

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable Maite Murphy, Circuit Court Judge

WILLIAM A. WALLACE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001735

APPENDIX

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1 Q No further questions at this time, Your Honor?

2 THE COURT: Cross?

3 MS. HINES: Thank you, Your Honor. May it please
4 the Court?

5 CROSS-EXAMINATION:

6 BY MS. HINES:

7 Q Hey.

8 A Hey.

9 Q Sergeant Moreland, how are you?

10 A Yes, ma'am. I'm good.

11 Q So the first place that you went is the 8100
12 Garner's Ferry Road?

13 A Yes, ma'am.

14 Q Apartment 412?

15 A Yes, ma'am.

16 Q In the photographs shown to you, there were two
17 locks, correct? On this photograph?

18 A Uh-huh.

19 Q It's State's Exhibit 29.

20 A Right.

21 Q There are two locks, correct?

22 A Yes, ma'am.

23 Q And that's a deadbolt at the top?

24 A Yes, ma'am.

25 Q And a regular lock at the bottom?

1 A Yes, ma'am.

2 Q Were both of those locked?

3 A I believe both of them were. I didn't use the
4 key to get into it, but I believe while we were
5 sitting there trying to determine if we could kick it
6 in and we felt that both of them were locked because
7 you couldn't turn the doorknob.

8 Q Right.

9 A You could feel that the deadbolt was in there.

10 Q And was the deadbolt --- that would have had to
11 have been locked. It wasn't just something that could
12 have happened? You didn't close the door?

13 A No, you can't close the door.

14 Q You whoever closed that door before you arrived
15 used the key to lock that deadbolt?

16 A Yes, ma'am.

17 Q Or locked it from the inside, but presumably
18 since there was no one inside, that wouldn't have been
19 the way, correct?

20 A Yes, ma'am.

21 Q So you left there, left Garners Ferry and when
22 EMS arrived --- okay, EMS arrived and you described it
23 as a quick snatch and grab. So EMS arrived, they go
24 in. Did you --- were you in the apartment when EMS
25 was in the apartment?

1 A No, ma'am.

2 Q So you had already left the apartment at that
3 point?

4 A Yes, ma'am.

5 Q And didn't go back in after that?

6 A I did not.

7 Q Okay. When you went in to --- initially into the
8 apartment ---

9 A Yes, ma'am.

10 Q --- did you see any shell casings?

11 A I did not.

12 Q But you did see blood?

13 A Oh, yeah. Yes, ma'am.

14 Q Did you touch either of the ---

15 A No, ma'am.

16 Q --- people that were there in anyway? Did
17 anybody before EMS arrived?

18 A Not as far as I know.

19 Q And then you went to Bluff Road?

20 A Yes, ma'am.

21 Q And talked to Deputy Taylor?

22 A Yes, ma'am.

23 Q Okay. And then you went out to Beckham Swamp?

24 A Yes, ma'am.

25 Q Now, when you --- you arrived at Beckham Swamp

1 according to the crime scene log at 2:05?

2 A Sounds about right.

3 Q Okay. According to the crime scene log, you were
4 at Garners Ferry Road at twelve o'clock objection from
5 twelve o'clock to 12:52?

6 A Yes, whenever that initial response time was.

7 Q And that would be accurate, the crime scene lot
8 would be accurate as to what times, right?

9 A Yeah.

10 Q So you arrive at Beckham Swamp at 2:05 p.m. ---

11 A Okay.

12 Q --- according to the crime scene log, and you
13 said Schroeder and D'Antoni were on the scene. Were
14 they the only two other officers on?

15 A There may have been other people there. Those
16 were the ones I actually made contact with.

17 Q Okay. And the length of road, it's a ways back?

18 A It's a long road.

19 Q A long road, so you have deputies, presumably
20 D'Antoni, is looking for the location. Schroeder has
21 been there looking for the location. You arrive. You
22 start helping look for the location?

23 A Right.

24 Q Were you together, were you separate, were you
25 fanned out?

1 A We were, I guess, you could say close proximity
2 to each other. When I got there, they were up at the
3 front and the reed and all was found just down the
4 road on the left-hand side.

5 Q How far down the road?

6 A I'm going to estimate, say 40 yards, maybe, 30,
7 40 yards.

8 A It could have been a little further than that,
9 but that's what I am estimating.

10 Q Okay. And you didn't take any of the
11 photographs?

12 A No, I did not.

13 Q Do you know who was taking photographs?

14 A It should have been Deputy Schroeder,
15 Investigator Schroeder.

16 Q Okay. And when you found the bamboo cane that
17 you described, where were Schroeder and D'Antoni at
18 that point?

19 A They were still on the main road toward the
20 entrance where it comes off Beckham Swamp onto the
21 dirt road.

22 Q Okay. So they were down at least 30, 40, could
23 have been farther ---

24 A Yes, ma'am.

25 Q --- yards down the road when you found that?

1 A Right.

2 Q Okay. Were you riding with anyone that day?

3 A No, ma'am.

4 Q And did you take any notes of anything that day?

5 A No, ma'am.

6 Q Do you normally carry a note pad with you?

7 A Yes, ma'am.

8 Q And a pen?

9 A Uh-huh.

10 Q That's so you can take notes if you need to in
11 order to remember things?

12 A Yes, ma'am.

13 Q But this day you didn't take any notes?

14 A I didn't take any.

15 Q You didn't write anything down?

16 A Not that I'm aware of.

17 Q Okay. But if you had, you would have turned it
18 over to the investigators?

19 A Yes, ma'am.

20 Q Correct?

21 A Yes, ma'am.

22 Q And you testified that you --- what was on the
23 reed here?

24 A Uh-huh.

25 Q It appeared to you to be blood?

1 A It did.

2 Q But you don't know for sure if it was tested?

3 A I have no clue.

4 Q And you don't know for sure if it was human
5 blood?

6 A I have no clue. It just appeared to be that's
7 what it was, so it was it was turned over to the crime
8 scene investigator.

9 MS. HINES: Thank you. No further questions.

10 THE COURT: Redirect?

11 MS. SAMPSON: Briefly, Your Honor.

12 REDIRECT EXAMINATION:

13 BY MS. SAMPSON:

14 Q So Ms. Hines asked you did you see any shell
15 casings at the apartment. Were you looking for shell
16 casings?

17 A No, ma'am.

18 Q Would that have been your job that day?

19 A No, ma'am.

20 Q Whose job would that be?

21 A CSI.

22 Q What was your intention when you went to the
23 apartment?

24 A To make sure we didn't have any bad guys in there
25 and if anybody needed medical attention, that we could

1 get medical attention to them.

2 Q To the best of your knowledge while you were
3 there, did anybody shoot a gun?

4 A No, ma'am.

5 Q She asked you about taking notes. Did you need
6 notes to remember this?

7 A No, ma'am.

8 Q Do you remember it?

9 A Yes, ma'am.

10 Q Do you remember what you told the jury today?

11 A Yes, ma'am.

12 MS. SAMPSON: No further questions, Your Honor.

13 MS. HINES: I just have one follow-up.

14 THE COURT: Yes, ma'am.

15 RECROSS-EXAMINATION:

16 BY MS. HINES:

17 Q So you didn't remember testifying on direct that
18 you didn't remember who the lead investigator was on
19 the case, correct?

20 A No, ma'am.

21 MS. HINES: That's all the questions I have.

22 THE COURT: Have a nice day.

23 Call your next witness.

24 MS. SAMPSON: The State will call Latora
25 Willingham.

1 (Pause.)

2 Apparently, Your Honor, I don't know if she is in
3 the bathroom or what, but we're going to move on to
4 the next one.

5 MS. HINES: Can we approach, judge?

6 THE COURT: Sure.

7 MS. HINES: Mr. Eaton.

8 THE COURT: All right. Talk amongst yourselves.

9 (WHEREUPON, a bench conference was held in the
10 presence, but not within the hearing of the
11 jury.)

12 THE COURT: All right. Who is next?

13 MS. SAMPSON: Beg the Court's indulgence.

14 (Pause.)

15 Beg the Court's indulgence. I just need to see
16 if he is outside.

17 (Pause.)

18 MS. SAMPSON: The State calls Corporal Hayhurst.

19 RAYMOND HAYHURST,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION:

22 BY MS. SAMPSON:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Where do you work?

1 A I work for the Richland County Sheriff's
2 Department, Fugitive Task Force.

3 Q How long have you worked there?

4 A I've been in fugitives approximately 17 years out
5 of my 20 year career.

6 Q So three years before going to fugitive, you
7 were?

8 A Road deputy.

9 Q What did you do as a road deputy?

10 A Normal patrol reports.

11 Q So 17 years ago you went to fugitive?

12 A Yes, ma'am.

13 Q What do you do as parts of the Fugitive Task
14 Force?

15 A I track down people on older warrants, different
16 type of warrants.

17 Q What, if anything, do you do if contacted to find
18 someone who is missing?

19 A We pull all of our resources together, pull hard
20 copies of reports, anything we can get our hands on to
21 lead us to the subject.

22 Q Now, I want to move you to June 28, 2012. So you
23 were working in the fugitive department at that point?

24 A Yes, ma'am.

25 Q What did you do there at that point? You were

1 doing what you just talked about, I assume?

2 A Yes, ma'am, we work cases. I make sure --- I'm
3 the corporal over our unit, so we were working cases
4 as they come in.

5 Q As a corporal, what's different between you and
6 say someone below you? What do you do that's
7 different?

8 A I'm the supervisor of the unit. Usually, well, I
9 do most of the administrative stuff, gather
10 information, track down individuals.

11 Q How did you become involved in this case back in
12 June of 2012?

13 A I was contacted by Captain Scott McDonald.

14 Q And what were you asked to do?

15 A I was asked to locate the subject.

16 Q And who were you asked to locate?

17 A William Wallace.

18 Q So when --- in general, when you're asked by
19 someone to locate --- I think you said you go and
20 gather information?

21 A Yes, ma'am, do as much intel as possible.

22 Q Did you do that in this case?

23 A I did. I actually went over to SLED because we
24 typically work with other fugitive units, and I
25 started gathering information.

1 Q I want to stop you. You said you went over to
2 SLED?

3 A Yes, ma'am.

4 Q What is SLED? Just ...

5 A South Carolina Law Enforcement Division.

6 Q Okay. And you went there, why again?

7 A We typically work with them on getting
8 information together and their fugitive team usually
9 works with us hand in hand.

10 Q Do you physically go to SLED, do you call them,
11 or what?

12 A When I received the phone call, I was already
13 over there at South Carolina Law Enforcement Division
14 on another case.

15 Q So just so I understand, you got their help in
16 trying to find Mr. Wallace?

17 A Yes, ma'am.

18 Q Without going to what the information was, were
19 you guys able to find him?

20 A Yes, ma'am.

21 Q What was your role once he had been found?

22 A My role ended. I called Captain McDonald and
23 told him we had him in custody and he sent
24 investigators over to ---

25 Q You skipped a whole lot. At some point you were

1 notified that he had been located.

2 A Yes.

3 Q Where were you when you received that
4 notification?

5 A Ask that one more time, please.

6 Q Where were you physically when you were told that
7 he had been found or located?

8 A I was on the scene.

9 Q On what scene?

10 A On Bush River Road.

11 Q There you go. Why were you on Bush River Road?

12 A That is where we ended up apprehending him at.
13 We got information that he was in the area, and we
14 ended up, as I was pulling into Dutch Square off of
15 Bush River Road, he was spotted coming out of
16 Burlington with a female, getting into a Crown Vic
17 that we had information on. As I was pulling through,
18 I actually drove through the parking lot in between
19 another SLED vehicle and followed the suspect vehicle
20 out, called it in on the radio, took a right onto Bush
21 River and as soon as that vehicle stopped in traffic,
22 officers responded and apprehended him.

23 Q Okay. Now, I'm going to back you up a little
24 bit. You said you received information while you were
25 in the Bush River area. Who, did you receive the

1 information from that he was in that area?

2 A The information came from SLED Agent Diego and
3 SLED agent Reynolds, I believe, is the last name.

4 Q Are they partners or do they work together? Do
5 you know?

6 A They're all a part of SLED's unit.

7 Q So you received that --- you didn't find that
8 information out yourself, right? They gave to it you?

9 A No, ma'am. We were told over the radio basically
10 to go to this area, fan out and start looking for the
11 Crown Vic.

12 Q Is that normal procedure to receive a call and
13 then you said fan out and look?

14 A Yes, ma'am. Typically we work fugitive so
15 depending on what area we're in working, we know to
16 check hotels, certain hotels, certain parking lots.
17 We cover as much ground as possible, especially when
18 we're looking for a vehicle. We start riding in
19 parking lots, looking at tags, looking at vehicles to
20 try to determine if our vehicle is there or not.

21 Q I skipped over this, but you had information that
22 he might be in a particular vehicle?

23 A Had a vehicle, the vehicle was a Crown Vic. I do
24 not remember the tag. I believe it belonged to a
25 girlfriend.

1 Q Did you determine that information or did someone
2 else determine that information?

3 A They have analysts over there who pulled stuff
4 from me from probation.

5 MS. HINES: Objection.

6 MS. SAMPSON: I can clear it up, Your Honor.

7 THE COURT: Okay.

8 BY MS. SAMPSON:

9 Q You don't know where the information came from,
10 correct?

11 A No, ma'am, it was given to me.

12 Q And you were stating it comes from different
13 places?

14 A Yes, ma'am.

15 Q You have no idea where it came from?

16 A No, ma'am.

17 MS. SAMPSON: Can I proceed, Your Honor?

18 THE COURT: Yes.

19 BY MS. SAMPSON:

20 Q So you got that information that there was a car?

21 A Yes, ma'am.

22 Q And that he may be in that particular car?

23 A Yes, ma'am.

24 Q So you guys are looking for that car?

25 A Yes, ma'am.

1 Q I believe you said --- and I need to clarify
2 this. Did you find the car or did another agent find
3 the car?

4 A Another agent spotted the car and the individuals
5 were walking out of --- they actually spotted the
6 individuals walking out, Mr. Wallace walking out with
7 a female and they got into the car and was pulling out
8 of the parking lot when I came into the parking lot.

9 Q Okay, and then at that point you followed the
10 vehicle?

11 A Yes, ma'am. I called my unit on the radio to let
12 them know that we were making the turn and give them
13 step by step where we were at so we could have the
14 people in place.

15 Q Once he is pulled over, who did you notify at the
16 sheriff's department that you had him?

17 A I notified Captain Scott McDonald.

18 Q Were you the one who actually takes him out of
19 the car or does someone else do that?

20 A Other officers took him out of the car.

21 Q Were you able to see that?

22 A I was several vehicles behind. I know they got
23 him out of the car and had him cuffed by the time I
24 got actually down to him. I basically picked up my
25 phone, dialed Scott McDonald, told them that he was in

1 custody and he sent investigators.

2 Q And you saw --- he wasn't fleeing, was he?

3 A No.

4 Q He was cooperative?

5 A It was a total peaceful arrest. He did not give
6 us no problems, didn't say anything to me at all. I
7 just picked up the phone and called them, called Scott
8 McDonald. He sent the investigators to take him down
9 from the scene.

10 MS. SAMPSON: Okay. Beg the Court's indulgence.
11 (Pause.)

12 No further questions, Your Honor.

13 THE COURT: Cross?

14 MS. HINES: Thank you, Your Honor, may it please
15 the Court?

16 THE COURT: Yes, ma'am.

17 CROSS-EXAMINATION:

18 BY MS. HINES:

19 Q Now, you're saying it was a Crown Vic, but could
20 have been a Grand Marquee?

21 A Yes, ma'am. That's possible. Same body style.

22 Q Okay. You didn't take any notes?

23 A No, ma'am.

24 Q Okay, and how many people were involved in the
25 apprehension? How many cars, law enforcement?

1 A It was 2012. I do not know the exact number. It
2 was several vehicles. I couldn't tell you exactly how
3 many, but there were several vehicles.

4 Q There were vehicles from SLED?

5 A Yes, ma'am.

6 Q And from the Fugitive Task Force?

7 A Yes, ma'am.

8 Q Were there any road deputies?

9 A Not that I can recall, ma'am.

10 Q Was it just SLED and the Fugitive Task Force?

11 A To the best of my knowledge, yes, ma'am.

12 Q Okay. And how many people were --- how many
13 people are on the Fugitive Task Force or were at that
14 time?

15 A Approximately 11, but most of them have desk
16 duties and some of them are supervisors like my
17 captain.

18 Q Was your supervisor out there?

19 A Yes, ma'am, I believe he was.

20 Q And there were at least four people from SLED out
21 there, correct?

22 A I believe so, ma'am. I don't remember the exact
23 number, but I believe so.

24 Q Okay. But you ---

25 A We typically work with certain people.

1 Q Right. You testified at an earlier hearing in
2 this case that Cal Reighley, Diego Nova, Lieutenant
3 Johnson, and Mike Robinson from SLED were there?

4 A Yes, I believe that is correct.

5 Q And then from the Fugitive Task Force it could
6 have been Investigator Bell, Investigator Hall,
7 Captain Leonard and yourself?

8 A Yes, ma'am, that's all I remember. There may
9 have been one or two more.

10 Q There may have been more?

11 A Yes, ma'am.

12 Q So there were at least eight. There may have
13 been more?

14 A Yes.

15 Q Okay. And when the car was stopped, did one of
16 the law enforcement vehicles pull in front of it to
17 get it to stop?

18 A They stopped in traffic, ma'am. When they
19 stopped in traffic, cars from multiple directions
20 pretty much kept the car from moving. That's
21 typically what we'll do is if they're stopped in
22 traffic, then the car will --- they get out, get the
23 subjects out of the car.

24 Q So the car was completely surrounded by law
25 enforcement vehicles?

1 A I don't know about completely surrounded by
2 vehicles, but there was one in the front, and one in
3 the back and then officers were coming out of the
4 cars.

5 Q When they came out of the cars, they were armed,
6 had their guns drawn?

7 A I assume so. I was farther back. I don't
8 remember, but would assume they would have their
9 firearms out.

10 Q The typical procedure would be to have the
11 firearms drawn in that certain situation and come out
12 completely surrounded, guns drawn until they know what
13 they're looking, correct?

14 A Yes, ma'am, I'd say so.

15 Q Do you have a camera in your car?

16 A Ma'am?

17 Q Do you have a video camera in your car?

18 A No, ma'am.

19 Q Does anyone on the Fugitive Task Force have a
20 video camera in their car?

21 A No, ma'am.

22 Q Do you know if SLED has cameras in their cars?

23 A I can't testify to what SLED has in their
24 vehicles.

25 Q And you didn't take any notes?

1 A No, ma'am.

2 MS. HINES: No further questions.

3 MS. SAMPSON: Briefly, Your Honor.

4 THE COURT: Briefly.

5 REDIRECT EXAMINATION:

6 BY MS. SAMPSON:

7 Q Corporal Hayhurst, she asked you about the number
8 of people that were there. Is it out of the ordinary
9 to have that many people there?

