe in which these items are located. He is
19 complaining that his items have been taken. He does
20 not have to be there to be in constructive possession
21 of these items. Additionally, Your Honor, he also
22 cannot possess ammunition. And as the Court has seen
23 through the entry of exhibits, there was ammunition
24 throughout this location. So, Your Honor, in viewing
25 the evidence in the light most favorable to the

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1 State, the State has met its burden, so if you would
2 follow that.

3 THE COURT: All right. Thank you. I'm going --

4 MR. DERIEG: Your Honor, may I -- may I respond
5 to that?

6 THE COURT: -- yes, you may.

7 MR. DERIEG: In the arguments from the State,
8 you heard knowledge and intent. You didn't hear any
9 actual possession. I mean, he could intend to do a
10 whole lot of things, but if he doesn't do them then
11 he's not guilty of doing those things he intended to
12 do. So knowledge and intent is what the State has
13 just presented as what their -- in the light most
14 favorable to the State their position is, that he had
15 knowledge and intent, and that does not equal
16 possession in the broadest sense of anything. I
17 mean, he may have wanted to possess them and knew
18 about them, but that doesn't prove that he, in any --
19 any scintilla of evidence, that he actually possessed
20 it either actual possession or constructive
21 possession. The two words the State used to describe
22 to get past a DV motion were knowledge and intent
23 and, Your Honor, that fails. And respectfully, I
24 would ask this case be dismissed.

25 THE COURT: All right. Well, I'm going to deny

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1 the motion for a directed verdict. The Court has to
2 take the evidence that's been presented and determine
3 whether there is, - taken in a light most -- all the
4 evidence that's been presented and taken in a light
5 most favorable to the nonmoving party.

6 In a circumstantial evidence case, which this
7 is, the Court is aware of the standard that there has
8 to be substantial circumstantial evidence. I find
9 that the evidence that was presented was that -- and
10 again, this is not on the ultimate issue. This is
11 simply on determining whether the State can survive a
12 directed verdict motion. All the arguments that have
13 been made by the Defense certainly are arguments that
14 can be considered by a jury in determining whether the
15 State has then met the burden of proving beyond a
16 reasonable doubt each element of the events.

17 However, in this case, there's evidence that the
18 home or the house that was searched in which drugs
19 were found in a safe was -- was a home that the
20 defendant had lived in, at least in the past. It was
21 his mother's house. Found in the house at the time of
22 the search was his wife, who was still his wife then.
23 His children were living in that house. Taking it in
24 a light most favorable to the State, the Facebook
25 messages that creates a factual issue is, one, who

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1 actually generated those messages. It's an issue for
2 the jury. But if you take the Facebook messages,
3 which is evidence, in the light most favorable to the
4 State, there's questions from, one, purporting on
5 Facebook to be the defendant in the case having
6 questions about his safe, the safe being broken into,
7 questions about the missing dope that was found in the
8 safe, along with other messages in the Facebook.

9 So if you take those messages, they create an
10 issue of fact that, when taken in the light most
11 favorable, I'm going to conclude that they came from
12 this defendant indicating that he had -- that it was
13 his safe that had been broken into, it was his dope
14 that was missing, and that -- in the safe that -- that
15 would indicate that he had possessed in his safe,
16 therefore, he possessed.

17 The issue really is not ultimately whether he
18 was living in the house. The issue becomes whether he
19 had dominion and control over the illegal items that
20 were found in a room in the house. And there is
21 evidence in that -- that was -- had been referred to
22 in the past, certainly the past -- immediate past,
23 several months before law enforcement were given
24 information that that room was the defendant's room in
25 that house. Additionally, evidence that he was seen

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1 by law enforcement within the vicinity of the house
2 that was searched, albeit some hours before law
3 enforcement's search of the house.

4 I find based upon that evidence that has been
5 presented, along with other evidence that's in the
6 record, that it there's a basis by which there is
7 substantial circumstantial evidence that can be taken
8 in a light most favorable to the State, and I'm going
9 to deny the motion for the directed verdict.

10 MR. DERIEG: Thank you, Your Honor. At this
11 time, I would also like to renew all previous
12 objections made, specifically all motions and
13 objections, specifically the motion to suppress the
14 evidence and the Court's instruction that I was not
15 allowed to go into the fact that officers were
16 searching the house before a warrant came.

17 THE COURT: The rulings that the Court has made
18 in the past, I'm going to continue to abide by those
19 rulings. I don't think that I limited you into
20 questioning about when the search warrant -- or when
21 they started work on the search warrant. The
22 limitation was that the legality of the search
23 warrant is not -- is not something that a jury has to
24 determine. But the record speaks for itself on that.
25 I note your objection, and the Court will abide by

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1 all previous rulings on your objection.

2 MR. DERIEG: And just to be clear, that means I
3 -- I am allowed to address the jury as to whether or
4 not the -- the search happened before the search
5 warrant came as long as I'm not questioning the
6 legality?

7 THE COURT: Do you wish to be heard on that as
8 far as how he can address the jury?

9 MR. EPTING: I'm worried that that would confuse
10 the jury. Perhaps we can get instruction in closing.
11 But if he's presenting before the jury that the
12 officers began to search prior to the search warrant,
13 I don't know the relevance of that aside from an
14 argument to the jury that that was an illegal search,
15 which is a legal conclusion.

16 THE COURT: Well, I don't know how he's going to
17 argue it. I think it's a fact that he can certainly,
18 as far as the timeline of events and the defendant's
19 version of how that -- those events worked out, that
20 he can bring that to the attention of the jury. And
21 then, -- but he can't comment or make any insinuation
22 that that was -- that the search was illegal.
23 However, I think that's ripe for him to bring out if
24 he wants to act or call into question just procedure
25 and the way they did things.

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1 MR. DERIEG: Your Honor, I think the --

2 MR. EPTING: Thank you, Your Honor.

3 MR. DERIEG: -- I think the furthest that --
4 that I would go would be a statement, something to
5 the effect of judge the actions of everyone in this
6 case, including law enforcement.

7 MR. EPTING: But that would be improper. We are
8 here to determine whether or not the State has
9 presented sufficient evidence to convict the
10 defendant. And judging the actions of the officers
11 and the propriety of those actions is not part of
12 that. It will confuse the jury.

13 THE COURT: I'm not -- I'm not sure I understand
14 the objection. I mean, he can argue that and ask the
15 jury to judge the actions of the State, the officers,
16 in the way they conducted their whole search. I
17 mean, isn't that what we do all the time in criminal
18 cases?

19 MR. DERIEG: Every single closing I've ever done
20 I've asked the jury to judge the actions of the
21 State.

22 THE COURT: It's up to them. What's your
23 objection, Mr. Epting?

24 MR. EPTING: Particularly if it's in regards to
25 whether or not they waited for the first search

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1 warrant or not. It confuses the issues, is the
2 State's position. We understand Your Honor's ruling.

3 THE COURT: Yeah. He's not going to go in --
4 the Court is not going to allow him to go into the --
5 when the search warrant was obtained, the basis for
6 which it was obtained. However, he can argue the
7 officers arrived at 6:05 and they saw what they saw
8 when they were there, and it was not until 8:10 that
9 they received a search warrant. They began their
10 search. Now, you know, you still get to the issue of
11 -- and as far as the legality and how -- what you're
12 calling a search and what the law allows is for a
13 plain view and a -- also a search for officer safety.
14 I'm not going allow you to attack that. So I think
15 what I'm saying is that you can go through the
16 timeline, but I'm not going to allow you to
17 specifically attack and raise an issue about whether
18 it was legal or not, what they were doing.