10 A No, ma'am, absolutely not.

11 Q Why not?

12 A Typically most of our major cases are violent
13 crimes. It takes a good many people to locate any
14 believed suspects.

15 Q Was there an arrest warrant at the time that you
16 were trying to find him?

17 A Yes, ma'am.

18 Q And what was the arrest warrant for that you were
19 trying to find him?

20 A I believe it was homicide.

21 Q Did you know at that time when you were looking
22 for him whether he was armed or not?

23 A No, ma'am.

24 Q Let me ask you this. You said part of what you
25 do, and I think you said this on cross, was to look

1 for people as part of fugitive?

2 A Yes, ma'am.

3 Q You also looked for DeAndre Diggs, the
4 codefendant?

5 A Yes, ma'am, I have.

6 Q Did you find him eventually?

7 A Yes, ma'am.

8 MS. SAMPSON: No further questions, Your Honor.

9 MS. HINES: Nothing further.

10 THE COURT: All right. Have a nice day.

11 MS. HINES: Judge, may we approach?

12 THE COURT: Yes, ma'am.

13 (WHEREUPON, a bench conference was held in the
14 presence, but not within the hearing of the
15 jury.)

16 MS. SAMPSON: The State calls Latora Willingham.

17 LATORA WILLINGHAM,

18 after being duly sworn, testified as follows:

19 THE CLERK: Have a seat. State your full name
20 for the record.

21 THE COURT: Is that phone off, ma'am?

22 THE WITNESS: Yes.

23 THE COURT: Okay. Thank you.

24 DIRECT EXAMINATION:

25 BY MS. SAMPSON:

1 Q Good afternoon, Ms. Willingham.

2 A Good afternoon.

3 Q Can you spell your first name, please?

4 A L-A-T-O-R-A.

5 Q Do you live in Columbia?

6 A Yes, ma'am.

7 Q I'm going to try to keep you short. Are you
8 related to the defendant?

9 A Yes.

10 Q How are you relate to him?

11 A That's my brother.

12 Q Brother. Back on June 28, 2012, did you receive
13 any phone calls from your brother?

14 A Yes.

15 Q You received those after he had been arrested?

16 A Yes.

17 Q And what did he want you to do?

18 A Go to Tashonda Toatley's house and pick up his
19 money.

20 Q Go to Tashonda Toatley's house and pick up his
21 money?

22 A Yes.

23 Q Did he tell you what he want you to do with that
24 money?

25 A Yes.

1 Q He called you from the jail when he did that?

2 A I believe so, I'm not sure.

3 Q But it was after he was arrested?

4 A Yes, ma'am.

5 Q Did you do that?

6 A No, ma'am.

7 Q Did you call Ms. Toatley?

8 A Yes.

9 Q Several --- how many times do you think you
10 called her?

11 A Probably a few times and also tried to contact
12 her through Facebook.

13 Q Did you leave her a Facebook post?

14 A Yes.

15 Q What did it say in general? Do you remember?

16 A No.

17 Q Would looking at your statement refresh your
18 memory?

19 A Uh-huh.

20 Q You can look at it, and I'm going to point you to
21 the second page of it, and do you see --- let me ask
22 you a couple of questions. You spoke with
23 investigators on, it says July 12th; is that correct?

24 A That would be right, yes.

25 Q You did speak with investigators?

1 A Yes.

2 Q Do you remember speaking with Sergeant McDonald?

3 A Yes.

4 Q And he asked you to give him a statement?

5 A He asked me some questions.

6 Q Okay.

7 A Just some questions.

8 Q Some questions, and then did you write this
9 statement or did he write it?

10 A He did.

11 Q He did. Did he read it to you afterwards?

12 A I don't remember.

13 Q That's okay. Did you read it?

14 A No, ma'am, I just answered his questions.

15 Q But you signed it on the bottom?

16 A Uh-huh.

17 Q I'm sorry. Is that a yes or no?

18 A Yes.

19 Q Okay. And when you were talking to him, was he
20 writing this down as you talked?

21 A Yes.

22 Q Okay. On the second page --- you know what, I
23 might have lied. It's on the first page, I'm sorry.
24 It says, "I also posted on Facebook." Do you see
25 that?

1 A (There was no response.)

2 THE COURT: Answer out loud please, ma'am.

3 THE WITNESS: Yes.

4 BY MS. SAMPSON:

5 Q What did you post according to this?

6 A I would see her soon. I would see her soon.

7 Q Is that what you remember posting?

8 A Yes.

9 Q And that was because you wanted to come get the
10 money?

11 A Right.

12 Q Okay.

13 MS. SAMPSON: No further questions, Your Honor.

14 THE COURT: Cross?

15 MR. KRZYSTON: Thank you, Judge.

16 CROSS-EXAMINATION:

17 BY MR. KRZYSTON:

18 Q How are you doing, Ms. Willingham?

19 A Doing good.

20 Q Okay. Now, you never threatened Tashonda
21 Toatley?

22 A No, sir.

23 Q In fact, not only did you give a Facebook post
24 and tell her you would see her soon to get the money,
25 you also called, right?

1 A That's correct.

2 Q And in that message you said that you hoped she
3 still had his money?

4 A That's correct.

5 Q And that you would be by soon to get it?

6 A Correct.

7 Q In fact, on July 1st of you attended church, you
8 actually stopped by Tashonda's house?

9 A Yes, sir.

10 Q Was she there?

11 A No, sir.

12 Q You knew everybody involved in this, right?

13 A Yes, sir.

14 Q You knew Athell?

15 A Yes.

16 Q You knew his brothers?

17 A Yes.

18 Q You knew Jamal?

19 A Yes.

20 Q You knew his brother?

21 A Yes.

22 Q And you knew that they were dangerous?

23 MS. SAMPSON: Objection, Your Honor.

24 MR. KRZYSTON: Basis?

25 THE COURT: Can you all go back to your jury room

1 just a moment. Do not discuss the case. Keep an open
2 mind.

3 (WHEREUPON, the jury left the courtroom at 12:20
4 P.M.)

5 THE COURT: What's your objection?

6 MS. SAMPSON: Your Honor, he asked her did she
7 know if they were dangerous talking about Athell
8 Johnson and Jamal Pratt.

9 THE COURT: I heard the question. What's the
10 objection?

11 MS. SAMPSON: That it's irrelevant. It's
12 prejudicial for the State. We have two people who are
13 dead. We can't prove whether they are dangerous or
14 not. It's irrelevant if she thought they were
15 dangerous or not. It's not relevant. She was not
16 involved in this.

17 MR. KRZYSTON: Judge, I believe it's very much
18 relevant. The State has asserted that William Wallace
19 brought a gun to Mr. Johnson's house and it --- for
20 the express purpose of killing him. Mr. Johnson and
21 Mr. Pratt's reputation are both at issue. His
22 decision to bring a gun could have been related to
23 that. I believe we have the right to bring that out,
24 show that to the jury.

25 MS. SAMPSON: But that would be his knowledge,

1 not her knowledge.

2 MR. KRZYSTON: Judge, I believe the community's
3 knowledge and their reputation about Mr. Johnson,
4 Mr. Pratt again, I think we're entitled to show that
5 they had a reputation in the community for
6 dangerousness under gang activity.

7 THE COURT: Under what theory of evidence are you
8 allowed to do that?

9 MR. KRZYSTON: I believe --- because again, Your
10 Honor, they are asserting that he brought a weapon
11 with the intent ---

12 THE COURT: I need a rule. A rule. There's
13 Rules of Evidence. Let's use the Rules of Evidence.

14 MR. KRZYSTON: Rule 405, Judge, okay, in all
15 cases in which evidence of character or a trait of
16 character of a person is admissible, proof may be made
17 by testimony as to reputation or by testimony in the
18 form of opinion on cross-examination inquiry is
19 allowed --- excuse me, is allowable to relevant
20 specific instances of conduct. We aren't even getting
21 into specific instances of conduct, just community
22 reputation.

23 MS. SAMPSON: Again, I would ask how are the
24 victims who are dead, their character, an essential
25 element of the charge?

1 MR. KRZYSTON: We aren't charged to prove any
2 essential elements of charge. They're asserting that
3 Mr. Wallace took a gun with the intent to kill
4 Mr. Johnson and Mr. Pratt and that puts Mr. Johnson's
5 and Mr. Pratt's character at issue.

6 MS. SAMPSON: And the rule he is talking about,
7 is he doing 404 or 405?

8 MR. KRZYSTON: 405.

9 MS. SAMPSON: 404 --- 405, is specific instances
10 of conduct. It says specifically: "In cases where a
11 character or a trait of character of a person is an
12 essential element of the charge, claim, or defense,
13 proof may also be made of specific instances of that
14 person's conduct."

15 First of all, he didn't ask for specific instance
16 of a person's conduct, he asked for reputation. So
17 that's not even the correct rule. Secondly an
18 essential element of their defense, if it's self
19 defense, perhaps, but we have not heard anything about
20 that. In fact, he said the exact opposite this
21 morning that they weren't when talking about the
22 photographs. So I don't know under what charge, claim
23 or defense the evidence of the victim's specific
24 instances of conduct, which we're not talking about,
25 so I don't know how he is getting this into that rule,

1 first.

2 MR. KRZYSTON: And judge, we're simply --- they
3 are trying to show malice aforethought, and we are
4 simply trying to refute that. 404(a)(2) evidence of a
5 pertinent trait or character of the victim of a crime
6 offered by the accused --- other rather --- oh, I can
7 skip that.

8 MS. SAMPSON: And then that one ---

9 MR. KRZYSTON: Or evidence of the character trait
10 of peacefulness of the victim offered to
11 (unintelligible).

12 THE COURT REPORTER: I'm sorry, I can't
13 understand what you're saying.

14 MR. KRZYSTON: I'm sorry. I believe 404(a)(2)
15 specifically allows us to get into this type of
16 information when the situation is ---

17 THE COURT: 404 deals with proving action and
18 conformity therewith on a particular occasion.

19 MS. SAMPSON: And ---

20 THE COURT: So what does that have to do with
21 what is her knowledge --- this doesn't have anything
22 to do with you, ma'am, do you understand that?

23 THE WITNESS: (Nods in the affirmative.)

24 THE COURT: What is her knowledge of whether or
25 not she knew that the victims were allegedly dangerous

1 have anything to do with the victim's behavior on a
2 particular --- on this particular occasion on June 28,
3 2012, or their action and conformity therewith.

4 MR. KRZYSTON: Because they possibly could have
5 guns in the apartment, Judge.

6 THE COURT: So could have possibly is the issue?

7 MR. KRZYSTON: I mean, his character is directly
8 at issue whether or not he had guns in there, whether
9 he was likely to have guns in there, I believe, is at
10 issue.

11 THE COURT: So how is the evidence of a person's
12 character or a trait of character, but you just ask
13 her were they dangerous, were the victims dangerous,
14 did you know the victims to be dangerous, to which she
15 replied yes. It says evidence of a person's character
16 is not admissible for purposes of proving action and
17 conformity therewith on a particular occasion unless
18 it is evidence of a pertinent trait of a character of
19 a victim offered by an accused.

20 So I need you to make another jump to get that
21 in.

22 MR. KRZYSTON: And Judge, we're not trying to
23 prove action --- conduct on Mr. Johnson's part in
24 conformity with a character trait. We're offering it
25 to prove what the community knows about Mr. Johnson,

1 and it can go to negate the fact that Mr. Wallace had
2 intent when he went there when he armed himself prior
3 to getting to the apartment.

4 THE COURT: So what do you know about these
5 people being dangerous?

6 THE WITNESS: Athell, he has a --- he's known in
7 the neighborhood with the shoot you. Either you shoot
8 him --- either you shoot him or you going to get shot,
9 basically. That's what I know about Athell. I also
10 grew up with Athell, due to the community, Starlight.
11 That's where I had knew him from.

12 THE COURT: Starlight off 48 before you get to
13 Bluff Road.

14 THE WITNESS: Yes, near Bluff Road.

15 THE COURT: Okay.

16 THE WITNESS: Mr. Pratt, don't know much about
17 Mr. Pratt. Most of what I know about Mr. Pratt is
18 hearsay. I really can't speak on Mr. Pratt's part of
19 his character.

20 THE COURT: Okay.

21 THE WITNESS: And...

22 MS. SAMPSON: Can I ask her a follow-up based on
23 what she said?

24 THE COURT: Sure.

25 MS. SAMPSON: Based on what you said, you said

1 you didn't know anything about Pratt because it was
2 based on hearsay. Had you ever seen Athell Johnson
3 shoot a gun?

4 THE WITNESS: No, ma'am.

5 MS. SAMPSON: You never saw him shoot anyone?

6 THE WITNESS: No, ma'am.

7 MS. SAMPSON: So what you said about his
8 reputation as being somebody who ---

9 THE WITNESS: That's hearsay, yes.

10 MS. SAMPSON: So that's hearsay, as well.

11 THE COURT: So you have no firsthand knowledge,
12 no personal knowledge, about either one of these
13 people being dangerous that you have seen with your
14 own eyes.

15 THE WITNESS: Never seen him pull a gun, no, sir.

16 THE COURT: So word on the street is Athell
17 Johnson will shoot you?

18 THE WITNESS: Yes, sir.

19 MR. KRZYSTON: And you're obviously aware of his
20 reputation?

21 THE WITNESS: Yes, due to we all grew up in the
22 same neighborhood. Athell also hung out at my
23 grandparent's house.

24 (Pause.)

25 THE COURT: I think 404(a)(2) allows you to get

1 into the character of a victim to prove action and
2 conformity therewith on a particular occasion, but
3 this witness doesn't possess that knowledge. She
4 doesn't know that. She has no first hand --- and this
5 doesn't have anything to do with you, ma'am. This is
6 not me attacking you, I promise.

7 THE WITNESS: Yes, sir.

8 THE COURT: But she has no personal --- I mean,
9 did you know Mr. Krzyston that she had no personal
10 knowledge of all this?

11 MR. KRZYSTON: Of what?

12 THE COURT: That she has no personal knowledge
13 that the victims are dangerous?

14 MR. KRZYSTON: That --- obviously not.

15 THE COURT: So you just asked her that question
16 and you never asked her that question before?

17 MR. KRZYSTON: We had talked about his reputation
18 in the community before, yes.

19 THE COURT: You never thought to ask her how did
20 you know that?

21 MR. KRZYSTON: Well, because it was specifically
22 directed at community reputation and opinion, so no, I
23 did not ask her. I was not intending to illicit
24 specific instances of conduct.

25 THE COURT: You didn't ask her whether or not she

1 truly knew that stuff or whether or not that was just
2 stuff that she heard in the community?

3 MR. KRZYSTON: Again, no, because my question was
4 directed specifically at what she knew and what the
5 community knew and that the community --- what was his
6 reputation was in the community.

7 THE COURT: So do you have any case that says you
8 can ask this question?

9 MR. KRZYSTON: No, Judge. I was just
10 specifically relying on 404 and 405.

11 THE COURT: Do you have any case that says they
12 can't ask this question?

13 MS. SAMPSON: I'm sorry, did you say can or
14 can't? I'm sorry.

15 THE COURT: That they can't ask this question.

16 MS. SAMPSON: I would go straight back to the
17 case, Your Honor. Again --- hold on one second, I
18 would point you to --- give me one second. I would
19 point you to State v. Lyle which talks about that and
20 how the rule works.

21 THE COURT: I thought Lyle was a 404(b) case.

22 MS. SAMPSON: I'm sorry. Yes. I had my head
23 down. I wasn't sure if I said that loud enough.

24 MR. KRZYSTON: Judge ---

25 MS. SAMPSON: It outlines when you can and can't.

1 And, again, I would --- in this particular case, she
2 has no first hand knowledge. She did not see them.
3 She specifically said that she didn't see them pull a
4 gun.

5 THE COURT: She has no information about Pratt at
6 all.

7 MS. SAMPSON: At all.

8 THE COURT: So that question was completely
9 inappropriate.

10 MS. SAMPSON: Then the only information that, I
11 believe, she has given us at this point about Johnson
12 is she has heard that if you don't shoot him, he will
13 shoot you first or something to that effect, but when
14 asked, she does not know that and she never saw that.
15 That is just what she heard. As you already pointed
16 out, 404 is to get into the specific acts except to
17 offer --- I'm not saying it, right. I'm sorry. It's
18 a rule of exclusion. It says you cannot do that
19 unless it is to proving action and conformity
20 therewith, so even if somehow she did, they have to be
21 able to make that second step that that's proving a
22 character trait and their actions are in conformity
23 therewith. The only actions we have is that they did
24 get shot. They're not going to be --- unless they
25 know something I don't know, their action whether they

1 had a gun at the beginning --- I don't know, maybe
2 they are. At this point, we haven't heard anything
3 that would support, especially not from this
4 particular witness, that information.

5 MR. KRZYSTON: And, Judge, I would know that in
6 Re: Greenfield Estate, which is 245 S.C. 595, Rule 405
7 (a) allows evidence of character to be in the form of
8 an opinion or reputation as evidence.

9 MS. SAMPSON: And then again, 405 is when you've
10 already gotten into the reputation or the opinion
11 being of a particular essential element of the crime,
12 charge, or offense, so he's going back and forth
13 between the two rules, but they are for two different
14 purposes.

15 405 is for when you went to get it in because
16 it's an essential element of the crime of their
17 defense. 404 is when you want to get it back to the
18 victim for action and conformity therewith.

19 THE COURT: But what evidence does the defense
20 have that Mr. Johnson or Mr. Pratt did anything
21 dangerous on June 28, 2012?

22 MR. KRZYSTON: There is none, Judge.

23 THE COURT: Okay. So you have to have --- the
24 purpose of 404 is proving action and conformity
25 therewith on a particular occasion. That particular

1 occasion in this case is June 28, 2012, so is there
2 any evidence that you intend on introducing that says
3 they did anything that was dangerous on June 28, 2012?

4 MR. KRZYSTON: Judge, I believe in the statements
5 disclosed by the State to us, DeAndre Diggs, the
6 codefendant's statement indicates that Mr. Johnson did
7 have a firearm.

8 THE COURT: Well, having a firearm doesn't
9 necessarily make you dangerous.

10 MR. KRZYSTON: But that in conjunction with the
11 community reputation information would lead to that
12 supposition.

13 MS. SAMPSON: Your Honor, ownership of a gun is
14 not an action. If he had picked up the gun, done
15 something with a gun. Otherwise ---

16 THE COURT: I mean, is Diggs going to come in and
17 say one of the victims pointed a gun at him?

18 MS. SAMPSON: No. I gave them all that
19 information. It's in his written statement. They're
20 tied up almost as soon as they get there. Nobody
21 pointed a gun at Mr. Diggs.

22 THE COURT: Okay. I'm going to deem at this
23 point that that testimony is inadmissible. It doesn't
24 have anything to do with proving action and conformity
25 therewith on a particular occasion. That particular

1 occasion being the incident date of this crime. In
2 addition, further as to Mr. Pratt, she has no personal
3 or firsthand knowledge of anything about Mr. Pratt,
4 which is what she told me under oath, so the question
5 shouldn't have even been asked of Mr. Pratt period.

6 It should have been strictly related to Athell
7 Johnson, but she has no basis to make a statement as
8 to their reputation in the community because she has
9 no firsthand knowledge of it.

10 I mean, character evidence --- to come in and say
11 somebody has a character evidence or their reputation
12 in the community, you have to have firsthand
13 knowledge, and then based upon that firsthand
14 knowledge, you are allowed to form an opinion. I
15 mean, I have firsthand knowledge about Ms. Hedgeco's
16 reputation. She has worked with me for the past 18
17 months. I have seen her, I have dealt with her, I
18 have come in contact with her. Therefore I can form
19 an opinion about her reputation based on what I have
20 seen with my own eyes.

21 This young lady has heard things on the street
22 about Mr. Johnson that she has no firsthand knowledge
23 of, and then she is forming an opinion based upon
24 information that she has heard that she doesn't have
25 any way to know if it is true or not true.

1 MR. KRZYSTON: And judge, she ---

2 THE COURT: That's your disconnect, right there.
3 Just because someone heard something on the street
4 doesn't mean it's reputation character. For
5 reputation --- for character evidence like this to
6 come in, the generalized form of what's their
7 reputation in the community, you have to establish how
8 the person knows what the reputation is, like your
9 preacher comes in and says, I've seen him at church
10 every Sunday for the past five years and I have seen
11 him at meetings on Sunday night and Wednesday night
12 and based on that have you been able to form an
13 opinion about his reputation in the community? Yes, I
14 have. What is it? It's good. It's bad. Whatever it
15 may be, but letting someone testify to information
16 that she what his no firsthand knowledge of in any
17 way, shape, or form is just inappropriate. I'm not
18 going to allow it. I'm going to order that stricken,
19 and I'll tell the jury to disregard that information.
20 What else?

21 MR. KRZYSTON: Okay. Judge.

22 MS. HINES: Judge, while we have the jury out, I
23 need to make a motion for a mistrial which I objected
24 to on the record during Corporal Hayhurst's testimony.
25 Again, it's the same issue that we had with Deputy

1 D'Antoni. Corporal Hayhurst testified in front of the
2 jury that he got information from probation. We
3 brought this up at pretrial two weeks ago in Camden.
4 We were told that the officers had been told that they
5 cannot say they got it from probation and they
6 wouldn't be testifying to that. He brings it up
7 again. So again, I'm moving for a mistrial on that
8 basis. This the second time that the officers in this
9 case have brought up the fact, or trying to get in
10 front of the jury, the fact that Mr. Wallace has prior
11 dealings with law enforcement. We now have them
12 carrying information about probation having his
13 contact information, and I'm moving for a mistrial
14 again.

15 I asked not three hours ago that the court order
16 the State to instruct their officers, once again, that
17 they can't get into that 404(b) testimony. For that
18 reason, I am moving for a mistrial.

19 MS. SAMPSON: Your Honor, he never once said he
20 got any information from probation, pardon and parole.
21 What he started to say was someone got information and
22 he started to name the different places where they get
23 the information. He said the word probation. She
24 objected. That's the only word that got said. I then
25 asked some clarification questions: do you know where

1 the information comes from, no. We clarified all of
2 that, that he had no idea where the information came
3 from, and we moved on. He never once said the
4 information was gotten from probation or from anybody,
5 and we specifically went back over that.

6 THE COURT: I thought he said they got
7 information from probation.

8 MS. SAMPSON: And then he stopped and I clarified
9 it that he doesn't ---

10 THE COURT: The problem, Ms. Sampson, is you were
11 15 questions past what was even necessary to ask him.
12 It didn't even matter.

13 MS. SAMPSON: I didn't --- I'm sorry.

14 THE COURT: I mean, the State --- you lead all
15 these witnesses down this path where they virtually
16 have no choice but to say something that I've said is
17 inadmissible. I mean, the information from Corporal
18 Hayhurst, besides the fact that it was overkill for
19 lack of a better term, I mean, you just kept leading
20 him down this road where he had nowhere left to go but
21 to say they got information from probation. I mean,
22 it was a complete --- the question that was asked of
23 him was completely and totally unnecessary just like
24 the question of Mr. D'Antoni, completely and totally
25 unnecessary.

1 MS. SAMPSON: She asked that.

2 THE COURT: I mean, you have to --- no. That's
3 not true. Mr. Eaton asked the first question that
4 elicited the ---

5 MS. SAMPSON: I'm sorry.

6 THE COURT: --- Alvin S. Glenn Detention Center
7 website response. When you all are dealing with these
8 witnesses that you know has information that I've told
9 you is not admissible, you have got to maneuver around
10 the facts. You have got to say, based upon the
11 information that you received after you went to SLED
12 and met with the fugitive center, did you eventually
13 find him. I mean, you left Corporal Hayhurst
14 virtually no choice but to say they got information
15 from probation.

16 MS. SAMPSON: I believe my question was about the
17 car, not about him. I was asking him about the car.

18 THE COURT: What if he got the car information
19 from probation?

20 MS. SAMPSON: He didn't. Well, and I knew that.
21 He did not get that information from probation. He
22 got that from Diego Nova.

23 THE COURT: What did it matter where they got the
24 car information from?

25 MS. SAMPSON: Your Honor, we were talking about

1 the car. I can't let the jury think we just magically
2 pulled this information out of the air when their
3 whole thing is that the officers didn't do what they
4 were supposed to. That was part of their opening. I
5 needed to at least establish that he got that
6 information from someone at SLED. I didn't ask him
7 that.

8 THE COURT: You had already established that. I
9 went to SLED to gather information. I got the
10 information. We learned he was in the Bush River Road
11 area.

12 MS. SAMPSON: And then I asked only about the
13 car. I didn't ask about him --- that's specifically
14 why I said the car, because the car was not his. The
15 car was Ms. Conway's.

16 THE COURT: All right. Your motion for a
17 mistrial is denied. It does not reach the level of
18 manifest necessity. There is a case on point State
19 vs. Creech that says the mention of probation does not
20 warrant a mistrial and it does not in this case, nor
21 does the cumulative facts and circumstances rise to
22 the level, but I am warning the State right now, this
23 man has been sitting in jail for over two years
24 waiting on this trial. Waiting on his day in court.
25 If you know that there is a witness that has

1 information that I have deemed inadmissible and they
2 are not gently taken around those issues, and I will
3 allow you to lead around those issues, then it's going
4 to be dealt with accordingly.

5 MS. SAMPSON: If we can lead, Your Honor, we can
6 keep that from happening.

7 THE COURT: You can lead in those circumstances
8 where you're gathering information or collecting
9 information that I have deemed inadmissible.

10 MS. SAMPSON: Thank you, Your Honor.

11 THE COURT: All right. As to the dangerous
12 comment, I'm telling the jury to disregard that
13 comment and to not consider it.

14 If you want to put in reputation, character of
15 the evidence of the victims on the particularly date,
16 you're going to have to have at least somebody that
17 has some kind of firsthand knowledge, and you need to
18 proffer it ahead of time.

19 MR. KRZYSTON: Certainly, Judge.

20 THE COURT: All right. Bring them back in.

21 (WHEREUPON, the jury entered the courtroom at
22 12:45 P.M.)

23 THE BAILIFF: The jury is seated, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, you
25 will disregard any comment about Mr. Johnson or

1 Mr. Pratt being dangerous.

2 You can continue, Mr. Krzyston.

3 MR. KRZYSTON: Thank you, Judge. May it please
4 the Court.

5 MR. KRZYSTON: Ms. Willingham, I have no further
6 questions for you. Please answer anything Ms. Sampson
7 has for you.

8 THE COURT: Redirect?

9 MS. SAMPSON: No, sir.

10 THE COURT: Thank you very much. Have a nice
11 day.

12 How long is your witness?

13 MS. SAMPSON: We have one short one.

14 THE COURT: Okay. Let's do one short one and
15 then take a lunch break.

16 MR. COBLE: Okay. The State would call
17 Investigator --- Sergeant Brian Metz.

18 THE COURT: Have a nice day, Ms. Willingham.

19 THE WITNESS: Thank you.

20 MS. SAMPSON: May we approach?

21 (WHEREUPON, a bench conference was held in the
22 presence, but not within the hearing of the
23 jury.)

24 THE COURT: Who is this; is this witness Metz?

25 MS. SAMPSON: Yes, sir.

1 THE COURT: Is this Metz?

2 Investigator Metz, please come forward and be
3 sworn.

4 BRIAN METZ,
5 after being duly sworn, testified as follows:

6 THE CLERK: Please have a seat. State your full
7 name.

8 THE WITNESS: Brian Metz.

9 DIRECT EXAMINATION:

10 BY MR. COBLE:

11 Q Investigator Metz, where are you currently
12 employed?

13 A At the Richland County Sheriff's Department.

14 Q How long have you been there?

15 A Thirty-two years.

16 Q And in what capacity, in the relatively recent
17 times, what's your role?

18 A I'm an investigator assigned to the technical
19 services unit, which is part of the criminal
20 investigative division.

21 Q And what are some of the things you do in that
22 division?

23 A The technical services units does a large number
24 of things. There are two of us, and we both do
25 computer forensics. We've been trained through the

1 Secret Service to do computer forensics. We do cell
2 phone downloads, pull videos from incident locations,
3 and at times will clip those videos for media release
4 and make what you normally see on the news at night
5 and have that distributed to the media. We will at
6 times place cameras and video systems at areas that
7 are having crime problems and then collect the videos
8 from there also.

9 We also have alarms that we can place at
10 different locations that are having problems and then
11 a lot of our time would be involved with some of the
12 investigators and anything they have computer related
13 or anything such as that.

14 Q I apologize. Is it investigator or sergeant?

15 A Investigator.

16 Q Were you in that same capacity and role in June
17 of 2012?

18 A I was.

19 Q And what was your involvement with Captain Scott
20 McDonald in this case?

21 A My first involvement with him, and I think I was
22 actually on the road, but he instructed me to go to
23 some apartments off Garners Ferry Road. They were
24 looking at video, but having problems downloading it.

25 Q Did you go help download it?

1 A I went and downloaded the video from the machine
2 at the apartment complex.

3 Q And who did you go to speak to about that? Do
4 you recall?

5 A When I got there, there were several
6 investigators. I don't recall if Captain McDonald was
7 there, but there were several investigators there.

8 Q Was there somebody there from the property
9 management?

10 A There was. The actual person was in the main
11 office and I spoke with the property manager that were
12 there on the scene.

13 Q Did you get a chance to view the video of that
14 date?

15 A I did.

16 Q Did it fairly and accurately reflect what
17 happened in that scene from what you could have seen
18 outside?

19 A It did.

20 MR. COBLE: Beg the Court's indulgence.

21 (WHEREUPON, State's Exhibit Numbers 38 and 39
22 were marked for identification only.)

23 BY MR. COBLE:

24 Q Investigator Metz, did you have a chance to
25 review this video when has been marked as State's 38?

1 A I did.

2 Q Does that video fairly and accurately reflect
3 what you saw on June 28th?

4 A It does.

5 Q Your Honor, I would now move ---

6 MS. HINES: Objection, Judge. May we approach?

7 THE COURT: Yes, ma'am.

8 (WHEREUPON, a bench conference was held in the
9 presence, but not within the hearing of the
10 jury.)

11 BY MR. COBLE:

12 Q Investigator Metz, let me clarify this, does that
13 fairly and accurately reflect the video that you
14 watched and secured with property management on
15 June 28th?

16 A It does.

17 MR. COBLE: Your Honor, I would now move State's
18 Exhibit 38 into evidence.

19 MS. HINES: No objection.

20 THE COURT: Without objection, State's Exhibit
21 Number 38.

22 (WHEREUPON, State's Exhibit Number 38 was
23 admitted into evidence.)

24 BY MR. COBLE:

25 Q Did you get a chance to watch any other videos

1 that day, Investigator Metz?

2 A Not that day.

3 Q Did you get to the next day?

4 A The next day, the next afternoon.

5 Q What video did you watch then?

6 A It was from the Dollar General store off Broad
7 River Road.

8 Q How did you get involved to go to the Dollar
9 General store?

10 A Again, it was requested by the investigators,
11 specifically by Captain McDonald to go to that store
12 and download some video from there.

13 Q Did you download that video?

14 A I did.

15 Q Did you watch the video that had been --- excuse
16 me, what day --- what video had been recorded, what
17 timeframe, do you recall?

18 A I would have to look at the video, I don't
19 remember offhand.

20 Q It wasn't ---

21 A It was --- if I recall correctly, it was from the
22 28th that was the timeline on the video.

23 Q Did you have a chance to view that video with the
24 store manager?

25 A I did.

1 Q Did you record that video?

2 A I did.

3 Q Have you had a chance --- I'm going to show you
4 what's been marked as State's Exhibits 39.

5 Have you had a chance to view this video?

6 A I have.

7 Q Does that video fairly and accurately represent
8 the video as you saw it with the store manager on
9 June 29th?

10 A That's correct.

11 MR. COBLE: Your Honor, I would now move to offer
12 State's Exhibit 39 into evidence.

13 MS. HINES: Without objection.

14 THE COURT: State's Exhibit 39 without objection.

15 (WHEREUPON, State's Exhibit Number 39 was
16 admitted into evidence.)

17 BY MR. COBLE:

18 Q Now, going back to June 28th, did you have any
19 more involvement with Captain Scott McDonald?

20 A I believe it was --- not after the video.

21 Q Did you help him with a phone?

22 A I believe that was on the morning of the 29th.

23 MS. HINES: Objection. We have previously
24 objected. I'd like to renew my objections at this
25 time.

1 THE COURT: All right. Fair enough. The
2 objection is overruled.

3 THE WITNESS: The captain had brought me a cell
4 phone and asked me to download the information so that
5 they could then review it.

6 Q Did you then do that?

7 A I did.

8 Q What is the process for downloading a cell phone?

9 A In this case, we used a piece of hardware that is
10 made by a manufacturer that specialized in cell phone
11 forensics. The company is called Cellebrite. They
12 have a device called a UFED, a forensics device, and I
13 used that device to downloaded the information.

14 Q What type of information --- when you normally do
15 this, what type of information is taken off of a cell
16 phone?

17 A It depends greatly on the cell phone, not only
18 the type of operating system that's on the cell phone,
19 whether it's Android or Apple. It depends on the
20 model, but it can be anywhere from the contact list
21 that's on the phone, the call logs that are on the
22 phone, text messages and on some of the newer phones
23 you get into much more information. You could get
24 into what access points were being accessed by the
25 location of those access points, pictures that were

1 taken, of course, on there, with some of those you can
2 get those, and of course, you can actually get
3 location information, so there's a large amount of
4 information you can get off a cell phone.

5 Q And after you download this information, how do
6 you --- what type of form do you get it in?

7 A When I download it, I'll have it into a PDF form,
8 which is a document that most people can read on their
9 computers. Then I'll put it on a CD. It will have a
10 PDF and all the files that go with it that the PDF
11 reads, and then I get that CD to the investigator.

12 Q Is that what you did in this case?

13 A It is.

14 Q Did you go through and look at all this
15 information after you downloaded it?

16 A I will look at it to make sure, of course, the
17 machine actually tells me whether it was successful in
18 the download, but then I'll look at it to make sure it
19 appears that everything was correct, but not as far as
20 going through it and reading all the text messages. I
21 wouldn't know enough about the case to do that anyway.

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

23 A That's correct.

24 MR. COBLE: Beg the Court's indulgence.

25 (Pause.)

1 Now, Investigator Metz, just briefly, the video
2 at 8100 Garners Ferry Road, the security footage, you
3 had a chance to view that, correct?

4 A I did.

5 Q Did it work properly?

6 A It did.

7 Q Does the time work correctly?

8 A The time on the D.V.R. was incorrect. It was
9 actually 13 minutes fast, but other than that, it
10 worked correctly. There was one camera that appeared
11 that it was either shorting or having a power problem.
12 It was flickering on and off.

13 Q But beyond that, it was normal?

14 A Beyond that it was normal.

15 MR. COBLE: Thank you. That's all.

16 THE COURT: Cross?

17 MS. HINES: Yes, I have a few questions.

18 CROSS-EXAMINATION:

19 BY MS. HINES:

20 Q Hello, Investigator Metz, how are you doing?

21 A Fine. How are you?

22 Q I'm good. I remember you back from cold case
23 days.

24 A Uh-oh.

25 Q Okay. So when you got this video from 8100

1 Garners Ferry Road how many camera angles do they have
2 out there?

3 A I would go to the video to be sure, but I believe
4 that system has 16. I'm not --- I think they were all
5 working. I'm not positive.

6 Q And did you view all 16 angles?

7 A On that system, you have a screen that shows all
8 of the different video screens in smaller blocks, so I
9 could see that they were all there.

10 Q Was there a camera that shows the front of the
11 400 building, the parking lot in front of the 400
12 building?

13 A I don't recall.

14 Q The cameras are basically showing --- what all do
15 the cameras show, the 16 cameras?

16 A I would have to look at each one, and some of the
17 areas when I look at it, I can tell what it was, but I
18 don't know where it is. For instance, in that one,
19 there was one that was showing like a back office or
20 something such as that. It shows just about where the
21 employees and the company decided to put cameras,
22 front parking lot, office areas, that type of thing.

23 Q But there were 16 cameras?

24 A I'm not positive on that. I believe. I'm sure
25 that machine had at least 16, but you'd have to look

1 at the video to be sure.

2 Q Okay. And how many angles were at the Dollar
3 General?

4 A I know there were multiple angles, but I don't
5 recall exactly how many. That's another machine that
6 was an ADT machine that is similar where you can look
7 at either each --- view each independently or you have
8 a screen that shows you all the videos.

9 Q Okay.

10 MS. HINES: I have no further questions of this
11 witness, Judge.

12 THE COURT: All right.

13 MR. COBLE: Nothing further.

14 THE COURT: Have a good day, Investigator.

15 All right. Ladies and gentlemen, we're going to
16 break for lunch now. It's one o'clock. The plan is
17 to start back at 2:30. Remember that you are not to
18 discuss the case with anybody. Keep an open mind.
19 You may go out, enjoy your lunch. Be back in your
20 jury room at 2:30 ready to go.

21 Everyone remain seated while the jury is
22 dismissed.

23 (WHEREUPON, the jury left the courtroom at 1:01
24 P.M.)

25 THE COURT: All right. Anything further before

1 we break for lunch?