19 MR. EPTING: I might have misunderstood his
20 arguments. If that's -- if that's the parameters --

21 MR. DERIEG: That's not what I'm going to do,
22 and I have no need to talk about the search warrants.
23 I think it's fairly irrelevant to our defense. I
24 mean, the search warrants were relevant to the
25 suppression motion.

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1 THE COURT: If you want to -- I mean, if he
2 wants to argue it took them two hours to get a search
3 warrant when they got there at 6:05 and it was 8:10
4 when the search warrant was approved, I mean, he can
5 have at it.

6 MR. DERIEG: I don't think I'll --

7 THE COURT: It's just simply --

8 MR. DERIEG: -- I don't think I'll even talk
9 about that because it doesn't do anything to -- to
10 advance my --

11 THE COURT: Well, that's your --

12 MR. DERIEG: -- advance my --

13 THE COURT: -- call. .

14 MR. DERIEG: -- defense. But there are certain
15 actions of law enforcement that I think fall outside
16 the parameters of what you just talked about that I
17 am going to ask the jury to focus on. And it has
18 nothing to do with whether or not the search was
19 legal or not.

20 THE COURT: The actions and procedures that law
21 enforcement takes are an issue in every case --

22 MR. DERIEG: Absolutely.

23 THE COURT: -- and can be properly raised during
24 examination and during final arguments.

25 MR. DERIEG: Your Honor, I just wanted to clear

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1 that up now so I don't get objected to during my
2 closing.

3 THE COURT: Well, I think we know the -- we know
4 the parameters. We'll deal with if anything arises
5 during your closing.

6 MR. EPTING: As I see it, attacking police work
7 versus attacking the legality --

8 THE COURT: Right.

9 MR. EPTING: -- of their actions.

10 THE COURT: Exactly. Police work is always
11 attacked.

12 MR. EPTING: I think I understand.

13 MR. DERIEG: Yep.

14 THE COURT: All right. Anything else,
15 Mr. Derieg?

16 MR. DERIEG: I think at this time, it would be
17 proper for you to advise my client.

18 THE COURT: I mean, as far as any motions.

19 MR. DERIEG: Oh, no, sir. I'm -- I'm done.

20 THE COURT: All right. That brings us to the
21 next step. Two things. Are you going to present any
22 witnesses?

23 MR. DERIEG: Your Honor, to be honest with you,
24 I have not -- I have not made that decision. I
25 figured I was going to have the -- the lunch break to

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1 -- to make that decision. And plus, I've got to
2 check on that witness who, approximately 11 minutes
3 ago, was supposed to be meeting with deputies and
4 animal control at her residence to see if she's --
5 what's going on there.

6 THE COURT: All right. Well, we're going to do
7 this. I'm going to go through with your client his
8 right not to testify -- to testify or not testify.
9 Once we finish that part, then we'll break for lunch
10 and we'll resume after that. So if you want to --
11 have you talked to him about his right to testify and
12 also his right not to testify?

13 MR. DERIEG: I have, Your Honor..

14 THE COURT: All right. Let's bring him on
15 around and let's place him under oath for the
16 purposes of questions concerning his right to
17 testify.

18 JACOB HALL
19 was duly sworn to tell the truth, the whole truth, and
20 nothing but the truth.

21 THE COURT'S EXAMINATION

22 THE COURT: Mr. Hall, I need to -- I'm going to
23 ask you some questions, and it's simply about your
24 constitutional right to remain silent or whether
25 you're going to give that right up and wish to

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1 testify in the case. So if you don't understand
2 anything that I say, then you need to let me know.

3 We've reached the stage of the trial where you
4 can present your defense. You have the right to claim
5 the protections given to you by the Fifth Amendment to
6 the Constitution of the United States. This amendment
7 states, in part, that no person shall be compelled in
8 any criminal case to be a witness against himself.
9 This means that you cannot be required to testify in
10 this case. You have a right to testify on your own
11 behalf. However, no one can make you testify. This
12 is a personal right, and no one can waive this right
13 except you. If you decide to testify, you'll be
14 subject to the same rules that govern other witnesses,
15 and you may be examined and cross-examined on any
16 relevant issue in the case. In addition, if you have
17 any convictions involving dishonesty or false
18 statements, or crimes punishable by imprisonment for
19 more than one year and this Court determines that the
20 probative value of admitting this evidence outweighs
21 its prejudicial effect to you, the solicitor will be
22 able to introduce your record to attack your
23 credibility. And I believe you were present earlier
24 this week when we went over your record and the State
25 indicated to the Court and to your attorney that it

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1 appears that the convictions that they would be able
2 to use would simply be limited to the question of
3 whether you have been convicted of five crimes that
4 carry more than one year.

5 Now, it's also an element of the offense of
6 being in possession of guns or ammunition when you've
7 been convicted of a violent crime. That particular
8 violent crime has already been introduced to the jury.
9 So those are the -- that's the -- the -- do you
10 understand where we are as far as how your record
11 could be used against you?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: If you decide to testify, the
14 decision on your part must be freely, voluntarily,
15 intelligently made with the knowledge of the
16 protections given to you by the 5th Amendment and the
17 consequences of your decision to testify. If you
18 decide not to testify, I'll instruct the jury that
19 they cannot give the fact that you did not testify
20 any consideration whatsoever, and there is to be no
21 -- absolutely no prejudice to you because you did not
22 testify. In other words, I tell the jury to not hold
23 that against you, that's your constitutional right to
24 remain silent. And I'd tell the jury that the burden
25 is on the State to prove your guilt beyond a

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1 reasonable doubt with their evidence before you can
2 be -- before you can be convicted.

3 So it's left entirely up to you or not whether
4 you testify. You can talk to your attorney, you can
5 talk to family or friends or anyone else, but the
6 final decision will be left entirely up to you. Do
7 you understand what I've explained to you?

8 THE WITNESS: Yes, sir.

9 THE COURT: Do you have any questions about what
10 I've explained to you?

11 THE WITNESS: No, sir.

12 THE COURT: Mr. Derieg, have you discussed all
13 this with your client and gone over with him his
14 right to testify or to not testify?"

15 MR. DERIEG: I have, Your Honor.

16 THE COURT: All right. Well, I'm not going to
17 ask you the ultimate question until after lunch, but
18 when we come back after lunch, I'll ask you whether
19 you've discussed with your lawyer whether you should
20 testify or not, and then I'll simply ask you do you
21 wish to testify. But we will do that after lunch.
22 We will break for lunch and we will start back at
23 2:00, at 2:00. All right. Anything else,
24 Mr. Derieg?

25 MR. DERIEG: No, Your Honor.

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1 THE COURT: Anything else from the State?

2 MR. EPTING: No, Your Honor.

3 THE COURT: All right. We will be at ease until
4 2:00. Thank you. If the class will stay here just a
5 minute, I'll come down and talk to you all. I'm not
6 sure whether you're going to be able to stay past
7 2:00, but I'll see if I can answer some questions.
8 Hold on. Everybody keep your seat. Everybody have a
9 seat. We need to bring the jury in. I need to
10 release the jury for lunch. Everybody take your
11 seats.

12 (The jury entered the courtroom.)

13 THE COURT: You all don't have to sit down.. I
14 just need everybody in here. We're going to break
15 for lunch. So if you want to sit down, fine. This
16 isn't going to take but a second. All right. Thank
17 you, ladies and gentlemen. It's now about 20 after
18 12:00. This is an appropriate place for us to take
19 our lunch break so you can go to lunch. Be back
20 ready to go at 2:00, at 2:00. Again, I'll give you
21 the same instruction that you've heard before over
22 and over again. Don't discuss the case with anybody.
23 Don't discuss the case among yourselves as jurors.
24 Don't use your electronic devices to do any lookups
25 are Googling of people, places, the law, or anything

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1 else. So with that, I'll allow you to go to lunch.
2 Be back and ready to go at 2:00. Everyone remain
3 seated while this panel is excused.