2 MS. HINES: Yes, Judge. We have another
3 discovery issue. When we went to the sheriff's
4 department to view the video that Investigator Metz
5 just testified to, we saw that there were maybe just
6 four --- Investigator Metz, could you just wait,
7 please? Hold tight real quick. There were four or
8 five angles were weren't shown 16 different cameras.
9 We were shown the video that played in the office and
10 the front gate. We weren't shown anything in the
11 parking lot. We definitely weren't shown 16 cameras.
12 There were a number of the little screen things that
13 were black that didn't have any movement showing in
14 it. Investigator Metz just testified that he thought
15 there were 16 cameras. We certainly weren't shown 16
16 camera angles and there's potentially exculpatory
17 information on there. We weren't shown any camera
18 from the parking lot that would show them going in or
19 going out. We were shown no camera angle of the
20 parking lot of 8100 Garners Ferry Road, any other part
21 of the parking lot other than the right at the front
22 gate, one camera showing cars going in the front gate
23 and one camera showing cars going out. That wasn't in
24 the parking lot. There is the potential to have
25 other --- to see witnesses, people who could have been

1 a witness to this that we could have explored. We
2 just weren't shown that. So we --- it may have
3 corroborated his original statement to the police. We
4 just don't know. We're --- so based on the discovery
5 of yet another discovery issue that we have, we move
6 to ---

7 MS. SAMPSON: Your Honor, my understanding is
8 they were --- none of the State's attorneys were at
9 that showing of the video. They just went to the
10 sheriff's department. We weren't there. I can't
11 testify to what they were shown or not shown. You
12 asked that they be allowed to see it and they were.
13 My understanding briefly from looking at McDonald's
14 and I'll ask Investigator Metz to make sure, there
15 were only four or five cameras that were on that video
16 that they're shown because that's all we have on the
17 download.

18 INVESTIGATOR MCDONALD: I showed the video to the
19 defense. There were four or five screens that had
20 videos on it and that was it. The rest were black.

21 THE COURT: Is that what's in evidence now?

22 MS. SAMPSON: Yes, sir.

23 THE COURT: Okay.

24 MS. HINES: Again, Investigator Metz just
25 testified to 16 cameras, and ---

1 THE COURT: No, that's not what he testified to
2 Ms. Hines. That's not, correct. What he said was, "I
3 don't remember how many cameras were on there. I
4 would say, I'm guessing, that there were at least 16."

5 MS. HINES: Judge, my notes indicate something
6 different. My first question I asked him was, "How
7 many different camera angles were there? The system
8 has 16 camera angles. I think that they were all
9 working."

10 MS. SAMPSON: He didn't say they were all
11 recording and that's what we're talking about is
12 whether we have four or five recordings. All we have
13 are the four or five that she has seen. That's all
14 that's on there. That's all we can provide them.

15 THE COURT: Investigator Metz, do you have any
16 camera angles that show something that you haven't
17 turned over to the solicitor's office?

18 THE WITNESS: No, sir.

19 THE COURT: Okay. Captain McDonald, do you know
20 of any ---

21 THE WITNESS: No.

22 THE COURT: --- camera angles of 8100 Garners
23 Ferry Road that you have not turned over to the
24 solicitor's office?

25 THE WITNESS: No, sir.

1 THE COURT: Did you show the defense all the
2 camera angles that you had of 8100 Garners Ferry Road?

3 THE WITNESS: I did. I showed them the two
4 camera angles coming in the gate and going out the
5 gate. I didn't show the other two or three that were
6 there. They appeared to be of the office area and
7 things like that.

8 THE COURT: Okay.

9 THE WITNESS: We can show that to them if you
10 like.

11 THE COURT: All right. What else, Ms. Hines?

12 MS. HINES: Judge, that's all I have. I would
13 ask for a mistrial on the basis of the information
14 that we have.

15 THE COURT: There's just no basis for that. I
16 mean, they have turned over everything that they have.
17 They showed it to you. You just allowed it to go into
18 evidence without objection. So the fact that
19 Investigator Metz was wrong or right or your questions
20 or you're wordings were wrong or right does not
21 necessitate a mistrial nor does it necessitate or even
22 come close to a discovery violation. Investigator
23 Metz may have been wrong. That's why he didn't answer
24 the question definitively and gave the caveat in there
25 that it's been a long time since I've seen it and I

1 doesn't remember it exactly. And, he said, "I think."
2 That's not a discovery violation and it's certainly
3 not anywhere close to grounds for manifest necessity
4 of a mistrial.

5 All right. What next?

6 MS. SAMPSON: Nothing from the State, Your Honor.

7 THE COURT: All right. 2:30.

8 (WHEREUPON, a lunch break was taken.)

9 (WHEREUPON, State's Exhibit Numbers 40 through 81
10 were marked for identification only.)

11 MS. HINES: Judge, we have a legal issue to
12 address.

13 THE COURT: Okay.

14 MS. HINES: I believe the State intends to
15 introduce pictures with the next witness, which --- I
16 think it's with the next witness. At the scene, at
17 Beckham Swamp, basically what happens is they go out,
18 they find six shell casings at one location?

19 THE WITNESS: That's correct.

20 MS. HINES: Labeled (A) through (G) on the
21 evidence markers. They determined --- Investigator
22 Schroeder in his report determines that those ---
23 those were determined to not be related to this
24 incident. They then find the ones that they believe
25 are related to this incident on down the road about

1 300 yards, 250, 300 yards away from the initial ones
2 they found. They were tested by David Collins, and
3 they were the ones that were found not to be related
4 to the gun that we had an issue with at pretrial. I'm
5 objecting based on relevance, because if they have
6 been determined not to be related to this incident, I
7 don't understand what the relevance is to introducing
8 photographs of the shell casings.

9 THE COURT: All right. You just completely
10 confused me. Are there two sets of shell casings?

11 MS. HINES: Yes.

12 THE COURT: Are either one of them connected to
13 this case?

14 MS. HINES: One is.

15 MR. EATON: One is.

16 MS. HINES: The other is not. I'm objecting to
17 the ones that are not.

18 THE COURT: Good. That makes sense. Okay.

19 MR. EATON: Your Honor, that is correct. There
20 were shell casings found near the scene where she was
21 shot that were excluded, and these pictures just show
22 markers of where they found those. I believe it's
23 relevant to the extent that it shows the investigation
24 was thorough. One of the things that stated in
25 opening is that perhaps law enforcement didn't do

1 everything they should have done, so this shows they
2 did a thorough job here, that these were looked at and
3 ruled out, and that the correct one was taken into
4 evidence and analyzed.

5 THE COURT: They did find shell casings off
6 Beckham Swamp Road that were a match to a firearm?

7 MR. EATON: They were not. There was one that
8 was matched.

9 THE COURT: Okay.

10 MR. EATON: It's rural area. People may be
11 shooting around there.

12 THE COURT: I don't know why we need pictures of
13 ones that were not, so...

14 MR. EATON: And some of these pictures depict the
15 entire scene. They just have these markers on them.

16 MS. HINES: And judge, as to the photo that
17 depicts the road, the housing markers on it, there are
18 photographs of the road without the markers.

19 THE COURT: There was a photograph of the road
20 already in.

21 MS. HINES: Correct.

22 THE COURT: I don't know why we need to confuse
23 the issue about other shell casings found which we
24 know don't have a connection to the case. It's
25 confusing.

1 MS. SAMPSON: The only thing I would add, Your
2 Honor, as long as they're not limited to say anything
3 about those or anything. That is our concern.

4 THE COURT: Well, if they stand up and say
5 something along the lines of they didn't go out and
6 test all those other shell casings, that's a different
7 story, but putting in shell casings that are not
8 connected to this case, even though they were found
9 there --- and I understand why law enforcement took
10 them, and they should have taken them and they should
11 have tested them and all that was appropriate. It's
12 just 403 confusion as to, you know, what those shell
13 casings really have to do with anything, so unless
14 they open the door, nothing about --- they don't need
15 to be talking about other shell casings.

16 MR. EATON: Yes, Your Honor.

17 MS. HINES: Judge, we have another issue.

18 THE COURT: Okay.

19 MS. HINES: It's come to my attention just about
20 ten minutes ago that there may be some audience
21 members who are wearing shirts that have photographs
22 of the deceased or maybe a memorial to the deceased in
23 this case.

24 THE COURT: Okay.

25 MS. HINES: I believe it's more prejudicial ---

1 it's prejudicial, but I think it's a violation of the
2 Fourteenth Amendment right to have a fair trial. I
3 think it prejudices the jury to have those in the
4 audience. I believe that their --- I'm waiting on
5 case law on point.

6 THE COURT: Oh, there's case law directly on
7 point.

8 MS. HINES: I know there is. Yes, sir.

9 THE COURT: If anybody --- there is no buttons or
10 shirts or anything like that and the young lady that's
11 leaving the courtroom now, that's the first time I've
12 seen her in the audience the entire trial or seen that
13 shirt. I appreciate you're bringing that to my
14 attention.

15 You don't need to go find that case.

16 MS. HINES: Okay.

17 THE COURT: There is a case directly on point
18 that says anything --- this is no disrespect to
19 anybody's family in any way, shape, or form, but any
20 shirts, buttons, anything like that are completely and
21 totally inappropriate in the courtroom. She is
22 welcome. That young lady, I see a victim advocate in
23 the back of the room. That young lady is welcome to
24 go turn that shirt inside out and come back into the
25 courtroom. I'm not trying to exclude her from the

1 courtroom, but nothing like that will be allowed or
2 permitted.

3 Mr. Dye, will you keep an eye out for that for
4 me.

5 MS. SAMPSON: Your Honor, will you instruct?
6 That's the first I've seen ---

7 THE COURT: I don't believe anybody is trying to
8 do anything, but that will be the rule. So, Mr. Dye
9 or Mr. Tolbert, if you see anything like that, just go
10 ahead and escort them out. They can turn their shirt
11 inside out or choose not to come in, whichever one
12 they want to do.

13 Thank you for bringing that to my attention,
14 Ms. Hines.

15 MS. HINES: Thank you, Judge.

16 THE COURT: Anything else?

17 MS. SAMPSON: Your Honor, we just need to be
18 clear. I don't know which numbers she is objecting
19 to. I don't think they were all the same thing.

20 THE COURT: Why don't you let me see them.

21 MR. EATON: It was 40 through 44.

22 THE COURT: Okay. Why don't you just let me see
23 them.

24 MR. EATON: Okay. You want to see them, Your
25 Honor?

1 THE COURT: Yeah.

2 Which one is of the shell casing that matches?

3 MR. EATON: None of those, Your Honor.

4 THE COURT: Okay. All right. So 44, 43, 42,
5 that's not a match.

6 MR. EATON: No, sir.

7 THE COURT: And 41 and 40 are out. They confuse
8 the issue, and the picture of the road in the area is
9 already in. I'll keep these. Hand me that stack
10 there.

11 MS. HINES: Thank you, Judge.

12 MS. SAMPSON: And one more at issue.

13 THE COURT: Yes, ma'am.

14 MS. SAMPSON: Are you objecting to this? I think
15 she is.

16 MS. HINES: No.

17 MS. SAMPSON: I'm sorry. I misunderstood.
18 Thanks.

19 THE COURT: All right. Bring them in.

20 (WHEREUPON, the jury entered the courtroom at
21 2:45 P.M.)

22 THE BAILIFF: The jury is seated, Your Honor.

23 THE COURT: All right. Thank you very much.

24 Welcome back. I hope you enjoyed your lunch. Call
25 your next witness.

1 MS. SAMPSON: Thank you, Your Honor. The State
2 calls EMS Kinzer.

3 THE COURT: All right. Mr. Kinzer, please come
4 forward and be sworn.

5 JONATHAN KINZER,
6 after being duly sworn, testified as follows:

7 THE CLERK: Please have a seat. State your full
8 name for the record.

9 THE WITNESS: My full name is Jonathan Paul
10 Kinzer.

11 DIRECT EXAMINATION:

12 BY MS. SAMPSON:

13 Q Good afternoon.

14 A Good afternoon.

15 Q Mr. Kinzer, you live in Columbia?

16 A No. I live in --- well, yes, I'm sorry. I live
17 in Columbia, but the Irmo part of Columbia.

18 Q And what are you doing now?

19 A I am currently a first year medical student at
20 the University of South Carolina.

21 Q Now, I don't know whether to say that's good or
22 bad. What were you doing back in June of 2012?

23 A I was a full time college student, but I was
24 working also part time at Richland County Emergency
25 Medical Services.

1 Q And what did you do? Were you called an EMS or
2 EMT tech?

3 A Paramedic.

4 Q What did you do as a paramedic?

5 A I treated the sick and injured as they were
6 called. We would render whatever aid we could and
7 then transport them to the hospital.

8 Q Were you working back on June 28th of 2012?

9 A I was.

10 Q And do you remember that day in particular?

11 A No, ma'am, I do not.

12 Q Would showing you a record that you create as
13 part of your job help refresh your memory?

14 A Yes, ma'am.

15 Q I'm going to show you this and ask you to take a
16 look at it. Do you recognize that?

17 A Yes, ma'am, I do.

18 Q What is that?

19 A That is a patient care report.

20 Q And just to be clear, do you remember any details
21 of June 28th at all in your mind?

22 A Unfortunately I do not.

23 Q How many calls do you get in a day when you are
24 at EMS?

25 A Probably the average would be seven to eight, but

1 it could be as busy as 12 or 13.

2 Q So without this report, can you even remember
3 what happened?

4 A No, ma'am, I cannot.

5 Q Based on this report, did you pick up Raquel
6 Weston?

7 A Yes, I did.

8 Q And does it tell you in this report where you
9 picked her up from?

10 A It does. Let's see. At the corner of Bluff Road
11 at Beckham Swamp Road in Hopkins.

12 Q In order for --- were you called by 9-1-1? I
13 mean, how are you guys told to go down there?

14 A Our dispatcher would come on the radio, tell us
15 where to go and give us the location, and we would go
16 to that location.

17 Q When you go, do you know what you're going for?
18 Do you know what ---

19 A Oftentimes we have a general complaint, but you
20 really never know until you get there.

21 Q So when you arrived --- according to your report,
22 what happens at that point?

23 A Let's see, upon arrival, we saw a patient seated
24 in a vehicle. On the report it says A0x3, which means
25 she is alert and oriented times three ---

1 Q I need you to slow down?

2 A I'm sorry.

3 Q It says A0x3; what does that mean?

4 A That means she is alert and oriented times three.
5 That means person place and time.

6 Q Okay.

7 A So in short, it's a way of saying she was up and
8 looking at me and responding appropriately.

9 Q Thank you. Did she have any complaints?

10 A Yes, she was complaining of pain to her head and
11 also to her right forearm.

12 Q So what did you all do based on that?

13 A Based on that, she said --- let's see. Let's
14 see. We would have done a basic exam. I noted wounds
15 on her forearm, one to her forehead, and one to her
16 temple. Bleeding was controlled when we got there.
17 She stated that she was shot twice. At that point, we
18 placed her on an LBB, which means a long back board
19 which is just like a full body splint if you've seen
20 someone picked up and carried.

21 Q Like on the stretcher?

22 A Yes, it goes on the stretcher. The C-spine is
23 the collar around her neck and then across her head to
24 mobilize everything. If somebody is involved in any
25 kind of trauma, we assume there is a chance of a

1 spinal injury, so we take all the precautions. We
2 started an I.V. en route, an intravenous line en
3 route. We then transported her to Richland Memorial
4 Hospital. Gave her a report to the R.N. there and
5 transferred all the care to the staff at Richland
6 Memorial.

7 Q This report that you made, that's made shortly
8 after the incident?

9 A Yes, usually unless I get another call
10 immediately. If I have time, I'll start it en route.
11 Otherwise I'll do it immediately after the call.

12 Q The injuries that you saw her with were the
13 injuries you saw when you arrived?

14 A Yes, ma'am.

15 Q And when you dropped her off at the hospital,
16 that's what she had when you left her there?

17 A Affirmative, yes, ma'am.

18 MS. SAMPSON: No further questions, Your Honor.

19 THE COURT: Cross?

20 MS. HINES: Thank you, Judge. May it please the
21 Court.

22 CROSS-EXAMINATION:

23 BY MS. HINES:

24 Q As you testified, you have no memory of this
25 incident?

1 A Correct.

2 Q That's why you make your report, correct?

3 A That's correct.

4 Q And that's why you put all the information in
5 here that needs to be in here?

6 A Yes, ma'am.

7 Q And have it thorough, accurate and complete?

8 A Yes, ma'am.

9 Q No further questions.

10 THE COURT: Have a nice day, sir.

11 Call your next witness.

12 MR. EATON: The State calls Investigator
13 Schroeder.

14 THE COURT: All right.

15 SHAWN SCHROEDER,
16 after being duly sworn, testified as follows:

17 THE CLERK: Please have a seat. State your full
18 name for the record.

19 THE WITNESS: Shawn Schroeder.

20 DIRECT EXAMINATION:

21 BY MR. EATON:

22 Q Good afternoon, Investigator Schroeder.

23 A Good afternoon.

24 Q Investigator Schroeder, where do you work?

25 A I'm employed at the Richland County Sheriff's

1 Department.

2 Q And what's your capacity there?

3 A I am currently a crime scene investigator and
4 latent print examiner.

5 Q And what are your duties as a crime scene
6 investigator?

7 A As a crime scene investigator, my duties include
8 identifying, documenting, collecting, processing
9 evidence related to any crime, completing crime scene
10 sketches, obtaining autopsies, and testifying in
11 court.

12 Q And you received training on these things?

13 A Yes.

14 Q Just briefly what would some of that training
15 cover without going through your whole CV, just
16 briefly, please.

17 A Approximately a year-and-a-half of in-house
18 training, which you go over all different types of
19 forensics, anywhere from crime scene processing,
20 latent print examinations, crime scene reconstruction,
21 footwear and tire track examinations, pretty much the
22 whole gamut, a year-and-a-half of that. Also attended
23 numerous classes, crime scene reconstruction, 40 hour
24 courses. I'm also a certified crime scene
25 investigator through the International Association for

1 Identification.

2 Q Okay. And in June of 2012, were you doing the
3 same stuff?

4 A Yes, sir.

5 Q And what was your first encounter with the
6 William Wallace case?

7 A My first encounter was when I was notified and
8 met with Sergeant Isenhoward at Bluff Road and Beckham
9 to meet with a Jeep Grand Cherokee where an incident
10 had occurred.

11 Q And what did you do there?

12 A At that time when I arrived on the scene, I
13 received a signed consent to search.

14 MS. HINES: Judge, he is reading from a report.
15 I don't believe the foundation has been laid for that.

16 BY MR. EATON:

17 Q Did you produce any reports in the course of your
18 investigation?

19 A I have.

20 Q Did you make those contemporaneously? Did you
21 make those while you were doing stuff?

22 A Absolutely.

23 Q Okay. And would you have step by step written
24 down things?

25 A Yes.

1 Q And after you memorialize that, do you keep it
2 somewhere?

3 A Yes, bench notes.

4 Q Bench notes. Is that what you're referring to
5 right now?

6 A That's correct.

7 MR. EATON: Judge, is this a sufficient
8 foundation for him to refer to his notes?

9 THE COURT: No, you have to show that he doesn't
10 have an independent memory of it to begin with before
11 he can use his notes to refresh his recollection.

12 THE WITNESS: That's fine. I don't need my
13 notes.

14 BY MR. EATON:

15 Q Okay. So after you arrive at the scene, what do
16 you start to do?

17 A At that scene when I arrived I was actually at
18 multiple different locations at this. As I recall,
19 there were several reddish brown stains in the
20 passenger's side of the vehicle. After I received the
21 signed consent to search, I went ahead, photographed,
22 documented the vehicle.

23 Q And which vehicle are we talking about?

24 A This is the Jeep Grand Cherokee.

25 Q Okay.

1 A Like I said, it was right there at Bluff Road and
2 Beckham parked right on the side of the Road. At that
3 time, I had photographed multiple stains, reddish
4 brown strains, on the vehicle, on the doorway, the
5 seats. I also collected swabs from the vehicle later
6 for DNA analysis and some gold in color sandals that I
7 also collected from that vehicle.

8 Q And did you go to any other scenes down on
9 Beckham Swamp?

10 A After that I was notified there was another scene
11 approximately a mile down Beckham Swamp Road, which is
12 just off Bluff Road, again down on the left-hand side.
13 The deputies had --- they had established a crime
14 scene there, so I responded there next.

15 Q And what did you find there?

16 A I met with Deputy D'Antoni. He had established a
17 crime scene, which consisted of a crime scene log, and
18 he restricted entry at that point, and there was crime
19 scene up in front of the gate. Then I proceeded from
20 there.

21 Q Okay. And go on with what you did next?

22 A What I did next was Deputy D'Antoni explained to
23 me how he had found some fired cartridge casings.

24 MS. HINES: Objection, relevance.

25 THE COURT: Overruled.

1 THE WITNESS: He had explained to me how he found
2 some fired cartridge casings at the front of the
3 entrance.

4 BY MR. EATON:

5 Q Let me stop you real quick.

6 Can we approach real quick, Your Honor?

7 THE COURT: Sure.

8 (WHEREUPON, a bench conference was held in the
9 presence, but not within the hearing of the
10 jury.)

11 BY MR. EATON:

12 Q Investigator Schroeder, did you find a cartridge
13 that was related to this case?

14 A I did.

15 Q Could you speak to that, please?

16 A Sure. Approximately 300 feet away from the road,
17 I observed a fired nine millimeter cartridge casing
18 which was --- I actually have photos of and marked.

19 Q Okay. Did you collect that?

20 A I did.

21 Q And did you find anything else related to what
22 allegedly happened to Ms. Weston at the scene?

23 A I did. Near the fired cartridge casing off the
24 road a little ways, it was a dirt path or a driveway,
25 I also found a black in colored mesh cloth and

1 numerous reddish brown stains believed to be blood
2 back there.

3 Q Did you take photos of those?

4 A I did.

5 Q Did you collect the mesh cloth?

6 A I did.

7 Q And did you take pictures of --- did you say you
8 found anything else at that particular point?

9 A I collected swabs from the reddish brown stains.
10 I collected the black in color mesh cloth and the
11 fired cartridge casing.

12 Q When you say the reddish brown stains, what do
13 you mean?

14 A Believed to be blood.

15 Q Okay. And then later did you process another
16 scene in the course of investigating this case?

17 A I did. Next --- it was the next day, which was
18 June 28, 2012. I was notified at 8:30 in the morning
19 by Sergeant Richards that there was a vehicle, a Grand
20 Marquee, that needed to be processed that was waiting
21 in our forensic garage.

22 Q And what did you do on the Grand Marquee?

23 A Again, as I go through with my documentation, I'm
24 going to photograph the entire exterior, interior of
25 the vehicle and go through and search for evidence

1 which I did have a signed consent to search at that
2 point.

3 MR. EATON: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes.

6 BY MR. EATON:

7 Q Okay. Investigator Schroeder, if you would
8 please, look through those pictures for me.

9 (Pause.)

10 A These are all photos that I took from the
11 separate scenes.

12 Q Okay. Do those photos --- do they look like the
13 scenes did when you were there?

14 A Yes, they are an accurate representation of the
15 scenes.

16 Q When you took the photos?

17 A That's correct.

18 MR. EATON: I would offer those as State's
19 Exhibits --- I'm sorry, if you would indulge me --- 46
20 through 81.

21 MS. HINES: Can I see those?

22 MS. HINES: No objection.

23 THE COURT: All right. State's 46 through 81
24 without objection.

25 (WHEREUPON, State's Exhibit Numbers 46 through 81

1 were admitted into evidence.)

2 BY MR. EATON:

3 Q Investigator Schroeder, if I could just --- if
4 it's okay with the court, if I could just get you to
5 step down here ---

6 THE COURT: Keep your voice up.

7 MR. EATON: --- with this pointer here.

8 THE COURT: It will work better if you stand on
9 the other side so the court reporter can hear you and
10 so you don't block the juror's views.

11 Lights on, okay?

12 THE FOREMAN: Yes, sir.

13 THE COURT: Okay. Everybody, okay?

14 BY MR. EATON:

15 Q Can you tell the jury what we are looking at
16 here?

17 A Sure. This is going to be little difficult to
18 see here, but these are actually what I'm marking with
19 markers. This is (A) through (C) here, which are the
20 reddish brown stains that I'm referring to and this is
21 inside of the Jeep Grand Cherokee that was found at
22 Bluff and Beckham.

23 Q State's Exhibit 65, 66?

24 A Again, this is just going to be a close-up of the
25 reddish brown stains, Marker (A).

1 Q Sixty-seven?

2 A I can't see actually what angle this is. This is
3 alpha, as well. Just as crime scene investigators,
4 you would generally do an overview picture of an
5 overall and then a midrange and then get closer and
6 close-up. That's what you see here.

7 All right. This is going to be the dirt path
8 that I was referring to on Beckham Swamp, off of
9 Beckham Swamp, and this is going to be Marker Zulu, I
10 believe, which is the fired nine millimeter cartridge
11 casing.

12 Q What's State's Exhibit 51, 52?

13 A This is going to be Marker (Z) again, a little
14 closer in reference to Marker (Y), Yankee, which is
15 going to be reddish brown stains and where the black
16 mesh cloth is going to be back here, as well.

17 Q Exhibit 53?

18 A All right. And here is marker Y, Yankee, a
19 little closer. It's a midrange photo.

20 Q Fifty-four?

21 A Again, (Y) and also, I believe that this is going
22 to be the reddish brown stains that were marked
23 closer.

24 Q Exhibit 55?

25 A All right. Again, just a little closer on that

1 photo. You see the broken branch, as well, as the
2 marker back here.

3 Q And 56?

4 A There is a close --- a close-up. This is going
5 to be (Y-1), which is the reddish brown stain on one
6 of the branches.

7 Q Exhibit 57?

8 A All right. Again, this is just a little further
9 away. The reddish brown stains that you can see on
10 the branch.

11 Q Fifty-eight?

12 A All right. This is going to be Y-2 in the same
13 vicinity.

14 Q Fifty-nine?

15 A All right. This is going to be both Y-1 and 2
16 together.

17 Q Sixty.

18 A All right. This is a photo in reference to Y-1
19 and 2 were, the reddish brown stains. X is actually
20 going to be marking the black in color cloth back
21 here.

22 Q Is there anything else over near X?

23 A Without looking at my notes --- there may be some
24 stains back there, as well.

25 Q All right. Sixty-one?

1 A All right. You can --- actually with 1, this is
2 going to be numerous reddish brown stains in this
3 area.

4 Q And 62?

5 A All right. Again, just showing that area, and
6 down here, this --- can I look at that photo real
7 quick just to make sure I'm saying it correctly?

8 (Complies.)

9 Without --- I'm not 100 percent sure if this is
10 the black in color mesh cloth, but it's possible.
11 It's going to be in that area. It should be on one of
12 the photos, as well.

13 Q What does this show?

14 A This is the general GPS location where we were at
15 right off of Beckham Swamp or right off Beckham Swamp
16 Road.

17 Q I'm sorry. We're going back in time here.

18 A All right. This is going to be back at the Jeep
19 Grand Cherokee, Marker Charlie, reddish brown stains
20 on the passenger's side door handle.

21 Q Fifty?

22 A This is going to be another mid-range photo of
23 the nine millimeter cartridge casing.

24 Q Fifty-six?

25 A All right. Again, just an overall area of that

1 photo you can see right there. It's common for us to
2 take photos without markers to show the scene before
3 we put anything in. That's what this is doing,
4 showing the scene as I found it.

5 Q Forty-seven and this is 48.

6 A Same, showing the general area there.

7 Q And 49.

8 A That's going to be Marker Zulu showing the
9 overall area.

10 Q Exhibit 68?

11 A All right. This was --- actually, when I came
12 back to the lab, it's common what we do is we're going
13 to go ahead and take the evidence and process it
14 further, so at this time, I took that cartridge
15 casing, Marker Zulu, that you saw out in the brush
16 there, and I photographed it a little closer.

17 Q Okay. Exhibit 69?

18 A All right. This is going to be closer yet. You
19 can see it's a Ruger nine millimeter RP fired.

20 Q Seventy?

21 A Again, just another different range photograph on
22 that one.

23 Q Seventy-one?

24 A This is just the laid down portion of the same
25 fired cartridge casing.

1 Q I'm sorry, 72 --- 74?

2 A Now referring --- I also collected that black in
3 color --- I call it a black in color mesh cloth. I'm
4 not sure exactly what this is. You can see numerous
5 reddish brown stains on it, and this is just some
6 closer up photos.

7 Q Seventy-two?

8 A All right. Here is a closer up photo. There was
9 actually a hole in the center of this cloth. I
10 believe we'll have a better picture here of that, but
11 this is a very, very close-up photo of that. You can
12 see the reddish brown stains.

13 Q Seventy-three?

14 A All right. I ended up marking this.

15 Q Okay.

16 A That's the next photograph. Just a photograph
17 that's a little ways away.

18 Q Seventy-five?

19 A All right. This is where I'm specifically
20 marking the hole right there with Marker (A).

21 Q What does Exhibit 76 show?

22 A All right. When I was talking in reference to
23 the vehicle the next day on June 28th when I went back
24 to the forensic garage, this would be the silver in
25 color Grand Marquee, and you'll see what I did here is

1 I'll go through and I'll photograph the exterior and
2 the interior as I found it. It's just a different
3 angle of the vehicle.

4 Q Seventy-seven and then 78?

5 A The other side.

6 Q Seventy-nine?

7 A All right. When I was searching the vehicle, I
8 did find a receipt. As you can see, this is from the
9 Dollar General store. It was approximately on
10 June 28th, 2012, at 2:07 in the afternoon, and this
11 was also for Hanes men three pack crew shirts.

12 Q And 80?

13 A This is going to be one of the shirts located in
14 a Dollar General bag with it, which was in the bag
15 with the receipt.

16 Q And 81?

17 A Just another photograph that was further away
18 taken of the Hanes t-shirt.

19 Q Thank you. If you could hold tight one second
20 for me, Investigator. What does this image show?

21 A This image is going to show Beckham Swamp Road.
22 This is Beckham Swamp running this direction. Up a
23 little further is going to be Bluff Road. This runs
24 kind of near where the jail is at, the Richland County
25 jail. It's right over in that vicinity, so Beckham

1 Swamp, approximately one mile down the road, there is
2 this cut right here. This is actually a private
3 driveway. That's what I'm referring to. The initial
4 crime scene was established right here.

5 You'll go and you'll see many of my photographs,
6 I have actually probably walked three quarters of the
7 way down there because the scene was so large. It's
8 very, very difficult to instantly go find, you know,
9 something in the woods like that, so it took a little
10 while.

11 Anyways, so when we got here, this is where
12 Deputy D'Antoni was parked, approximately right here.
13 This is where I parked. Here, there is actually a
14 gate. This is approximately 70 feet from the road, so
15 what I had done was I actually created a sketch a
16 little while later. I came back out here and created
17 a sketch and took approximate measurements where
18 everything took place at.

19 That's how I know this is approximately 70 feet
20 and approximately 300 feet, which would be in this
21 general area is where the fired nine millimeter
22 cartridge casing along with the reddish brown stains
23 and black in color mesh cloth were located so around
24 the left-hand side.

25 Q And Investigator Schroeder, did you make a

1 diagram ---

2 A I did.

3 Q --- of the scene?

4 MR. EATON: Beg the Court's indulgence.

5 (Pause.)

6 BY MR. EATON:

7 Q And Investigator Schroeder, what is this right
8 here?

9 A This is going to be my final sketch that was
10 created from a rough sketch that I created.

11 Q Does this look the same as when you made it?

12 A It is the same.

13 MR. EATON: I would offer ---

14 THE WITNESS: Just a copy of it.

15 MR. EATON: I would offer this as State's
16 Exhibit 45.

17 THE COURT: Any objection?

18 MS. HINES: No objection.

19 THE COURT: Forty-five without objection.

20 (WHEREUPON, State's Exhibit Number 45 was
21 admitted into evidence.)

22 THE WITNESS: All right. I just --- for this
23 case, I went through and took measurements. It was a
24 little while later. I just went to this location
25 again. These are not to scale, obviously, but this is

1 going to be a general vicinity. In fact, I found some
2 of my same markers when I went out there. I left them
3 out there so I could do that.

4 You'll see here from Beckham Swamp Road that you
5 can see on the other image, that it's marked
6 approximately 70 feet, the gate. From there this
7 stretch was approximately 300 feet where you could
8 see.

9 Now, I also went the distance off the roadway of
10 the items. The fired nine millimeter cartridge casing
11 that was recovered was approximately one foot from the
12 drive, and these were Y-1 and Y-2. These were
13 approximately 13 feet, which were the reddish brown
14 stains, from the drive and approximately 18-and-a-half
15 feet, this was the black in color mesh cloth along
16 with another reddish brown stain, and these were ---
17 there was a depression in the ground, which was --- it
18 was approximately 3 feet deep.

19 BY MR. EATON:

20 Q Thank you. You can take a seat again,
21 Investigator Schroeder.

22 A Okay.

23 MR. EATON: May I approach, Your Honor?

24 THE COURT: Yes.

25 BY MR. EATON:

1 Q Investigator Schroeder, would you take a look at
2 that, please?

3 A Sure.

4 Q What did I hand you?

5 A When we collect evidence, it's usually in what
6 the crime scene investigator --- it's going to be in
7 an envelope very similar to this.

8 MS. HINES: Judge, objection, this hasn't been
9 admitted.

10 THE COURT: The question is what is it.

11 THE WITNESS: This is a nine millimeter fired
12 cartridge casing marked as Z that you saw on the
13 diagram.

14 BY MR. EATON:

15 Q And did you collect that?

16 A I did. This was collected by me. The way that
17 we know that is my name is on here, which I collected
18 it June 28th, 2012.

19 Q And the Z, you mentioned, that corresponds to the
20 Z we saw?

21 A That's correct. That's the marker number that I
22 used to mark the photograph and I used on the
23 evidence, as well.

24 Q And when you collected this, what did you do with
25 it?

1 A At this time, when I collected this, I brought it
2 back to the lab, photographed it and I also fumed it,
3 which is a processing term for cyanoacrylate.

4 Basically I'm looking for fingerprints on it at that
5 point. It was negative for fingerprints, and I
6 collected a DNA swab at that point.

7 Q And then what did you do with it?

8 A And then I returned --- I submitted it to
9 evidence at that point.

10 Q And what was the process for doing that?

11 A After I'm completed with it, somebody else may
12 need it so I submitted this to evidence so somebody
13 else may follow-up.

14 This time I had marked firearms, so the firearms
15 examiner would come behind me, collect this and do his
16 work to it.

17 Q Can you tell from looking at that if it is in the
18 same condition when you put it into evidence?

19 A Can I open it?

20 Q Certainly. Does anything about the packaging
21 tell you that?

22 A If it's in the same condition?

23 Q That it's the same as when you put it into
24 evidence on the outside?

25 A It is. The way that we mark that is you can tell

1 that I went through and I had this because my initials
2 and the date were actually marked on here. That's how
3 we track that. Then somebody did come behind me, as
4 well, but initials and date at a separate time. I
5 assume that's the firearms examiner.

6 Q Anyway, if you would go ahead and look at it.

7 A Sure. Also, you'll notice from the photograph
8 that I had the envelope in it, which was --- it says
9 fired cartridge casing Marker (Z). that was in my
10 photograph. That is what I had used. It's in the
11 same condition.

12 Q Okay. I don't know what number we're on right
13 now, I'm sorry.

14 THE COURT REPORTER: Eighty-two.

15 MR. EATON: I would offer this as State's Exhibit
16 Number 82.

17 (WHEREUPON, State's Exhibit Numbers 82 was marked
18 for identification only.)

19 MS. HINES: No objection.

20 THE COURT: Without objection. Thank you.

21 (WHEREUPON, State's Exhibit Number 82 was
22 admitted into evidence.)

23 BY MR. EATON:

24 Q Okay, 82.

25 A This is going to be the black in color mesh cloth

1 that I had collected.

2 Q To save time, the procedures you used on the
3 casing, did you use those for collecting this?

4 A The same collection procedures, and you saw the
5 photography procedures, all that I did separately with
6 this was that I submitted this for DNA, so I didn't
7 actually process this for fingerprints, but I did
8 photograph it.

9 Q Okay. If you could pull it out the back of this?

10 A Sure. Do you have gloves? This is actually a
11 biohazard.

12 Q Yes, we do.

13 A I like to bring my own.

14 MS. HINES: Judge, if this hadn't been admitted,
15 I would ask that it be admitted prior to it being
16 published.

17 THE COURT: He is not publishing it. He is
18 looking to see what it is. Don't publish it.

19 MR. EATON: Just keep it below the counter.

20 THE COURT: Just look at it to see what it is.

21 BY MR. EATON:

22 Q Please tell us what this is.

23 A This is the same black in color mesh cloth.

24 Q Is it in the same condition as when you put it
25 into evidence?

1 A It is.

2 Q I would offer this as State's Exhibit 83?

3 MS. HINES: No objection.

4 THE COURT: All right, without objection.

5 (WHEREUPON, State's Exhibit Number 83 was marked
6 for identification and admitted into evidence.)

7 THE WITNESS: Can I show this?

8 MR. EATON: Please do.

9 THE WITNESS: What I'd like to show here is ---
10 you can see it better, which is the hole in the center
11 of it. Can I step down?