4 (The jury exited the courtroom.)

5 THE COURT: All right. We'll be at ease 'til
6 2:00.

7 (Off the record.)

8 (Recess.)

9 (On the record.)

10 THE COURT: Yes?

11 MR. DERIEG: My apologies, Your Honor. We --
12 we're having to discuss the witness that is currently
13 dealing with the York County and animal control.
14 They're telling her that if she doesn't get certain
15 shots for her animals, roughly, immediately that
16 they're going to be taken away. So after conversing
17 with my client, we've decided that her contribution
18 to this case is not significant enough to risk her
19 losing her horses and her dogs, and we have released
20 her from our subpoena.

21 THE COURT: All right. Then let's bring the
22 client on around again. Just right here. That's
23 good right there. All right. Mr. Hall, we're at the
24 point in the trial where we've broken for lunch,
25 you've had an opportunity to -- to discuss with your

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1 lawyer about the issue about whether you're going to
2 testify or not. Have you had time to talk to him
3 about that during the lunch break?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you need any more time to talk to
6 him?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Are you going to testify
9 or not testify?

10 THE DEFENDANT: No, sir, I'm not going to
11 testify.

12 THE COURT: Thank you. All right. Mr. Derieg,
13 does the Defense intend to introduce any -- any
14 witnesses?

15 MR. DERIEG: Under the circumstances, Your
16 Honor, we have decided not to introduce any
17 witnesses.

18 THE COURT: All right. Thank you. If you'll
19 all have a seat. All right. How much time do you
20 all need to get ready for your closings?

21 MS. ROBINSON: Your Honor, one thing would be to
22 discuss jury charges. It would help me kind of --

23 THE COURT: We're going to talk about that in
24 just a moment.

25 MS. ROBINSON: Yes. So once we do that, maybe

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1 ten minutes or so after that.

2 THE COURT: All right. Mr. Derieg?

3 MR. DERIEG: I'm ready.

4 THE COURT: All right. Let's -- Mr. Derieg,
5 give me your e-mail. My clerk is going to e-mail
6 both of you with the proposed charge.

7 MR. DERIEG: It is derieglaw, D-E-R-I-E-G-L-A-W
8 at Gmail.com.

9 THE COURT: All right. The -- the charge -- and
10 you'll get it there in just a moment -- is pretty
11 straightforward: trafficking, the defendant not
12 testifying, expert testimony, normal definitions.
13 And then, trafficking, which includes a paragraph on
14 constructive possession, and then possession of
15 weapons during the commission of a violent crime is a
16 standard charge on that, and then possession of a
17 firearm by a person convicted of a violent offense is
18 in essence, the (unintelligible) statute. Did you
19 have a -- without looking at them -- I'm going to let
20 you look at them in a minute -- did you have any
21 particular thing --

22 MS. ROBINSON: Your Honor, I did. Well, I can
23 hand up. I have three requests, but I'm not going to
24 sure --

25 THE COURT: All right. Let me see what they are

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1 while you all are --

2 MR. EPTING: And, Your Honor, while we were
3 waiting, I e-mailed -- I forwarded a copy of
4 Mr. Derieg's e-mail address to your law clerk so he
5 can copy and paste from that. Your Honor, we did
6 find one line we think needs to come out in the third
7 paragraph under trafficking methamphetamine.

8 THE COURT: Hold on just a second.

9 MR. EPTING: And I'm pulling this on my phone.

10 THE COURT: All right.

11 MR. EPTING: Constructive possession means the
12 defendant had dominion or control, the right to
13 exercise dominion and control. That second sentence,
14 actual knowledge of the presence of the
15 methamphetamine is strong evidence of the defendant's
16 intent to control its disposition or use, I don't
17 believe we're allowed to charge the jury that
18 anymore. However, we are allowed to argue that. I
19 think that's been disallowed by case law.

20 THE COURT: Do you agree with that, Mr. Derieg?

21 MR. DERIEG: Sorry. I'm trying to --

22 THE COURT: It's the line under having [ph]
23 trafficking that actual knowledge of the presence --
24 this is on page 11. Do you all have -- already have
25 those in front of you?

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1 MR. DERIEG: I've got it on my phone. For some
2 reason, I can't get it -- I can't pull it up on my
3 computer right now.

4 THE COURT: Actual knowledge of the presence of
5 the methamphetamine is strong evidence of the
6 defendant's intent to control its disposition or use.
7 Mr. Epting argued -- believes that that is improper
8 -- improper for the Court to even -- in fact, that is
9 -- it could be viewed as being beneficial to the
10 defendant by taking that out. So I --

11 MR. DERIEG: Yes, sir. I have no objection to
12 that coming out.

13 THE COURT: -- all right. I'm going to take
14 that out.

15 MS. ROBINSON: Your Honor, the next sentence
16 also has been overruled insofar as it's viewed as a
17 jury charge.

18 THE COURT: That's correct. That needs to be
19 removed as well. I dealt with that in the last
20 trial. And that means the last -- actually,
21 everything from there to the end is to be removed.

22 MR. DERIEG: Starting where?

23 THE COURT: So the -- the trafficking in meth
24 100 grams or more will end on page 11 after the first
25 sentence in the second paragraph, and the rest of

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1 that will be stricken. Does that make sense?

2 MR. EPTING: Yes. It does for the State, Your
3 Honor.

4 MR. DERIEG: Yes, sir.

5 THE COURT: Lawyers, let's go back to chambers,
6 and bring your cell phones with you.

7 (Off the record.)

8 (Conference in chambers.)

9 (On the record.)

10 THE COURT: All right. We had a discussion
11 briefly on the record about jury instructions and a
12 request a charge from the State on the duties of the
13 jury and trial judge. We had discussed that
14 particular charge about ruling on -- the Court ruling
15 on the admissibility of evidence regarding the search
16 warrant. I am not going to be -- I'm not going to
17 charge that. I am going to charge the redaction. I
18 should have included that in. Solicitor, do you wish
19 to be heard on your request to charge on the issue
20 regarding the legality of the search warrant?

21 MS. ROBINSON: Just briefly. I'll say, Your
22 Honor, that request was based on a statement during
23 Defense's opening that the third question for the
24 jury to decide is whether officers conducted a
25 pre-textual search which prompted an objection.

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1 THE COURT: All right. Well, opening and
2 closing statements are not evidence in a case. I'm
3 not going to raise that issue in the charge. I note
4 your objection, and I will deny that. The redaction
5 which takes us down to the possession of a weapon
6 during the commission of a violent crime. And
7 meeting with the lawyers back in chambers, the
8 statute required -- or the wording of the statute or
9 the indictment says that while committing the violent
10 crime of trafficking methamphetamine possessed
11 firearms, or we call that during the commission --
12 possession of a weapon during the commission of a
13 violent crime. I have reconsidered my ruling as far
14 as a directed verdict on that particular indictment
15 and charge, and I am going to direct a verdict on the
16 possession of a weapon during the commission of a
17 violent crime.

18 The -- the cases that was provided to the Court
19 to review as far as trying to get a nexus between the
20 -- the crime of trafficking and the possession of a
21 weapon during the commission of the violent crime,
22 they gave me two cases: One, State v. Whitesides.
23 This is from Greenville County back in 2012. In the
24 particular case, the -- the defendant was arrested in
25 a parking lot outside -- outside his own apartment

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1 after authorities received information identifying him
2 as a marijuana dealer. They found marijuana, guns in
3 the car, and -- and scales and drug paraphernalia in
4 the car, and so then they got a search warrant, law
5 enforcement did, to search his apartment -- which was
6 where he was in the parking lot right outside of his
7 apartment -- and found 20 pounds of marijuana.