12 THE COURT: Yes.

13 THE WITNESS: If everyone can see that.

14 BY MR. EATON:

15 Q Does it still have red stains?

16 A Yes, still reddish brown stains on it.

17 Q Okay. I'm going to trade with you.

18 I'm going to hand you this, Investigator
19 Schroeder.

20 A All right.

21 Q If you could just put it down here for right now,
22 please. I'm marking this as 83.

23 Could you tell us what you see in that box,
24 please?

25 A This is the Dollar General bag that I had

1 collected from the Grand Marquee from --- with the ---
2 this is what had the light in color t-shirt and the
3 receipt in it.

4 Q Could you just look in the bag for us without
5 showing it to the jury, please?

6 A There is a receipt and at least one white in
7 color t-shirt in there, possibly two.

8 Q Do these look the same as when you entered them
9 into evidence?

10 A They do.

11 Q Okay.

12 MR. EATON: I would offer the bag and its
13 contents as State's Exhibit 84?

14 MS. HINES: I'm sorry to get too close to you.
15 Let me make sure there is nothing --- no
16 objection.

17 (WHEREUPON, State's Exhibit Number 84 was marked
18 for identification and admitted into evidence.)

19 BY MR. EATON:

20 Q If you could just show that to the jury, please?

21 THE COURT: That's State's Exhibit Number 84
22 without objection, for the record.

23 MR. EATON: Thank you, Your Honor.

24 THE WITNESS: You'll notice from the photograph
25 there are two standard white in color Hanes t-shirts

1 and also the Dollar General receipt that I had
2 photographed up close. That's what this is referring
3 to from June 28, 2012, at 2:07 p.m. for Hanes men's
4 three pack, three extra large shirts.

5 BY MR. EATON:

6 Q Did you do any further analysis on those shirts?

7 A I did not.

8 Q Thank you Investigator, that's all my questions.

9 If you would please answer questions of the defense.

10 THE COURT: Cross?

11 MS. HINES: Yes, Judge. Thank you.

12 CROSS-EXAMINATION:

13 BY MS. HINES:

14 Q How are you doing?

15 A Good. Thank you.

16 Q No, I don't want it turned on. I just want this
17 maybe pushed down.

18 MS. SAMPSON: Is that good?

19 MS. HINES: Thank you.

20 BY MS. HINES:

21 Q How are you doing? Sorry about that.

22 A Good. Thank you.

23 Q I get distracted when there is something
24 blocking.

25 A True.

1 Q Okay. So on the --- when you arrived at Bluff
2 Road and Beckham Swap at the Jeep Cherokee?

3 A Yes, ma'am.

4 Q You were just there to photograph? The victim
5 was gone, right?

6 A The victim was gone, yes.

7 Q Okay.

8 A And I was there just to document the scene as it
9 was found.

10 Q Okay. And you took swabs of these reddish brown
11 stains?

12 A Correct, from the Jeep, from the inside.

13 Q Okay. And then you arrived down at Beckham Swamp
14 down the second --- in the woods?

15 A Yes.

16 Q At 1:36 according to the crime scene log?

17 A Can I refer to my notes, just to double check?

18 Q Yes. Would it ---

19 A Oh.

20 Q --- help you to refresh your recollection to
21 refer to your notes?

22 A Absolutely, with all the time.

23 Q Okay.

24 (Pause.)

25 A Yes. According to the crime scene log, yes,

1 13:36.

2 Q Can I see your notes?

3 A Sure. The bench notes will be further down.

4 Q I'll give you those back. Okay. And you
5 actually --- it was Corporal Moreland that found the
6 --- you were there looking for the local --- the local
7 area, and it was actually Corporal Moreland that found
8 that?

9 A That's correct.

10 Q Where the (Z) marker, (X), (Y), and (Z) markers
11 that you talked about earlier were?

12 A The general area, correct, he did find that.

13 Q He found the general area, and he arrived
14 actually at 2:05, correct?

15 A If that's what's on the crime scene log, correct.

16 Q So there had been several other people there
17 looking for, walking the road or ...

18 A No. What had happened was once the crime scene
19 was secured, nobody went past it at that point. When
20 I arrived, I did a preliminary walk through of the
21 scene. It was such an extensive scene that I walked,
22 like I said, approximately three quarters of a mile
23 down to a corn field and there were some bends in the
24 road looking for the scene, and there was quite some
25 time that had passed so I came up probably

1 approximately when Corporal, Sergeant now, Moreland
2 arrived. I recruited their help. I said, hey can you
3 help me maybe look for something. We were in a very
4 close vicinity together looking together.

5 Q Okay. And he was the one that actually found it?

6 A He found a broken branch. He hunts a lot. He
7 noticed this branch that was broken. He said let's
8 go, Schroeder, I think I found something over here,
9 and then I came over.

10 Q And did you find the cartridge?

11 A The cartridge --- I observed the cartridge. Like
12 I said, we were all together, but yes. I was the only
13 one that went to the cartridge.

14 Q Okay. But it's possible that somebody else
15 actually spotted it before you?

16 A Sure. It's possible.

17 Q If it was in another report that Skipper ---
18 that.

19 I don't know the correct --- Officer Skipper, I
20 guess?

21 A Sure, Sergeant Skipper.

22 Q Sergeant Skipper ---

23 A Uh-huh.

24 Q --- was out there and actually located the
25 cartridge, you would not disagree with that?

1 A I don't disagree with that.

2 Q Okay.

3 A Like I said, we were all very, very close
4 together, probably within ten, 20 feet of each other,
5 so looking, you know just scanning the area for
6 different evidence.

7 Q And you testified on direct that you take an
8 overall picture --- try to take an overall picture, a
9 midrange picture, and a close-up picture?

10 A Try to when possible, yes.

11 Q But there's not a close-up picture of Marker (Z),
12 correct?

13 A Not that I saw, no.

14 Q And there's not a close-up picture of the
15 cartridge on the ground, unless I'm mistaken.

16 A The close-up --- well, it depends on what you
17 refer to as close-up. I mean, there are several
18 photos of it and then, of course, the photos when I
19 took it back to the lab. It was actually buried in
20 the grass, as well, so with a close-up from directly
21 above, it makes it kind of hard to see, you know, a
22 fired cartridge casing.

23 Q Excuse me. Okay. And let me just show you the
24 pictures that appear to me to be showing Marker (Z).

25 A Okay.

1 Q And have you look at those.

2 A Sure. All right.

3 Q There's not really a close-up where you can
4 actually see the cartridge case itself, correct?

5 A It's not a direct down shot. I think that's what
6 you're referring to.

7 Q Yeah.

8 A There is no direct down shot, that's correct.

9 Q So you just kind of see where it was from there?

10 A Well, when you have a scene with so many
11 cartridges, generally what you'll do is down in the
12 grass, you're trying to get like dimensions of space
13 basically, so what you do is refer markers to each
14 other.

15 Q Uh-huh.

16 A That's what I was specifically trying to do here.
17 Now, there is --- if you --- if you look here, there
18 is --- this would probably be what I would consider an
19 overall photograph of that area.

20 Q Uh-huh.

21 A It would be something like that, midrange.

22 Q All right.

23 A And a close-up.

24 Q Okay. So this is the close-up?

25 A Right. It is not a direct down shot, probably

1 because there was a lot a lot of grass over it.

2 Q Okay. Where exactly on that is the cartridge?

3 A If I could zoom in the photo, I could tell you.

4 It's in the grass in there.

5 Q Okay.

6 A I mean, that's why I put the marker down so we
7 can see it and photograph it.

8 Q Okay.

9 A Here are these, as well.

10 Q Oh. And then you swabbed all of this stuff for
11 DNA swabs, correct?

12 A That's correct.

13 Q The reddish brown stains?

14 A The reddish brown stains.

15 Q The reddish brown stains, you swabbed the stains
16 that were on the broken reed bamboo shoot thing?

17 A That's correct.

18 Q You swabbed the mesh, the black mesh cloth?

19 A I did not swab the black mesh cloth. I just
20 submitted it.

21 Q You submitted that directly so that they could
22 extract what they needed and still have the whole
23 thing?

24 A That's correct.

25 Q And you swabbed the cartridge casing?

1 A That's correct.

2 Q And the car seat of the Jeep Cherokee?

3 A The markers that I marked, which was one
4 through --- or Alpha through Charlie, if I remember
5 correctly.

6 Q Okay. And in your report, when you processed the
7 car, one of the things you were looking for was
8 weapons and ammunition, correct?

9 A That's just standard, but yes, that's correct.

10 Q That's what you noted?

11 A Just any type of evidence that would possibly be
12 related to a crime.

13 Q Right. And you did note in your report, though,
14 that you were looking --- searching, conducted a
15 search for possible weapons and ammo with negative
16 results?

17 A Correct.

18 Q So you did not find any kind of weapons,
19 ammunition, anything related to firearms in the Grand
20 Marquee that you processed?

21 A That is correct.

22 Q Beg the Court's indulgence.

23 (Pause.)

24 No further questions. Thank you.

25 THE COURT: Redirect?

REDIRECT EXAMINATION:

BY MR. EATON:

Q Investigator Schroeder, you took a lot of
photographs at Beckham Swamp?

A I did.

Q Were there photographs that you took that we
didn't introduce?

MS. HINES: Objection.

THE COURT: Sustained.

MR. EATON: I nothing further, Your Honor.

THE COURT: All right. Have a nice day.

Call your next witness.

MR. EATON: State calls Investigator Hal Boland.

JAMES HAL BOLAND,

after being duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full
name for the record.

THE WITNESS: James Boland.

DIRECT EXAMINATION:

BY MR. EATON:

Q Good afternoon, Investigator Boland.

Investigator Boland, where do you work?

A Richland County Sheriff's Department.

Q And what do you do there?

A I am currently a criminal investigator with the

1 Criminal Investigative Division.

2 Q And in June of 2012, what were you doing?

3 A I was an investigator then also.

4 Q And how did you first come into contact with the
5 William Wallace case?

6 A If I recall, Captain McDonald had instructed me
7 to come by the office; that there was a victim in the
8 case that had gone to the hospital to be treated and
9 that I was to meet with Captain McDonald, retrieve a
10 photo lineup, and then go down to the hospital and
11 meet with one of the victims.

12 Q Okay. Did you go get the lineup?

13 A I did.

14 Q What did you then do?

15 A I then proceeded down to Richland Memorial
16 Hospital and met with Ms. Weston, the victim.

17 Q Do you remember about when this was, at the time?

18 A You're talking about day or year?

19 Q Day and time.

20 A It was probably afternoon, I believe.

21 Q And did you go to the hospital?

22 A I did.

23 Q And what did you do?

24 A I went over to Ms. Weston. She was laying on a
25 gurney. Her head was bandaged. Obviously, there was

1 some blood that was still visible. I had introduced
2 myself, told her who I was. I asked her then if she
3 know who did this to her. She answered yes.

4 MR. HAWKS: Objection, hearsay.

5 THE COURT: Sustained.

6 BY MR. EATON:

7 Q Did you show her the lineup?

8 A I did.

9 Q Was she able to identify anybody in the lineup?

10 A Yes.

11 Q Who did she identify?

12 A She indicated William Wallace.

13 Q How did she identify him? How did she indicate
14 this?

15 A She pointed to the picture.

16 Q Was she able to write at that time?

17 A At that time, no.

18 Q Why not?

19 A She was being treated. She was on a gurney, had
20 a C-spine immobilized. She was restricted in her
21 movement.

22 Q She was able to point?

23 A Right.

24 Q Who did she point to?

25 A William Wallace.

1 Q Did you do anything else there?

2 A I may have asked her, you know, what had
3 happened.

4 Q How many pictures would you normally put on the
5 lineup?

6 A We typically put six.

7 Q Did she hesitate?

8 A No.

9 Q Was she emotional?

10 A She was coherent. I was able to speak with her,
11 understand her. I don't remember if --- I mean, she
12 wasn't hysterical where she couldn't communicate with
13 me.

14 Q Did you have contact with Ms. Weston later?

15 A Yes.

16 Q And what was that?

17 A I assisted Captain McDonald a second time showing
18 the photo lineup.

19 Q And what was that lineup for?

20 A That was for the other individual that was
21 involved.

22 Q And what happened when you presented her with
23 that?

24 A She was able to indicate who the other person was
25 and she signed it.

1 Q You were with Captain McDonald?

2 A Right.

3 MR. EATON: Beg the Court's indulgence, please.

4 (Pause.)

5 BY MR. EATON:

6 Q Did you relay information to Captain McDonald
7 that you learned from Raquel?

8 A Yes.

9 MR. EATON: No further questions.

10 THE COURT: Cross?

11 MR. HAWKS: May it please the Court.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION:

14 BY MR. HAWKS:

15 Q Good afternoon, Investigator Boland.

16 A Yes, sir.

17 Q That first time you went to see her, she was
18 lucid?

19 A Yes.

20 Q Were there nurses in the room?

21 A I'm sure there were.

22 Q Was there family in the room?

23 A I don't remember seeing her family at that time,
24 no.

25 Q Do you know if she was administered anesthesia?

1 A I do not.

2 Q Did she have an I.V.?

3 A I don't recall.

4 Q Do you know about how long she had been at the
5 hospital at that point?

6 A No. I mean, within hours.

7 Q Hours.

8 Q Did you take any notes or write a report?

9 A I did do an investigative follow-up.

10 Q And you referred to the victim as Beverly Weston?

11 A Right.

12 Q And then later on in the report and on direct you
13 said that she had mentioned the person involved was
14 William Wallace?

15 A Yes.

16 Q And she only said the person involved?

17 A I asked her, "Do you know who did this to you?"

18 Q But your report says you asked her if she knew
19 the name of the person involved?

20 A Okay.

21 Q So yes?

22 A Yes. It's in there.

23 Q And did --- I'm not sure of his title,
24 Isenhoward?

25 A Yeah, he's a sergeant.

1 Q Sergeant. Did he go with you the first time?

2 A No.

3 Q Did anyone go with you?

4 A No.

5 MR. HAWKS: Beg the Court's indulgence.

6 (Pause.)

7 MR. HAWKS: Nothing further.

8 MR. EATON: Very briefly, Your Honor.

9 REDIRECT EXAMINATION:

10 BY MR. EATON:

11 Q On cross just now, you were asked about what you
12 had asked Ms. Weston and what she said?

13 A Uh-huh.

14 Q What did you ask her exactly?

15 A I asked her, "Do you know who did this to you?"

16 Q What did she say?

17 A She said, "Yes." I said, "Who was it?" She
18 said, "William."

19 MR. EATON: Thank you. No further questions.

20 MR. HAWKS: Very briefly, Your Honor.

21 RECROSS-EXAMINATION:

22 BY MR. HAWKS:

23 Q But in your report, you didn't write it that way?

24 A Okay.

25 Q I need a yes or no.

1 A You mentioned earlier that I had used the word
2 involved.

3 Q Yes.

4 A Okay.

5 Q In your report, you wrote, "... the person
6 involved," and she answered, "William"?

7 MR. EATON: If I may, Your Honor, I think the
8 investigator probably should see the notes.

9 MR. HAWKS: Yeah.

10 THE COURT: Show it to him.

11 MR. HAWKS: Certainly.

12 (Pause.)

13 BY MR. HAWKS:

14 Q Is that what you wrote?

15 A Yes.

16 Q Thank you.

17 A Uh-huh.

18 MR. HAWKS: Nothing further.

19 THE COURT: All right. Have a good day.

20 How long is the next one?

21 MS. SAMPSON: It will be short. I just need to
22 see if their out there. She went to get them. I'm
23 not sure.

24 THE COURT: Okay. Call the next witness.

25 MR. COBLE: Your Honor, the State would call

1 Sandra Wallace.

2 SANDRA WALLACE,
3 after being duly sworn, testified as follows:

4 THE CLERK: Please have a seat. State your full
5 name for the record.

6 THE COURT: All right. Tell us your full name,
7 ma'am.

8 THE WITNESS: Sandra Wallace.

9 THE COURT: Thank you.

10 THE WITNESS: Uh-huh.

11 DIRECT EXAMINATION:

12 BY MR. COBLE:

13 Q Ms. Wallace, where are you from?

14 A Columbia.

15 Q Are you related to the defendant?

16 A That's my nephew.

17 Q On your brother's or your sister's side?

18 A My sister.

19 Q Did you speak with an investigator last July
20 about this case?

21 A Yes.

22 Q Do you recall what you told him?

23 A Yes.

24 Q Did you speak with your nephew on
25 June 28th, 2012?

1 A Yes, yes, I did.

2 Q Did you speak --- how was it, via phone or in
3 person?

4 A By phone.

5 Q Do you know where he was calling from?

6 A From the jail.

7 Q And what did he tell you?

8 A Well, when he called, he said --- he was telling
9 me to get in touch with his brother. Now, I know it
10 was something. It was more that he was saying --- but
11 I wanted him --- I was asking him like, Bubby, what
12 happened. He was saying like no, you know, just I
13 don't know. He said, "I didn't do anything." He said
14 to get in touch with Pooh or his brother B-Mack. It's
15 one of the two.

16 Q You said Bubby; is that the defendant? Is that
17 what you call him?

18 A We call him Bubby.

19 Q And who is Pooh?

20 A Pooh is his brother.

21 Q And you also said B-Mack?

22 A Yes.

23 Q What is the relation to B-Mack to the defendant?

24 A That's the brother on his dad's side.

25 Q The defendant wanted you to get in touch.

1 A Yeah.

2 Q What did he want to get in touch with them about?

3 A I think he wanted me to tell Pooh to come to my
4 house. You see, you got to understand that I really
5 was trying to talk to him because I wanted to know
6 what happened only because seven months before that, I
7 lost a soon.

8 MS. SAMPSON: Objection.

9 MS. HINES: Objection.

10 THE WITNESS: I'm just saying, you know, just so
11 you understand ---

12 THE COURT: Stop. Stop. When I talk, you don't
13 talk.

14 THE WITNESS: Uh-huh.

15 THE COURT: Do you understand that?

16 THE WITNESS: Yes.

17 THE COURT: Okay. You need to just answer the
18 question directly.

19 THE WITNESS: I'm trying to answer the question
20 directly.

21 THE COURT: Okay. We don't need any extraneous
22 information.

23 THE WITNESS: Okay.

24 MR. COBLE: Beg the Court's indulgence.

25 THE WITNESS: What did he say?

1 MR. COBLE: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 BY MR. COBLE:

5 Q Ms. Wallace, would it help to refresh your memory
6 if you had a written copy of the statement that you
7 gave?

8 A Yes.

9 Q Now, Ms. Wallace, do you see on the front page
10 down at the bottom. Is that your signature?

11 A Yes. It's my signature. Yes, yes.

12 Q Now, do you see the first question where it said,
13 "Did you answer a call at your house on June 28th to
14 talk to William Wallace aka Bumbee?"