8 The discussion in that case is about the wording
9 of the statute of possession of a firearm during the
10 commission of a violent crime. And the Court went
11 through discussions about the commission of the crime
12 and the nexus between the crime. I find this case not
13 even factually close. The date when the drugs were
14 found, what we know from the State's evidence, the
15 officer who testified that he saw the defendant
16 earlier that day, he testified that he came on at 6:30
17 in the morning and it was some hours after that -- he
18 said a couple of hours. Even giving him a leeway,
19 that would have been around noon. That was the
20 officer who saw him. And this was at 6:30 in the
21 evening, so there is no way we have any idea where the
22 defendant was at the time of the discovery of the
23 drugs in the safe. That's completely factually
24 different from the State v. Whitesides case, again,
25 when the defendant was outside by a car in his

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1 apartment complex parking lot. Drugs were found in
2 the car and in his own apartment.

3 And then, I was handed up the case, the federal
4 case of U.S. v. Ceballos-Torres, which is referenced
5 in the State v. Whitesides, the Supreme Court case.
6 And factually, in that particular case, the -- another
7 discussion under the federal statute of possession of
8 a firearm during the furtherance of a violent offense,
9 great discussion in the furtherance, that defendant
10 was found in his own room or his own apartment. The
11 officers went in and they found a gun lying in the bed
12 in the room. He admitted that he owned the gun. They
13 took possession of the gun then obtained a warrant and
14 searched the apartment that he was in at the time and
15 found a large amount of cocaine. The Whitesides case
16 cites U.S. v Ceballos. Ceballos goes through those
17 nexus issues.

18 I find in this particular case that factually,
19 we don't know where the defendant was. He certainly
20 wasn't in the parking lot and he certainly wasn't in
21 the house. We're not sure where he was, but I find
22 their -- that the State has failed to prove the
23 necessarily -- the necessary requirements to go
24 forward with the possession of a weapon during the
25 commission of a violent crime. So that particular

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1 charge I have directed a verdict and that will not go
2 to the jury. All right. Anything else? So we'll
3 have to deal with that -- that instruction.

4 MR. EPTING: Not as to that specific
5 instruction. I e-mailed all parties. I believe
6 there is one more sentence that needs to be taken out
7 of the instructions relating to the -- the premises
8 on which the methamphetamine was found on page 11. I
9 think that's a holdover from the disallowed charge
10 allowing one to infer possession who has control of
11 the premises.

12 THE COURT: Yes.

13 MR. EPTING: So I think that's just a deletion
14 of five or six.

15 THE COURT: I will delete that. All right.
16 We've made that change.

17 MR. EPTING: Thank you, Your Honor.

18 THE COURT: All right. Ms. Robinson?

19 MS. ROBINSON: Your Honor, there's a portion in
20 red that lists the charges. I assume you'll strike
21 through possession of a weapon during a violent
22 crime. And I'm not sure -- I have not looked at the
23 verdict form. I just wanted to make sure that's been
24 changed.

25 THE COURT: Yeah, I won't read that.

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1 MS. ROBINSON: Your Honor, and I'm just looking
2 -- can you direct me to where the redaction charge
3 is?

4 THE COURT: I'm sorry?

5 MS. ROBINSON: I was just looking. I didn't see
6 where the redaction charge is. I probably just
7 scrolled past it.

8 THE COURT: I have it on page 10, at the bottom
9 of page 10. That was what the clerk just sent you,
10 not the earlier version.

11 MR. DERIEG: Your Honor, on the updated verdict
12 form --

13 THE COURT: Hold on a minute. I can only do one
14 thing at a time.

15 MR. DERIEG: I'm sorry.

16 THE COURT: I want to make sure there is --

17 MR. DERIEG: I didn't realize there was --

18 MS. ROBINSON: I did find the redaction charge,
19 Your Honor.

20 THE COURT: Okay. All right.

21 MS. ROBINSON: Thank you.

22 THE COURT: Anything else?

23 MR. DERIEG: Your Honor, on the verdict form --

24 THE COURT: Hold on a minute. From the State.

25 MR. DERIEG: -- from the State. Sorry.

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1 MS. ROBINSON: I have not looked at the verdict
2 form, but I was going to be checking for it.

3 THE COURT: All right. We'll move to the
4 verdict form. Are we all right as far as the
5 charges?

6 MS. ROBINSON: Yes, I believe so, Your Honor.

7 MR. DERIEG: Yes, sir.

8 THE COURT: All right. If you want to come up
9 and -- did you send them a copy of this?

10 LAW CLERK: The first one I sent had the old
11 one. I removed the --

12 THE COURT: Yeah. What has been removed is --
13 is on the right, 22-GS-46-2279A, and then in the
14 parentheses under there, possession of firearm during
15 the commission of a violent crime. That has been
16 removed from the verdict form. And then,, obviously,
17 it has -- it has been removed from the wording. And
18 so, simply the verdict form that would go to the jury
19 is trafficking in methamphetamine 100 grams or more
20 and, two, possession of a firearm by a person
21 convicted of a violent offense. That's the verdict
22 form.

23 MS. ROBINSON: Yes, sir, Your Honor.

24 THE COURT: Any objections to the verdict form,
25 Mr. Derieg?

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1 MR. DERIEG: No, Your Honor.

2 THE COURT: Anything else?

3 MS. ROBINSON: No, Your Honor.

4 THE COURT: All right. Anything else before we
5 bring the jury in?

6 MS. ROBINSON: Are we going right into closing,
7 Your Honor?

8 THE COURT: Do you need a little bit?

9 MS. ROBINSON: Now that you've made some
10 changes, if I could just --

11 THE COURT: Okay. All right. I'll give you
12 another ten minutes. Let's do this. I don't believe
13 any evidence was introduced at all by the Defense, so
14 we go back to the (unintelligible) the old rules.
15 You all argue and he gets to close.

16 MS. ROBINSON: Yes. Understood, Your Honor.

17 THE COURT: All right. How about the -- are you
18 planning to show any of those items of evidence that
19 you want to go back that need to be redacted?

20 MS. ROBINSON: We already struck that language
21 while you were in chambers, Your Honor.

22 THE COURT: You've taken care of those?

23 MS. ROBINSON: Yes, Your Honor.

24 THE COURT: All right. We'll crank up in ten
25 minutes.

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1 (Off the record.)

2 (Recess.)

3 (One the record.)

4 MR. DERIEG: Your Honor, on these charges that
5 we just got --

6 MS. ROBINSON: That's not reprinted after we
7 talked about that. It was what was in there.

8 MR. DERIEG: -- oh, okay. So the possession of
9 a weapon in a violent crime under the charge, arrest
10 and indictment section has been taken out?

11 MS. ROBINSON: Yes.

12 MR. DERIEG: Okay.

13 MR. EPTING: Yes. And that one --

14 THE COURT: I think they're cleaned up.

15 MR. DERIEG: All right.

16 THE COURT: I'm sure you'll all let me know if
17 they're not.

18 MR. DERIEG: I trust you, Judge.

19 THE COURT: All right. Let's bring the jury in.

20 (The jury entered the courtroom.)

21 THE COURT: Thank you, ladies and gentlemen.
22 Thank you for your patience. We have been working
23 since 2:00. We are now ready to proceed.

24 Mr. Derieg, call your first witness.

25 MR. DERIEG: Your Honor, my client wishes to

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1 exercise his constitutional right not to put up a
2 case and, at this point, we will rest.

3 THE COURT: All right. Thank you. Any rebuttal
4 from the State?

5 MS. ROBINSON: None, Your Honor.

6 THE COURT: Thank you. Ladies and gentlemen,
7 the Defense has indicated that they have no witnesses
8 and are resting their case, which means the State has
9 no rebuttal witnesses, which means we've now reached
10 the point in the trial where you're going to hear
11 closing statements or closing arguments. They're
12 essentially that's what they are, is they're
13 arguments. They're not evidence in the case.
14 However, give the lawyers your close attention. When
15 they finish, I will then instruct you on the law that
16 is to be applied in the case and then you'll be able
17 to go to the jury room and begin deliberations. What
18 we'll do is the State is required to give their
19 closing argument first, and then under our rules, the
20 defendant is allowed to end with their closing
21 argument. So Mr. Epting or Ms. Robinson?

22 MS. ROBINSON: Thank you, Your Honor. If you
23 could dim those lights a little bit, and if you could
24 publish this one.

25 Good afternoon. Thank you for bearing with us.

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1 The last two days you've been hearing about the State
2 versus Jacob Hall. In this case, the defendant, Jacob
3 Hall, has told you what you need to know through
4 various means. One of them is this what you heard.

5 (The recording was played.)

6 (The recording was stopped.)

7 MS. ROBINSON: That's not the end-all be-all in
8 this case, but it is an excellent framework as we go
9 through and talk about these charges and what
10 happened and why the defendant is guilty. The
11 charges before you today will be trafficking
12 methamphetamine and possession of a firearm or
13 ammunition by a person convicted of a violent
14 offense. These two offenses, they have different
15 elements, but they essentially break down to the same
16 type of thing. I have four things I need to prove to
17 you for each charge. The first in every case the
18 State always has to prove that a person, and a
19 particular person, committed the offense and, in this
20 case, is the defendant on trial. For both of these
21 two charges, the State is required to prove
22 possession and of a particular item or items and
23 under -- and some accompanying circumstance. I will
24 tell you right out the gate the main issue in this
25 case is possession, and that is where I'm going to

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1 spend the bulk of my time today. But it's still my
2 obligation as the State to prove each element beyond
3 a reasonable doubt. So I still need to spend some
4 time on those other things. I'm actually going to
5 start from the bottom and I'm going to talk about the
6 proof of the item or items for each charge and what
7 the accompanying circumstance needs to be.

8 So in reference to the trafficking charge, I
9 have to prove to you that the item is, in fact,
10 methamphetamine. You heard the testimony of the
11 officers that they entered the bedroom and there was a
12 safe that was locked that they pried open. And
13 inside, they find a plastic bag with more bags inside
14 that contains this crystalline substance. You heard
15 the testimony that Investigator Hines secured these
16 items from the scene. He took them back here to the
17 Moss Justice Center where he has an office. They were
18 stored overnight because of how late it was but the
19 next morning, they came in, they processed those items
20 for submission into evidence. What he submitted to
21 evidence, it's in a sealed condition. It goes to the
22 chemist. The chemist testified it was still in a
23 sealed condition. And then, she does a chemical
24 analysis of some of the material in each of these six
25 bags. Every single one came back as methamphetamine.

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1 Again, you have these pictures in evidence, you have
2 the drugs in evidence. You are welcome to look at
3 them. The State has proved that the item in question
4 is methamphetamine.

5 The accompanying circumstance in this case for
6 trafficking is whether the amount is 100 grams or
7 more. And you heard the chemist testified that part
8 of her analysis is determining the amount of the drug.
9 And in this case, you have her report here for your
10 review. She found it to be 166.74 grams, so well over
11 the 100 threshold. That's important because
12 trafficking generally involves larger amounts of
13 drugs. You heard Investigator Hines testify that
14 around the time that this incident occurred, the
15 street value of about a gram of methamphetamine is
16 roughly \$40 to \$60. So when you multiply that out, we
17 are talking about thousands of dollars of
18 methamphetamine in that bag. Now, the next -- those
19 are the -- that's the item, methamphetamine, and the
20 circumstance, 100 grams or more for trafficking.

21 Now, possession of a firearm or ammunition by a
22 violent felon. First, I have to prove that there are
23 firearms or ammunition involved. I know it was long,
24 it was boring, it was repetitive, it was tedious, but
25 there are firearms in this case that have been

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1 admitted as evidence. There are firearms in the safe,
2 there's a firearm in the windowsill, there's a firearm
3 under the mattress. There's a firearm that
4 Investigator Hines recovered from the bed, but that
5 was part of the initial entry into the room that
6 caused concern was firearms in plain view. So the
7 officers initially on scene testified that they pulled
8 those out to secure them for safety purposes, but that
9 was another firearm as well.

10 It's a firearm or ammunition. Well, this is
11 where we really -- yes, it was -- it was very boring.
12 There was ammunition in the locked safe, there was
13 ammunition on top of the safe, there was ammunition on
14 top of the desk that goes over the safe, there was
15 ammunition in the other safe, in multiple places in
16 the other safe, out on the chair, out in a box on the
17 floor, in another bin, in another bin, in another bin,
18 on a shelf, on another bin, on another bin, and in the
19 walls. Again, that has been admitted, all told,
20 thousands of rounds of ammunition. So those are the
21 items I have to prove to you.

22 The next is that these are possessed by a person
23 who has been convicted of a violent offense. The
24 defendant, Jacob Dewayne Hall, has been convicted of
25 attempted armed robbery, which is classified as a

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1 violent offense under South Carolina law. You will
2 hear from the judge. He's going to instruct you on
3 what the law is, and in South Carolina, it's a
4 statutory definition. Certain ones check the box and
5 certain ones do not. That is what he will tell you
6 that this conviction counts as a violent offense.

7 Now, just like that, we've covered items and
8 accompanying circumstances. The next that I'm going
9 to focus on is the person. Obviously, Jacob Hall is
10 the defendant on trial. You heard testimony from the
11 officers that he was known as Jay -- as Quik or Jay
12 Quik. You saw him here in the courtroom, you saw him
13 in the video, and you see him in the Facebook records.
14 The selfie in the hoodie is from February 15th of
15 2022. The search occurs on [REDACTED]. So roughly
16 a week and a half before the search, this defendant is
17 sending selfies of himself in response -- or that one
18 is the one that's in the hospital. And it appears to
19 be a contemporaneous thing because if you look at
20 those pages that I've listed there -- they're going to
21 be pages 293 and 567 of State's Exhibit 37 -- he sends
22 that to two different people and their responses are,
23 like, what's going on. And in one of them he
24 says, I'll find out shortly. So this is him using
25 this account. The March 2nd one, that is in response

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1 to someone saying, who is this? Hey, it's that man.

2 Now, there's some question, why would somebody
3 ask that question? Well, you'll have those pages.

4 There's an exchange between them beforehand and
5 someone says, hey call me on here. And then, you can
6 try to send Facebook calls through Messenger. You can
7 use the phone function, and if it's not answered, then
8 the person says well who is this because it doesn't
9 get answered and that's the response. But you are --
10 again, that will be in evidence and you have the
11 ability to look through all of those pages.

12 How else do we know that this is that defendant
13 is the same person? Well, we've got evidence in the
14 room as well. In the room on the walls, is J for Jay
15 Quik. There were some questions about that -- that
16 name up above there, Jacob Lee Hall. And you saw in
17 the certified conviction that it's Jacob Dewayne Hall.
18 One thing I want to draw your attention to is the date
19 written under that, May 1st, 2022. These occurred on
20 [REDACTED] of 2022. That's a future date. The
21 Defense attorney said, don't you know his son is Jacob
22 Lee Hall? People in this room know that the son is on
23 the way. There's the safe in the closet. This is the
24 open safe. And if you look, Quik as written there and
25 it's the same spelling as the Facebook account. Quik

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1 has no C. And Jay, some people might have used an
2 initial, but it's consistent that they spell it out.
3 How else do we know? Date of birth, [REDACTED],
4 1993. That's on the certified conviction as well.
5 There was the comment, oh, it was his birthday, of
6 course he was going by mom's house. There's the
7 family member, Levi. He had a room in that residence
8 as well. Oh, and the locked safe has the defendant's
9 social security card in the safe with the drugs with
10 guns with ammunition, a locked safe. That too matches
11 the record of his conviction.