15 A Yeah.

16 Q What did you say?

17 A I said that yes, he had called, and he was asking
18 did Pooh got to my house yet because he --- he wanted
19 to talk to Pooh. That's why he wanted me to call
20 Pooh.

21 Q Yes, ma'am.

22 A And I couldn't get in touch with Pooh, so he was
23 saying that I could get in touch with his other
24 brother to see if he could get in touch with Pooh.

25 Q Yes, ma'am, if you could keep reading where you

1 left off where it says, "I asked him..." Could you
2 finish that sentence for me?

3 A "I hear from ---"

4 Q Could you read that out loud?

5 A No. Okay. Now, this thing say, "I told him to
6 tell Pooh to get something from my neighbor house."
7 Let me tell you something, sir, I didn't say that. I
8 did not.

9 Q All right. Could you read that next sentence?

10 A "And I got off the phone with Bumble and called
11 B-Mack, yeah, and Bumble had ---"

12 Q We skipped ahead a little bit. Let me take you
13 back a little bit.

14 A Okay.

15 Q Where it says, "He then told me about some
16 things..." Could you read that sentence?

17 A He then told me about --- he needed Pooh to get
18 some things from the little house, Vernell house, he
19 mentioned a --- " no, I did not say none of this.

20 Q Is this not your statement, ma'am?

21 A Sir, I don't know how this thing works, but I
22 know exactly what I said. I said nothing about this,
23 nothing. I did not told that man none of that. I
24 talked to Investigator McDonald.

25 Q Ma'am.

1 A I know exactly what I talked to. I didn't tell
2 him nothing like that.

3 Q Who is Vernell?

4 A Vernell is my sister.

5 Q That's also the defendant's, your nephew's aunt,
6 as well?

7 A Yes.

8 Q Now, do you see the second question on this,
9 still on page 1?

10 A Yes.

11 Q Do you know who Gottie is?

12 A Yes.

13 Q Could you read what you answered?

14 A Yeah. "Gottie's name is DeAndre Diggs, the
15 picture you put in front of me, Alvin S. Glenn, yeah,
16 yeah," but he asked me did I know a Gottie. I said,
17 "Yes." The Gottie I know, his name is DeAndre Diggs."
18 I said maybe Whitmore. That's the family name. I
19 know exactly what I told him.

20 Q Ms. Wallace, did you see DeAndre Diggs and your
21 nephew ---

22 A No.

23 Q --- on June 28th?

24 A No, I didn't.

25 Q You didn't see them together?

1 A No.

2 Q Now, could you read down to this second question
3 where it says, "I knew then..." Do you see where that
4 sentence begins?

5 A Yeah.

6 Q Could you read that sentence out loud please,
7 ma'am?

8 A Okay. "I knew then Gottie was seeing Bumbee
9 earlier that day. I called you, and he let me know
10 Friday."

11 Q Could you --- I'm sorry, that sentence you just
12 skipped over a piece?

13 A I don't understand that.

14 Q Beg the Court's indulgence?

15 A Okay. No. In other words, you're saying that I
16 said that, that I saw them together?

17 Q I'm trying to get you to read your statement.

18 A But, sir ---

19 MR. COBLE: Your Honor, beg the Court's
20 indulgence.

21 THE WITNESS: I ain't said none of that.

22 BY MR. COBLE:

23 Q Back to this sentence where it says, "I knew then
24 that since Gottie was seen with Bumbee earlier in the
25 day, that day he must be involved. I called you and

1 left a message to call me on Friday." Did you say
2 that?

3 A No. I did not. How did I know that Bumble and
4 Gottie was together when I was at work.

5 Q Ma'am?

6 A How would I know they was together. You can pull
7 my record --- I mean, how would I know they was
8 together.

9 Q It says, "I used to live down on Palmland and
10 Marathon Drive and I knew Gottie's sister, Angela
11 Whitmore, from school. We all grew up together.
12 Gottie is a little bit younger than I am."

13 A Yeah.

14 Q Did you not say that as well?

15 A Yeah, I sure did.

16 Q So you did say that?

17 A Yeah, I said that.

18 Q And then the third question it says, "Is there
19 anything else you can think of that might help us that
20 I haven't asked you?" You answered, "Gottie hangs
21 around Bailey Street and has a girlfriend down there
22 somewhere." Did you say that, as well?

23 A Yes, that is true. That is so much true.

24 Q Okay. Now, ma'am, let me jump back to the first
25 question where it says, "Did you answer a call at your

1 house on June 28th around 10:14 P.M. and talk with
2 William Wallace aka Bumbee." You were asked that
3 question, correct?

4 A Yes.

5 Q And it says, "Yes, he called and was asking if
6 Pooh had gotten to my house yet. I asked him was he
7 supposed to come to my house."

8 A Yes.

9 Q You said that, correct?

10 A Yes, because he said that he wanted to talk to
11 him.

12 Q And then you go on to say "Bumbee then asked if
13 Little Charles was there. I told him he wasn't there
14 at the time. He then told me about some things he
15 needed Pooh to get from the little house behind
16 Vernell's house." You said that, too, correct?

17 A No, I did not.

18 Q Did you not say then, "He mentioned a white trash
19 bag, a Gucci bag and a clear tone one on the tread
20 machine. He told me to call Pooh or B-Mack to handle
21 this. He gave me a number to call B-Mack." You
22 didn't say that?

23 A No, I sure didn't.

24 Q Did you also not say, "After I got off the phone
25 with Bumbee, I called B-Mack who is Bumbee's half

1 brother on his daddy's side."

2 A I did call B-Mack. I tried to call Pooh, too,
3 but this white bag, Gucci bag, I didn't say none of
4 that, none.

5 MR. COBLE: Beg the Court's indulgence.

6 THE WITNESS: Uh-huh.

7 BY MR. COBLE:

8 Q Just finally, Ms. Wallace, on page one, you said
9 that is your signature?

10 A Yes, sir.

11 Q What about on page two, as well?

12 A Yes, sir.

13 Q Thank you.

14 MR. COBLE: Nothing further.

15 THE COURT: Cross?

16 MR. HAWKS: I have no questions for this witness,
17 Judge.

18 THE COURT: Have a nice day.

19 THE WITNESS: Thank you.

20 MR. EATON: Vernell Wallace.

21 THE COURT: Come on down, Ms. Wallace.

22 VERNELL WALLACE,

23 after being duly sworn, testified as follows:

24 THE CLERK: Please have a seat. State your full
25 name.

1 THE WITNESS: Where do I sit? Okay. Thank you.

2 THE BAILIFF: Watch your step. Watch your step.

3 THE WITNESS: Thank you.

4 DIRECT EXAMINATION:

5 BY MR. EATON:

6 Q Good afternoon, Ms. Wallace.

7 A Hi, how are you?

8 Q Fine. Thank you. Ms. Wallace, what do you do?

9 A Do I have to say what I do?

10 Q What do you do?

11 A I work for the State of South Carolina.

12 Q Are you related to William Wallace?

13 A Yes.

14 Q How are y'all related?

15 A He is my nephew.

16 Q Did he live with you in 2012?

17 A Yes.

18 Q Okay. What car did you drive?

19 A I had a white Buick, 1999 LeSabre.

20 Q And was there anything odd about it at all?

21 A Yes.

22 Q What was that?

23 A It was banged up real bad.

24 Q Banged up?

25 A Yes.

1 Q Anything in particular that you remember?

2 A Well, one time --- one day --- it was the
3 passenger's side mirror and maybe I hit a couple
4 things somewhere down the way.

5 Q And did William ever use the car?

6 A Oh, yes, uh-huh.

7 Q And do you remember on June 28th did he borrow
8 the car from you?

9 A Yes, he took me to work.

10 Q He took you to work?

11 A Uh-huh.

12 Q In the morning?

13 A Uh-huh.

14 Q Dropped you off?

15 A Uh-huh.

16 Q And how long did he have the car, to your
17 knowledge?

18 A I don't remember because he always gets the car.

19 Q Okay.

20 A I mean, it wasn't nothing out of the ordinary.

21 Q And did he pick you up that day?

22 A No, I believe Courtney came and picked me up that
23 day.

24 Q Okay. Do you remember what time he dropped you
25 off at work?

1 A Oh, it was pretty early. I have to be at work at
2 8:30. No, during that time it was eight o'clock, so
3 it had to be early.

4 Q And where was your office?

5 A Off Two Notch Road.

6 Q Two Notch?

7 A Uh-huh.

8 MR. COBLE: Thank you, Ms. Wallace.

9 THE WITNESS: Oh, you're quite welcome.

10 THE COURT: Cross?

11 MR. KRZYSTON: Thank you, Judge. May it please
12 the Court.

13 CROSS-EXAMINATION:

14 BY MR. KRZYSTON:

15 Q How are you doing today, Vernell?

16 A I'm fine. How are you?

17 Q Pretty good. Now, when William took the car, you
18 don't know where he went, do you?

19 A No, did not, huh-uh.

20 Q And when you rode to work, the car was pretty
21 messy, wasn't it?

22 A Yes, I'm sorry. I work two jobs, so my second is
23 home health. I kept my --- lots of my information in
24 there.

25 Q So there was a lot of laundry and a lot of other

1 things in the car?

2 A Yeah, I had bag of clothes that belonged to me,
3 and there's some stuff my daughter Courtney had in
4 there. It was a lot of paperwork and junk, so yes.

5 Q Okay. Now, you were at the time living on Denny
6 Road, right?

7 A Yes, I was.

8 Q Now, were you still living there?

9 A Uh-huh.

10 Q Why is that?

11 A I'm afraid for my life.

12 Q How come?

13 MR. EATON: Objection.

14 THE WITNESS: Why I'm afraid of my life is
15 because ---

16 THE COURT: Stop, stop, stop. Approach.

17 Stand up, take a few moments for yourself. We're
18 about to take a break in a few minutes.

19 (WHEREUPON, a bench conference was held in the
20 presence, but not within the hearing of the
21 jury.)

22 All right. That was a quick one. You may
23 continue. That last question is withdrawn.

24 MR. KRZYSTON: All right. That's all I have for
25 you.

1 THE WITNESS: Thank you so much.

2 THE COURT: Whoa, whoa. Wait a minute, please.
3 Do you have any redirect?

4 MR. EATON: No, sir.

5 THE COURT: Okay. Thank you. Now you can leave.
6 Have a nice day.

7 THE WITNESS: Thank you.

8 THE COURT: All right. Ladies and gentlemen,
9 we're going to take an afternoon break for about 15
10 minutes. It's about 4:10, 4:08 somewhere around
11 there. We will probably push through to about
12 5:30 tonight and stop. I won't be going any longer
13 than that. I'm actually required to go to the
14 statewide grand jury tonight for chief administrative
15 judge duties so the latest we will be here is 5:30.
16 If we can finish up with a witness and get out
17 earlier, we will, but just for you're planning
18 purposes, 15 minute break. Everyone remain seated
19 while the jury is dismissed.

20 (WHEREUPON, the jury left the courtroom at 4:08
21 P.M.)

22 THE COURT: All right. 15 minute break.

23 (WHEREUPON, a short break was taken.)

24 THE COURT: All right. Bring them in,
25 Mr. Tolbert.

1 THE BAILIFF: The jury is seated, Your Honor.

2 THE COURT: All right. Call your next witness.

3 MR. COBLE: The State would call Courtney
4 Wallace.

5 THE COURT: Courtney Wallace?

6 MS. SAMPSON: Yes, sir.

7 THE COURT: Okay.

8 THE CLERK: Place your left hand on the Bible,
9 raise your right.

10 COURTNEY WALLACE,
11 after being duly sworn, testified as follows:

12 THE COURT: Please have a seat. State your full
13 name for the record.

14 THE BAILIFF: Watch your step.

15 THE COURT: All right. State your full name.

16 THE WITNESS: Courtney Antonisha Wallace.

17 THE COURT: Thank you.

18 Go ahead, Mr. Coble.

19 DIRECT EXAMINATION:

20 BY MR. COBLE:

21 Q Ms. Wallace, where are you from?

22 A Columbia, South Carolina.

23 Q Are you related to the defendant?

24 A Yes.

25 Q How so?

1 A He my cousin.

2 Q Who is Vernell Wallace?

3 A My mother.

4 Q Who just testified?

5 A Yes.

6 Q Do you recall this incident in June 2012?

7 A Yes.

8 Q Did you end up speaking with law enforcement
9 about this?

10 A Yeah.

11 Q Now, where did you live at this time?

12 A 1210 Denny Road.

13 Q Is that where your mother lived, as well?

14 A Yeah.

15 Q Now, on the day of this incident, did you talk to
16 your cousin?

17 A Yeah, he came over with the keys.

18 Q Do you recall --- I apologize. What did you say?

19 A He came and brought me the car keys.

20 Q What car was that for?

21 A My mom's car.

22 Q The white Buick?

23 A Yeah.

24 Q Did he have that car that day?

25 A Yeah.

1 Q What time did he come bring you the car?

2 A I would say it was like afternoon, noonish.

3 Q Would having your statement help refresh your
4 memory?

5 A Sure. I guess. Yeah, that sounds about right,
6 like, twelve, one, 1:30.

7 Q Is that when the defendant came by your house?

8 A Uh-huh.

9 THE COURT: Is that a yes?

10 THE WITNESS: Yeah, I'm sorry, I like to say
11 uh-huh, and uh-huh a lot.

12 THE COURT: Try to say yes or no for us, okay?

13 BY MR. COBLE:

14 Q Now, when he came by with the key, what did he do
15 at the house?

16 A Now, I was in the room. I heard him say that he
17 was going to put the keys on the table and I was ---
18 cause I didn't have no bottoms on and I was in the
19 room the whole time just about.

20 Q Now, how do you know that it was around 12:00,
21 12:30?

22 A Because I'm watching like Roseanne. Like what it
23 says on the statement. I was watching TV. That's
24 what I did every summer because it was pretty boring.

25 Q Now, after you got the keys from your cousin,

1 what did you do next?

2 A I think I stayed in the room for a minute and
3 then went out to like the living room area.

4 Q Did you see your cousin there with anybody else?

5 A Yeah.

6 Q Who did you see him there with?

7 A I don't remember, really remember his name, but
8 it was what it says right here on the paper.

9 Q What does that name say?

10 A Gottie.

11 Q Do you not know his real name?

12 A I really don't know him.

13 Q Do you know who DeAndre Diggs is?

14 A No, I don't know him.

15 Q Now, when you saw your cousin with Gottie, did
16 your cousin say what he was doing there?

17 A No.

18 Q Did he say if he was --- now, did you have a
19 chance to read your statement again?

20 A What's your question?

21 Q Did your cousin say --- while he was waiting
22 there with Gottie, did he say what he was about to do?

23 A No, like we never even really spoke like
24 face-to-face about anything, not anything.

25 Q Did you not tell Captain Scott McDonald that

1 Bumbee was waiting for Kimberly, his girl friend, to
2 come pick them up?

3 A He always was telling me like that. It's not
4 saying that I said that. I just told them like what I
5 thought he was doing. That he was waiting on
6 Kimberly.

7 Q Did you also tell Investigator --- Captain Scott
8 McDonald that Kimberly came in a short time later in a
9 gray car and picked up Gottie and Bumbee?

10 A I don't know when she picked them up. I don't
11 know how long it was or whatever. She would always
12 come pick him up. That was like a day-to-day thing
13 just to spend time together.

14 Q Did you see your cousin or Gottie unload anything
15 from that white Buick?

16 A No, not at all.

17 Q Thank you.

18 MR. COBLE: Nothing further, Your Honor.

19 THE COURT: Yes, sir.

20 MR. KRZYSTON: Thank you, Judge. May it please
21 the Court.

22 CROSS-EXAMINATION:

23 BY MR. KRZYSTON:

24 Q How are you doing this afternoon, Courtney?

25 A I'm okay.

1 Q Now, you're over there at Carolina, right?

2 A Yeah.

3 Q Doing good lately?

4 A (There was no response.)

5 Q All right. Let's talk a little bit about the
6 statement you gave. Okay. So you saw William and
7 DeAndre mid afternoon at some point, right?

8 A Uh-huh.

9 (crying.)

10 Q Are you all right?

11 A Okay. Yeah.

12 Q Don't worry about it. You're fine.

13 A I'm fine.

14 Q Do you need to take a minute?

15 THE COURT: Do you want some water, Ms. Wallace?

16 MR. KRZYSTON: May I approach, Judge?

17 THE COURT: Sure.

18 THE WITNESS: I need some tissues.

19 MR. KRZYSTON: It's okay.

20 THE WITNESS: I need some tissues.

21 MR. KRZYSTON: I'll get you...

22 THE WITNESS: I'm such a big baby.

23 BY MR. KRZYSTON:

24 Q It's all right. Take your time.

25 A I'm nervous.

1 Q Okay. Go back to it. So you saw William and
2 Gottie about mid afternoon?

3 A Yeah.

4 Q You didn't know where they had been?

5 A No, sir.

6 Q They didn't tell you where they had been?

7 A No, sir.

8 Q It's pretty early in the afternoon, right, like
9 you told Mr. Coble, it was about 12:30, thereabouts?

10 A Yes, sir.

11 Q Gottie was drinking a beer out there, was he?

12 A Yes, sir.

13 Q But William wasn't drinking a beer, right?

14 A No, sir.

15 Q Are you all right?

16 A Yeah, I'm fine. I'm just nervous.

17 Q All right. And again, they didn't tell you where
18 they had been and nothing was wrong with William,
19 right?

20 A Know.

21 Q Okay. Now, one last question, you said you
22 hardly knew Gottie, right?

23 A I knew --- like I went to school. I went to
24 school with his daughter. I had seen his daughter in
25 school before.

1 Q You had interaction with them once or twice
2 before, right?

3 A Yeah.

4 Q You don't have to say how, but you had at least
5 had face-to-face contact with them at least once?

6 A It was more like I was a bystander listening to a
7 conversation.

8 Q That he was having?

9 A Uh-huh.

10 Q Okay. All right. Thank you Courtney. That's
11 all I've got.

12 A Thank you.

13 REDIRECT EXAMINATION:

14 BY MR. COBLE:

15 Q Ms. Wallace, just one brief question, when you
16 spoke with Captain McDonald, he presented a lineup,
17 correct?

18 A Yeah.

19 Q A photo lineup. Do you remember that?

20 A Yeah.

21 Q Did you pick out DeAndre Diggs as Gottie?

22 A Yes, sir.

23 MR. COBLE: Thank you.

24 MR. KRZYSTON: Nothing further, Your Honor.

25 THE COURT: Have a nice day, ma'am. Thank you.

1 MR. COBLE: State calls Dayle Blackmon.

2 DAYLE BLACKMON,

3 after being duly sworn, testified as follows:

4 THE CLERK: Have a seat. State your full name
5 for the record.

6 THE BAILIFF: Watch your step.

7 THE WITNESS: Dayle Blackmon.

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION:

10 BY MR. COBLE:

11 Q Ms. Blackmon, where are you currently employed?

12 A Richland County Sheriff's Department.

13 Q Are you a deputy, investigator or what's your
14 title?

15 A I'm a class three deputy.

16 Q Deputy Blackmon. How long have you been employed
17 with the sheriff's department?

18 A Almost three years.

19 Q In what capacity are you there in?

20 A Right now I'm doing asset forfeiture.

21 Q Back in 2012, you were employed there, correct?
22 What were you doing at that time?

23 A I was a supervisor down in the evidence room.

24 Q What was your role in the evidence room at that
25 time?

1 A Supervise the people that work for me and took in
2 evidence and signed out evidence, made sure we follow
3 the policy, et cetera.