12 How else do we know those Facebook records are
13 the defendant's? Well, there's a whole series of
14 happy birthday messages to him on his birthday, so
15 other users think it's him. There's messages sent to
16 him where the people referred to him by the name
17 Jacob. This one was talked about. This is the other
18 person who's trying to verify who is this. The first
19 entry on -- on this is, you are now connected on
20 messenger. Yo, what's up boo? Yo, Jacob? Some
21 squares. If you look through those records, you won't
22 see any emojis which are commonly used, but you might
23 see a number of squares. I do not know what those
24 were. That's how we get this from Meta/Facebook. He
25 says, I wanted to make sure. And he says, yeah. This

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1 is in March, shortly after the search. What else did
2 he say on Facebook? Google me, get the facts, Jacob
3 Hall. Not just any Jacob Hall, Jacob Hall, Clover,
4 South Carolina, the location of this case. And again,
5 the selfies. The hospital ones sent to two different
6 people, and then those are their responses. I'll find
7 out shortly. And this one is March 2nd. That's less
8 -- that's a week after the search.

9 All right. Making progress. So we've talked
10 about the first one and the last two, which brings us
11 to that possession. You heard Mr. Epting saying in
12 opening that possession is the power and intent to
13 control the disposition or use of an item, so in this
14 case, the methamphetamine, the firearms or ammunition.
15 Under the law -- and you'll hear this from the judge
16 -- possession can be actual or constructive. The
17 actual is the really easy one of me picking up an item
18 and holding it. Constructive possession is where we
19 get to have a lot of lawyer language in there, and
20 they say well, that means the right to exercise
21 dominion or control which things -- because basically
22 that's what the first thing says, so they defined it
23 with the same explanation. But hopefully, you get the
24 picture. There's a lot of examples of this, and
25 constructive possession can be sole or joint. One

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1 thing to know is that this includes the ability to
2 exercise dominion and control and power and intent
3 necessarily includes knowledge of an item. So now, I
4 want to go through of some examples. Mr. Epting gave
5 you the example of his car, locked his car, it's
6 secured, the car is his, the things in the car are
7 his. He's got it locked.

8 In terms of joint, there are many things that
9 we're familiar with that involve marital property. If
10 I have my car and lock my car, it is in my possession,
11 even though I'm not in it right now. But my spouse,
12 who has a set of keys as well, is also in constructive
13 possession. We jointly possess that vehicle. Another
14 possibility example is my parent's house when I go off
15 to college. Some parents cannot wait to change that
16 room, take it over, take it back, reclaim it. Some
17 parents hold that room and the kid comes home on
18 weekends, summer. The belongings in a room that
19 belong to the kid, they're still in constructive
20 possession, because they're theirs, even though their
21 parents are also in possession by being possession of
22 the house. It's jointly shared. Another example
23 would be if I have a guest in my house. My things are
24 still my things, but they might go into a room and
25 they can exercise dominion and control and be in

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1 constructive possession of the items in a room that
2 I'm allowing them to stay in. They might also leave
3 something. I've got that one houseguest who comes and
4 it does' not matter how many times we do the
5 walk-through, when they're packing up and ready to go,
6 there's like always that thing that's left behind.
7 And then, there's the question of, like, do you need
8 it back urgently, do I mail it to you, do I hold 'til
9 next time?

10 So before I find the thing, the earrings that
11 are left in the windowsill, I'm not in constructive
12 possession because I don't have the intent to exercise
13 dominion or control over the earrings. I don't even
14 know they're there, so I can't be in constructive
15 possession. Once I figure it out though, I can be in
16 joint constructive possession with my guest that left,
17 because she ultimately has dominion and control.
18 They're her earrings, but she can say, you safekeep
19 them 'til I come back. So I have am now also in
20 possession and control of them and can do something
21 with them. I could also say I'm coming to take them
22 to the post office and I would be -- I'd be exercising
23 dominion and control over them to take them to the
24 post office and ship them to her.

25 So where possession can be joint, one thing I

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1 want you to keep in mind is that the question in this
2 case is not whether someone else could have had them.
3 You heard words like "exclusive control." That is not
4 what the law requires. The question also is not where
5 the defendant lays his head every night. We have to
6 get through all of these parts, so I'm going to take a
7 broad view and then get closer and closer to the items
8 that we know that the defendant exercised dominion and
9 control over and constructively possessed. One thing
10 the law does allow you to consider is that, typically,
11 the owner of their premises owns the things therein.
12 And that goes back to the car example, like the things
13 in the car are mine, the car is mine. The things in
14 my bedroom are mine, the house is mine, things like
15 that.

16 So it is relevant that people who exercise
17 control over a location often tend to be in possession
18 of the things found there. And that's where this clip
19 is relevant, because the defendant says, basically,
20 nothing happened in that house without my say-so
21 because I lived there. I'm going to let you listen to
22 it. I'm going to talk a couple -- point out a few
23 more things. I'm going to let you listen to it again
24 because I know sometimes without context, it can be
25 hard to pick up. This is the full clip, not just the

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1 little piece earlier.

2 (The recording was played.)

3 (The recording was stopped.)

4 MS. ROBINSON: Okay. The context of this
5 conversation is not him talking about this case,
6 admittedly. The context of this conversation is
7 things are not going well with mom at home. He is
8 not happy about it. Levi, it's not going well. But
9 that's why this is credible. When he's not thinking
10 about himself, when he's not thinking about this
11 case, he's candid. And that's when he says, I was
12 living there, because that's the truth. When he's
13 not worried about deflecting, we get to the core. So
14 again, so you can hear it.

15 (The recording was played.)

16 (The recording was stopped.)

17 MS. ROBINSON: Because he was living there the
18 last time he was out. What other evidence do we have
19 though, that seems to corroborate his statement of
20 that? Well, again, we've got the room with his name
21 in it. He gets his mail there. He tells people on
22 Facebook there that that's what's his address. And
23 this was the one that was in reference to where are
24 you staying these days. There are several other
25 times in the Facebook records where he mentions

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1 Willow Pond being close to the Lake Wylie Walmart.

2 Those are in evidence for your review.

3 February 27th of 2022, which is three days after
4 the search, someone reaches out to him about being
5 careful. The message that precedes this is they were
6 being followed by police and they had to throw their
7 stuff out the window. The defendant responds, DEA was
8 at my house, keep your eyes open to the other guy.
9 And the guy says, yeah be safe, yo, feds is around. I
10 know, they literally hit my house. And as you heard,
11 he had not been served with the warrants for this case
12 yet. That's what he's talking about while he had
13 warrants show up at his doorstep.

14 How else do we know he exercised control over
15 the premises? The messages with the mom, you know the
16 circumstances suggests it's the mom. You heard
17 testimony that the waterbed was, in fact, leaking in
18 that room. You heard the -- the old man was sometimes
19 referred to as James or Jimmy, who was walking around.
20 That's his stepdad. Her questions are all, here's
21 what's for dinner, or her statements. You would share
22 that with the person who stays there as well and ask
23 for help. And again, I'll tell you, the question
24 isn't so much if he rested his head there every night.
25 But he certainly comes here plenty, because why

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1 wouldn't he be there for his birthday, why wouldn't he
2 be there to help his mom all the time. He's the one
3 they go to for help at that house. He says, yep, I'm
4 the one, I'll handle it.

5 This is one of the messages that he's referred
6 to as Jacob. Now, we're getting a little bit closer
7 of control of the premises. She says, I got someone
8 wanting to buy the 3D printer, and Levi wants to buy
9 back the crossbow. What you want me to do? There was
10 a lot of testimony about whether that room upstairs
11 was secured and that Levi could access it. So if
12 Jacob is not in constructive possession of all the
13 items in that room and what's going on in that room,
14 why does somebody need to ask him what to do with the
15 items? You guys can go in there and take it. It's
16 because he controls what happens in that house and
17 what happens with the items in that room.

18 You also have the testimony of Sergeant Penland
19 that he had been there in December, and the defendant
20 said up room -- up the stairs to the left. Let me
21 tell you, some people cannot math in public. And I'm
22 not saying I should, but what I really should not do,
23 is left and right in public. So I apologize. I
24 should never have thought I could get away with that.
25 I don't know what is. Since child, like, I cannot do

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1 this. I literally was doing what I was doing
2 yesterday and I looked at and I saw my watch
3 (unintelligible). But in any event, up the stairs to
4 the left the room the defendant claimed in December.

5 The only person who's really confused about that
6 is Defense counsel. When you come up the stairs, it's
7 -- it's like right there. So you stop at the top of
8 the stairs and go to the left. The defendant's room,
9 his stuff. What are we going to do with the 3D
10 printer, the crossbow? Why are they asking him?

11 (The recording was played.)

12 (The recording was stopped.)

13 MS. ROBINSON: What else do we know? What can
14 we gather about knowledge of the items in the room
15 from this? I submit that he couldn't really be in
16 that room without knowledge of ammunition. It's
17 everywhere. But I do need to prove more than that.
18 So I'm just saying, nobody doesn't know that there's,
19 like, ammunition in there. But what else? What else
20 in that room shows some kind of knowledge, some kind
21 of control, some kind of intent? Well, we've got
22 Jacob's to-do list. This to-do list is consistent
23 with him receiving his mail from Israel Weapons
24 Industries with his bin of Glock pieces, with his 3D
25 printer that would go along with the drill press,

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1 that would go along with firearm jigs. You put that
2 lower in there, you drill out the holes that you need
3 to attach the rest of the equipment and you make a
4 firearm. His list and everything in there and the
5 mail he's getting, it's all consistent.

6 And so, me of these things are not things that
7 casual visitors are carrying in and out. I keep a
8 drill press and a 3D printer, and somebody just
9 stopping by says, you know, let me drop this off in
10 the upstairs bedroom. And also, there was some
11 questioning by the Defense, who -- who writes in third
12 person? Well, if there's no -- there's no evidence in
13 the record that it's written by somebody else. But
14 the other thing is, he said well, maybe somebody wrote
15 that for when Jacob came -- came what -- came back.
16 So -- so even if someone else wrote this, Jacob, I'm
17 leaving this here for you in our workshop, you do
18 these things, you exercise dominion and control over
19 these things.

20 (The recording was played.)

21 (The recording was stopped.)

22 And that part. Now again, I submit that the
23 circumstances surrounding that statement lend it
24 credibility, but I acknowledge that there's nothing in
25 that statement you just heard that he says he knows

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1 about methamphetamine, firearms, or ammunition. He is
2 making a generalized statement about that residence
3 and everything that happens there. But he did give us
4 more than that in a different manner.

5 How do we know he was exercising dominion and
6 control over the items at issue in this case? This
7 picture sent by Facebook the night before, less than
8 24 hours before law enforcement is going to arrive on
9 scene, he sends this picture. That is consistent with
10 what law enforcement is going to see when they come,
11 that is consistent with there being used latex gloves
12 in that room, that is consistent with the
13 methamphetamine recovered from the room. What does
14 the person respond to him? How much? And then, a
15 phone number is sent. People don't typically ask how
16 much to buy, like, rock salt. And there was some
17 argument that maybe this isn't contemporaneous. Well,
18 it matches what they found the next day in terms of
19 where things are located. And the answer to how much
20 is: call me. Essentially, like -- and if you go back
21 the page before this he says, I've got something for
22 you.

23 Now, we do have evidence or testimony that there
24 was a bag amongst the bags that came in that bag a
25 fingerprint. I submit to you, I don't know where the

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1 bag initially came from. I don't know where the
2 defendant got these drugs from, if the person before
3 him handled it. I don't know if he had these drugs
4 out of the safe at some point with another person
5 present. But I submit to you that there's evidence
6 right here that the defendant wore gloves, and you
7 heard testimony that you wouldn't leave a fingerprint
8 if you're wearing gloves. They tested all the
9 firearms and various other objects that they hoped to
10 get fingerprints from. None. Gloves. Being careful.

11 That fingerprint does not mean that he did not
12 constructively possess it. Someone else can touch
13 that bag and he can still be in constructive
14 possession of it. So how do we know -- how else do we
15 know that he exercised constructive possession of
16 those items? Well, a safe is one of the perfect
17 examples of constructive possession. You put items in
18 a safe. Methamphetamine, guns, ammunition. You lock
19 it up. You make sure that, unless you give someone
20 your code, you don't have to do joint possession. You
21 can make it yours, and that's what he did. They had
22 to pry it open. He put it in that safe and he
23 exercised dominion and control and put it in for
24 safekeeping for himself. Law enforcement pries it
25 open. They can't move the safe because he secured it

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1 to the floor of the room so no one else could just
2 come in and take it and pry it open later. And he put
3 his social security card in there.

4 And he knows -- he knows what's in that safe.
5 You heard the testimony that UTC is Universal Time.
6 It's a different time zone. It's what records come
7 in, you have to do a conversion just like if you were
8 going from here to California. You're just adding or
9 subtracting, depending on where you're at. So UTC to
10 Eastern Standard Time, a difference of five hours.
11 You're subtracting five hours. So these two entries
12 here occur on February 25th around 3:50 a.m.
13 Investigator Hines told you that he left out from
14 Willow Pond about 11:00 p.m. when he left the female
15 there with the children. She wasn't allowed to stay
16 the night another night. She had to go somewhere else
17 and find somewhere else.

18 So he comes back 3:00 or 4:00 in the morning and
19 finds the safe broken into and he goes to Facebook and
20 he says, someone broke in my safe. But he took it a
21 step further. Three days later, he's going to tell
22 people he found out who broke into his safe. But he
23 took it a step further and he said, keep an eye out
24 for someone with a lot of dope who don't usually,
25 thousands of dollars of dope, and my guns, a chrome

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1 Raven Arms 25. in evidence. A black Iver Johnson 32
2 long, in evidence. Out of the safe. A tan Glock 20
3 ghost lower. He called it tan. I think the label
4 says brown. Consistent, I submit to you. The one
5 that he wasn't right about, he forgot where he put his
6 Smith & Wesson. It was under the mattress. But you
7 know where it's not when he gets back on the 25th?
8 Not in his room anymore. He knows it's gone. So he
9 thinks it was -- he left it in his safe -- my safe.

10 Is it possible he shared access to his safe with
11 another person? Sure. There's a lot of things in
12 this world that are possible. I submit that it's not
13 likely. But even if someone disagreed on that point,
14 that's still not the question. The question is
15 whether the defendant had constructive possession of
16 the items when he says that's my safe, someone broke
17 into it. he had -- he was exercising dominion and
18 control over them by putting them there. Even if you
19 he allowed someone else access, those are his things.
20 How did the people respond to him about this message
21 of someone broke in my safe? What are you talking
22 about? When did you get a safe? Why would you have
23 all these guns? You know, sure sorry to hear it.

24 The defendant is charged with trafficking
25 methamphetamine and possession of a firearm or

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1 ammunition by a person convicted of violent offense.
2 The judge is going to instruct you on the law. My
3 obligation is to prove this case to you beyond a
4 reasonable doubt. As I just alluded to, there's a
5 great multitude of things in life that are possible.
6 There's a lot fewer things that are reasonable. I'm
7 not going to get a chance to stand up and speak to you
8 again after Defense counsel, so it's his closing. But
9 I ask that you focus on what's reasonable. Even if
10 others had access to that residence, that room, even
11 the safe, the defendant made it clear that he also had
12 access to that residence, to that room, and to that
13 safe. More than that, he made it clear that he knew
14 what was in that safe and that it was his and that he
15 intended to exercise dominion and control over it
16 until law enforcement got involved.

17 He gets his mail there, his mail from weapon
18 suppliers. He tells people to meet him there. He has
19 his to-do list focused entirely on firearms there. He
20 has the tool of his trade there -- tools of his trade
21 there. Others look to him for help there. Others ask
22 him what to do with items in the room. He claims the
23 safe, he bolted it to the floor. He offered up some
24 of the methamphetamine to somebody else just the night
25 before. He keeps his social security card in that

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1 safe, lists what's in the safe only hours after law
2 enforcement leaves. He wants help recovering his
3 drugs.

4 The defendant is 'guilty of trafficking
5 methamphetamine and guilty of being a violent felon in
6 possession of firearms because all the evidence shows
7 that he constructively possessed those items, and all
8 of it is consistent with his declaration.

9 (The recording was played.)

10 (The recording was stopped.)

11 MS. ROBINSON: Ladies and gentlemen, I ask that
12 you find the defendant guilty.

13 THE COURT: Thank you, Ms. Robinson.
14 Mr. Derieg?

15 MR. DERIEG: Your Honor, can we take just a
16 little break? I'd just like to get my -- get the
17 evidence together so I'm not fumbling through during
18 my closing.

19 THE COURT: All right. We'll take a -- no
20 longer than ten minutes. We'll take a very short
21 ten-minute break.

22 (Off the record.)

23 (Recess.)

24 (On the record.)

25 THE COURT: Thank you, ladies and gentlemen.

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1 We're now ready for the Defense's closing argument.
2 Mr. Derieg?

3 MR. DERIEG: Thank you, Your Honor. May it
4 please the Court. Ladies and gentlemen of the jury,
5 there are a rare few days in life when you get to
6 find out about what you truly believe. Today, you
7 get to find out whether you truly believe and you
8 truly value our Constitution. In short, our
9 Constitution and our Bill of Rights combine to say
10 that the only verdict in this case can be not guilty.
11 I'll say that again. When you follow our
12 Constitution and our Bill of Rights at the federal
13 and the state level, you will find that the only
14 verdict that you can come back with is not guilty for
15 Jacob Hall on all counts.

16 I'd like to take my take last opportunity to
17 speak with you as a group, and likely individually, to
18 why today is such a definitive test of belief in our
19 Constitution. First, there is the presumption of
20 innocence. It's described as a cloak of righteousness
21 that's wrapped around the defendant that must be
22 ripped from his shoulders by the government or the
23 State to prove beyond a reasonable doubt of guilt. In
24 this case, I don't think the State can rip off a
25 BAND-AID, let alone a cloak of righteousness, and

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1 you're going to see why.

2 The State is so lacking proof that they can't
3 even provide you with a single piece of physical
4 evidence that proves that Jacob ever set foot in the
5 house, let alone that room. They say his social
6 security card in the envelope proved that he was at
7 least at that house at some point, but do they? Do
8 they prove anything beyond a reasonable doubt? What
9 evidence have you seen or heard testify to that even
10 indicates, let alone proves, beyond a reasonable doubt
11 that Jacob has ever even touched those items? They
12 didn't process them, they didn't do fingerprints on
13 them, they didn't do DNA on them.

14 Our Constitution does not reward laziness. Our
15 Constitution does not reward incompetence. Our
16 Constitution rewards our state and federal and local
17 public service paid by our tax dollars to do what
18 they're supposed to do. And if they don't do it, it
19 is your job to hold them accountable, because you're
20 the only ones that can do it. And I'll say that
21 again. You -- and I talked about your collective
22 voice. It seems like a week ago, but I talked about
23 your collective voice yesterday morning. It's your
24 collective voice, the only thing that can hold the
25 people that we pay our tax dollars to as our public

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1 servants to do their job, to do better. Every one of
2 you probably thinks that Jacob touched at least one of
3 those items at some point, but did anybody prove it?
4 Thinking is one thing, proof beyond a reasonable
5 doubt, that's our Constitution, that's what you have
6 to follow. Did anyone even try and prove it? Our
7 Constitution does not reward laziness or incompetence,
8 and only you can stop it.

9 At this point, I want to take a step back from
10 the case in general and address what has been
11 described to me as kind of, I don't know, the elephant
12 in the room. You know, from a gut-feeling-personal
13 level, it might be the only thing that might make you
14 think that Jacob is guilty. And what I'm talking
15 about is the tattoos on his face. Our Constitution
16 says that he does not have those tattoos on his face,
17 or if he does, it means nothing and you all don't care
18 about it. I submit to you that the government is
19 hoping and praying that you convict Jacob based on the
20 way that he looks, because they can't do it by
21 themselves. They tried to manipulate and control what
22 you guys got to see and what you guys got to hear, and
23 we'll talk about that a little bit. But their
24 manipulation and control of the information that you
25 guys got to hear, I submit, and even up to, like I

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1 said rip off -- rip off a BAND-AID, let alone a cloak
2 of righteousness that the Constitution gives him.

3 To be clear, Jacob is absolutely innocent. He
4 sits there absolutely, 100 percent innocent. And the
5 only thing his tattoos prove is that he made some
6 awful choices of body art as a kid. And the State has
7 done nothing but be deceptive and misleading to try
8 and convict an innocent man. As this trial has gone
9 on, I'm curious have the group of you figured out yet
10 who should actually be on trial here today? We'll
11 discuss that a little bit later. But my feeling is
12 you guys have figured out who really should be on
13 trial here.

14 Next, I would briefly like to touch on the
15 witnesses that you saw testify and the ones you didn't
16 see testify. But before I do that, I want to remind
17 you, as His Honor will also, Jacob has the absolute
18 right to remain silent and force the State to do its
19 job. That's our Constitution. It is the State's
20 burden of proof. We don't have to do anything. It is
21 my job to point out that the State has not done its
22 job, that he has absolute right to remain silent, and
23 you cannot hold that against him, you cannot consider
24 it, and the judge will tell you that. That's our
25 Constitution and those are our protections. That's

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1 our Fifth Amendment. Our Constitution does not reward
2 later in laziness or deceptiveness. Neither do we,
3 and neither can you.

4 So who wasn't the prosecution too scared to put
5 on the stand? Every single person but one was a law
6 enforcement officer, subordinate to the two people at
7 this table. Because our state constitution says that
8 the chief law enforcement officer of the county is the
9 solicitor, which means that deputies are subordinate
10 to senior and deputy solicitors. The one person that
11 doesn't fit into this category that was called to the
12 stand was the deputy clerk of court who testified to a
13 sheet of paper. Doesn't that feel kind of dirty, kind
14 of unfair? It was proper, I'll give you that, but
15 does that really seem fair? But it's the only way
16 that they could prove that Jacob, when he was younger,
17 was convicted of an attempted armed robbery.

18 It was also -- that testimony was also so that
19 you could hear when Jacob was younger, like with those
20 dumb tattoos that are on his face, he made a stupid
21 choice. The State is hoping that hearing that when
22 Jacob was a kid he got caught and paid for committing
23 an attempted armed robbery. Two things I want you to
24 note regarding that sentencing sheet when you -- when
25 you have it in the back. Two things. One, it was an