4 Q Now, did you receive evidence in this case?

5 A Yes.

6 Q Did you get a chance to look over your property
7 report?

8 A I did.

9 Q Do you have a copy?

10 A I left it out in the lobby. I'm sorry.

11 Q That's fine. Do you recall receiving evidence
12 from this case?

13 A Yes, sir.

14 Q How did you receive that evidence? What's the
15 process?

16 A Well, it depends on which particular item we're
17 talking about. There are two ways to receive
18 evidence. If the evidence room is closed, we can ---
19 we have a drop box or we have a locked locker that
20 they can leave evidence in. The only people that can
21 get in that locker, which would be me or one of the
22 people that worked for me, or we will take it directly
23 through the window from the person bringing the
24 evidence in. We also return evidence or --- not
25 return it, but we sign out evidence to any officer

1 that may request it for testing and so on.

2 Q Now, would it help refresh your memory from 2012
3 to have a property report of this incident?

4 A It would, because I have several items on there.

5 MR. COBLE: May I approach the witness, Your
6 Honor?

7 THE COURT: Yes, sir.

8 MR. COBLE: Thank you.

9 BY MR. COBLE:

10 Q Now, if you could --- I believe on page three, do
11 you see the items ending in numbers 50, 51 and 52?

12 A Yes, sir.

13 MR. COBLE: Beg the Court's indulgence.

14 (Pause.)

15 BY MR. COBLE:

16 Q Deputy Blackmon, what is this? Without showing
17 it to the jury, please.

18 A This is an evidence bag that --- we have several
19 different ways of entering evidence. We have boxes,
20 we have envelopes, and we have plastic bags. It
21 depends on what we're entering into evidence. This
22 evidence bag is one that they utilize with a label on
23 the front that sticks on and then the red tape is
24 where they seal it, any area where it glues so in case
25 it come unglued, we will know.

1 Q Can you please --- there are several items in
2 there, can you describe what those items are?

3 A One is a projectile for Pratt, a lead projectile
4 for Johnson. Lead, I'm sorry, and a jacket with
5 Johnson written on it.

6 Q Are all three of those envelopes, are those in
7 the same manner and process how they normally are when
8 you were talking about being taped and glued?

9 A Yes, yes, they are.

10 Q How can you tell if that's how you normally do
11 the process?

12 A This is the standard in our policy that when they
13 seal them, they seal them with the evidence tape.
14 They initial them off the evidence tape, and then they
15 drop them --- they keep them all together in one bag.
16 They are sealed. Then they seal this bag. Then with
17 the label on --- again, they initial off on the
18 evidence tape, and then on the label, they will fill
19 it out completely for us, and then they will sign it,
20 date, and time it whenever they drop it or hand it
21 over to us.

22 Q Now, based on your property report on that
23 evidence, can you tell us where you obtained or who
24 you obtained that property from, that evidence room?

25 A Okay. This evidence came from Beeler, I believe,

1 if I can read his writing.

2 Q Do you know who Beeler is?

3 A Yes, he is one of the crime scene investigators.

4 Q Can you tell what type of condition you received
5 that? What the condition of the evidence was when you
6 received that?

7 A The only way --- we won't accept it if it's not
8 sealed like it's supposed to be, properly. We have
9 a --- not a basket, but a way of if there's something
10 improper, if they forget to initial off on the
11 evidence tape or whatever, we will put it in the
12 officer update and have them come in and repair it,
13 but they would be listed on here.

14 Q That didn't happen in this instance?

15 A No.

16 Q Now, when you received that evidence, what did
17 you do with it?

18 A We take it from them. This one was taken from
19 Mr. Beeler and we log it in to our computer system.

20 Q Where was all this evidence stored and where are
21 you handling it?

22 A In the evidence room.

23 Q This is at headquarters?

24 A Yes, sir. The time and date that we actually
25 take it from the investigator or the officer, we

1 initially off on it, the date and the time.

2 Q Was that done on this instance?

3 A Yes, sir.

4 Q What is that date and time?

5 A July 2nd of 2012 at 10:56.

6 Q Did you end up transferring that evidence
7 somewhere else?

8 A Yes, yes.

9 Q Where did you transfer it to?

10 A I ended up with the same three items in this one
11 envelope to David Collins, who is our ballistics
12 expert.

13 Q And when you transferred it to him, was its in
14 the same condition?

15 A Yes, sir.

16 Q How long did you --- do you recall how long you
17 had that in your custody before you transferred that
18 to Collins?

19 A I can tell you from the paper, but I can't tell
20 you off the top of my head.

21 Q Okay.

22 A I want to think it's the same day, but...

23 Q You can look at your report.

24 A Pardon me?

25 Q You can look at your report.

1 A It was the same day, and it was at 1:38.

2 Q Now, based on it processing and your procedures,
3 how can you be absolutely sure that's the same items
4 of evidence that you received and transferred?

5 A We place items of this nature in boxes and
6 they're in the numerical order of the case number, and
7 when we --- of course, it's in the computer system.
8 We put a label on each item that's in there. There
9 are three labels on this and it has three items on it
10 that correspond. When we go to pull them, we go back
11 to the computer, look it up by case number, see which
12 items Mr. Collins wanted to have out. So we go in.
13 We pull them. You don't handle these. Once we file
14 them, we don't bother them until they are either given
15 to the officer that requests it or a later time when
16 you may request it or when it's time for destruction.

17 Q And that evidence appears the same as we
18 requested it?

19 A Yes, sir.

20 MR. COBLE: Thank you.

21 Nothing further, Your Honor.

22 THE COURT: All right. Does that have an exhibit
23 number on it yet?

24 MR. COBLE: No.

25 THE COURT: It needs an exhibit number for ID

1 purposes only.

2 (WHEREUPON, State's Exhibit Number 85 was marked
3 for identification only.)

4 THE COURT: So that's 85 for ID only.

5 Cross?

6 MS. HINES: Just briefly.

7 CROSS-EXAMINATION:

8 BY MS. HINES:

9 Q Deputy Blackmon, if you'll refer to your property
10 report on page 19, you aren't the deputy who actually
11 took those from Investigator Beeler?

12 A No, ma'am. He was not an employee. He was an
13 evidence custodian. That was Will Cedarstaff who
14 actually took it from Beeler.

15 Q And then you are the person who actually gave it
16 to David Collins?

17 A Yes, ma'am.

18 MS. HINES: Thank you. Nothing further.

19 THE COURT: Have a good day.

20 THE WITNESS: Thank you very much.

21 MR. COBLE: State calls Shawn McDaniels, Your
22 Honor.

23 SHAWN MCDANIELS,

24 after being duly sworn, testified as follows:

25 THE COURT: Yes, sir.

DIRECT EXAMINATION:

BY MR. COBLE:

Q Sergeant McDaniels, yes, can you spell your name for the court reporter?

A M-C-D-A-N-I-E-L-S.

Q Now, you're currently employed at the sheriff's department?

A Yes, I am.

Q What's your role there?

A I'm currently a sergeant as a school resource officer.

Q You've been employed how long with the sheriff's department?

A Sixteen years.

Q What was your role at the sheriff's department in June of 2012?

A I was a sergeant within the criminal investigative division.

Q Do you recall this incident?

A Yes, I do.

Q How did you become involved?

A I received a phone call from Sergeant Strange asking me to assist Sergeant Robinson at the time with this matter.

Q And then how did you ends up assisting Sergeant

1 Robinson? Where did you go?

2 A I recall meeting with him on Bush River Road and
3 at that time, I made contact with, I believe, Kimberly
4 Michelle Conway.

5 Q Now when you arrived --- let me back up just a
6 little bit. When you arrived on this incident
7 location, what was happening there?

8 A There was an arrest being made.

9 Q Of Ms. Conway?

10 A No, sir.

11 Q Okay.

12 A She wasn't under arrest.

13 Q By the time you arrived there, where was
14 Ms. Conway?

15 A She was actually standing on the outside of the
16 vehicle when I got there.

17 Q She wasn't under arrest?

18 A She wasn't under arrest at all.

19 Q Where did you end up going with her?

20 A We went back to headquarters, and I got a
21 statement from her, a written statement.

22 Q Where was she --- you spoke with investigators on
23 the scene, correct?

24 A I did.

25 Q Did they explain to you what her role in this

1 arrest was?

2 MR. KRZYSTON: Objection, hearsay.

3 THE COURT: The question is, did they explain,
4 not how did they explain it. Overruled.

5 THE WITNESS: Yes.

6 BY MR. COBLE:

7 Q And then from there you took her to headquarters?

8 A That is correct.

9 Q And you said she gave you a statement?

10 A She did.

11 Q What was her demeanor at this point when she gave
12 you the statement?

13 A She was cooperative. Yeah, she was --- she was
14 bit uneasy and there was a lot going on, I mean,
15 outside of just she had questions, you know. She was,
16 you know, cooperative. She answered all my questions.

17 Q She came with you voluntarily, correct?

18 A She did, yes.

19 Q Did you answer all her questions?

20 A I did. At the time I was in assistant mode, so I
21 didn't have a lot of the answers. It wasn't my case.

22 Q Now, when you go back to headquarters, where did
23 you take her to interview her?

24 A I interviewed her in my office at headquarters,
25 which is located in the rear of the investigations

1 division.

2 Q And you said she came to you voluntarily. Did
3 she go voluntarily at headquarters to your office?

4 A She did.

5 Q Approximately how long did this interview last?

6 A It was couple of hours. I initially made contact
7 with her, if I may refer to my notes, approximately
8 somewhere between 3:30 and 4:00. It wasn't until
9 approximately 5:12 that we started memorializing her
10 statement.

11 Q And when you say memorializing, what do you mean
12 by memorializing her statement?

13 A To actually type it up.

14 Q Did you do that by yourself or did she help?

15 A She assisted. It's in a Q and A format. I asked
16 her questions. Whatever her answer is, I type up
17 exactly what she says.

18 MR. COBLE: Beg the Court's indulgence, Your
19 Honor.

20 THE COURT: Yes, sir.

21 MR. COBLE: Your Honor, may I approach the
22 witness?

23 THE COURT: Yes, sir.

24 MR. COBLE: Thank you.

25 BY MR. COBLE:

1 Q Sergeant. I'm going to show you, do you
2 recognize those two items?

3 A These are copies of the statement that I took
4 from Kimberly Michelle Conway.

5 Q Now, on page one of --- now these are two
6 separate statements?

7 A They are actually the same statement, and if I'm
8 not mistaken, they...

9 The only difference between the statements is
10 that on the second statement, it's the same statement,
11 but when I'm actually going over the statement with
12 the witness, I read it to them.

13 I asked them is there anything you would like to
14 add or subtract from the statement. It --- oftentimes
15 in conducting the interview, you realize that you need
16 to ask another question while you're reading back that
17 statement. So in this particular case, in reading the
18 first statement back to her, I then decided to ask an
19 additional question. So I added that question to her
20 original statement. So it wasn't completed until the
21 second statement, until that final question was
22 inputted.

23 Q Now, at the very bottom of both front pages,
24 whose signature is that?

25 A Kimberly's.

1 Q And then right above it --- right below it, whose
2 signature is that?

3 A That is my signature.

4 Q Now, why did Kimberly Conway sign that?

5 A Again, signifying that those were her words and
6 that this was, in fact, her statement.

7 MR. COBLE: All right. Thank you. Nothing
8 further.

9 THE COURT: Cross?

10 MR. KRZYSTON: Thank you, Judge. May it please
11 the Court.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION:

14 BY MR. KRZYSTON:

15 Q Sergeant McDaniels, so you were called by
16 Sergeant Don Robinson to go out to the arrest scene at
17 Bush River Road?

18 A I was contacted by Sergeant Strange.

19 Q I'm sorry. Sergeant Strange. It's been a long
20 afternoon. When you got there again, there was an
21 arrest in process. You saw Ms. Conway, correct?

22 A That is correct.

23 Q And she was in handcuffs, correct?

24 A I don't recall her being in handcuffs.

25 Q Okay. And then after you met up with her, you

1 took her down to headquarters and proceeded to get a
2 statement from her in your office?

3 A That is correct.

4 Q And is there any video recording equipment in
5 your office?

6 A No, sir.

7 Q And is there any audio recording equipment in
8 your office?

9 A No, sir.

10 Q Do you have a cell phone?

11 A I do have a cell phone.

12 Q And did you record any of the interrogation of
13 Ms. Conway?

14 A It's not our practice at the Richland County
15 Sheriff's Department to record. It's just not what
16 we --- we don't do that.

17 Q Actually, you don't even get to make that
18 decision, do you?

19 A What do you mean by that?

20 Q I mean, if you wanted to record the conversation,
21 you couldn't?

22 A It's not our practice to do so.

23 Q Right. So your bosses tell you not to record it?

24 A They don't tell us not to. It's just not our
25 common practice. It's not, as a matter of fact, the

1 lead investigating agency in this nation doesn't
2 record it. The FBI doesn't record their
3 interrogations.

4 Q Yes or no?

5 A Do you want me to repeat my answer?
6 (cross talking.)

7 Q Well, Richland County ---

8 THE COURT: Stop talking.

9 MR. KRZYSTON: I'm sorry.

10 THE COURT: Repeat your answer.

11 THE WITNESS: Okay. My answer was it's not our
12 common practice to record --- at the sheriff's
13 department, it's not the common practice not just for
14 us, but for also the leading investigating agency of
15 this nation. They don't record their interviews.

16 THE COURT: Now, you may ask your question.

17 MR. KRZYSTON: Thank you.

18 BY MR. KRZYSTON:

19 Q And are you a member of that investigating
20 agency?

21 A No, but I worked with them on several different
22 occasions and worked with them on several different
23 homicides.

24 Q But you are a Richland County investigator?

25 A I am.

1 Q And Richland County tells you not to record those
2 statements?

3 A It is a known fact that it is not our common
4 practice to record that.

5 Q Okay. And when you record these statements, you
6 write them down, if you will, and when I say record, I
7 just mean that you just make a record of them?

8 A We memorialize them, yes, sir.

9 Q And you do that on a computer, correct?

10 A That is correct.

11 Q And when you're talking to Ms. Conway, do you
12 write notes, handwritten notes?

13 A When I'm talking to her?

14 Q Yeah, like when you're in the interrogation room,
15 do you take handwritten notes?

16 A No, not always.

17 Q And do you have your computer there?

18 A We do.

19 Q Do you type the statement as she asks it or ---
20 as you ask a question, do you say "Ms. Conway, how are
21 you doing today?" and then do you type, "Ms. Conway,
22 how are you doing today?"

23 A No, generally there is a conversation and there
24 is an interview. There are questions I asked her on
25 the interview, and then when that portion of the

1 interview is over, we then --- we memorialize what we
2 discussed to a written statement.

3 Q Right. Because as the trained interrogator, you
4 have to build a rapport with somebody, correct?

5 A I don't have an answer to that.

6 Q Well, you have to build a relationship. You have
7 to establish who you are, how that person is so they
8 open up and talk to you?

9 A That's --- I'm not sure what you're asking. Are
10 you saying that I'm a trained interrogator?

11 Q Well, you're an investigator, right?

12 A I used to being an investigator, yes.

13 Q And you're trained to talk to people?

14 A That is correct.

15 Q And part of that training is to help you obtain
16 statements from people?

17 A Part of the training is to ask the appropriate
18 questions in order to get all the information that we
19 need at the time. That's our training.

20 Q But you can't just go in there cold turkey and
21 let's say your in an armed robbery. You can't just go
22 in there cold turkey and ask somebody if they did
23 this, right?

24 A We're not trained to manipulate people.

25 Q But you're trained to talk to people?

1 A That's what you're asking.

2 Q Absolutely not. What I'm asking is are you
3 trained to go in there, build a relationship, build a
4 rapport with the person you're questioning?

5 A We're trained to go in there and hold a
6 conversation that consists of questions and answers.

7 Q And you would have done that as part of your
8 interrogation of Ms. Conway, would you not?

9 A I would have done what?

10 Q Held a conversation?

11 A Sure, of course.

12 Q But you don't type that down because that's not
13 relevant to the investigation?

14 A Clearly it's relevant. It's memorialized and on
15 her statement just to make sure that we have
16 everything, if you read the last question, "Is there
17 anything that you would like to add or subtract from
18 this statement?" Her answer was --- do I need to read
19 that.

20 Q You absolutely don't, but ---

21 A Okay.

22 Q But what ---

23 A If I may --- the final question, "Is this
24 statement the whole truth?" so clearly these were her
25 words. She signed it on each page indicating that

1 after reading it back to her and after giving it to
2 her to read, that this was, in fact, her words, her
3 recollection of ---

4 Q Now --- an investigator, but my question to you
5 was, when you talk to somebody, you engage in a
6 conversation, okay, how was your day Ms. Conway, how
7 are you doing? You don't write that stuff down, do
8 you?

9 A (There was no response.)

10 Q Just yes or no.

11 A Considering the circumstances, I don't recall
12 asking her asking her how was her day, how are you
13 doing.

14 Q Okay. So you just went in cold turkey with your
15 interrogation?

16 A Considering the circumstances, considering what
17 we were dealing with, generally you get right to the
18 questions.

19 Q Right. But you were in assist mode, so you
20 didn't really know a whole lot of what was going on,
21 did you?

22 A I knew the basics.

23 MR. KRZYSTON: No further questions.

24 THE COURT: Redirect?

25 MR. COBLE: Just briefly, Your Honor.

REDIRECT EXAMINATION:

BY MR. COBLE:

Q Sergeant McDaniels, you said that you all have a policy at Richland County Sheriff's Department for interviewing witnesses?

A Yes, this is not our common practice to do that.

Q How long have you been at the sheriff's department?

A Sixteen years.

Q Did you follow all the standard procedures and policies that are in place at the sheriff's department on that day?

A Yes, sir.

MR. COBLE: Nothing further.

THE COURT: Recross?

MR. KRZYSTON: Just briefly. Beg the Court's indulgence, Your Honor.

(Pause.)

RE CROSS EXAMINATION:

BY MR. KRZYSTON:

Q And as part of the common practice that we just talked about that you do and all that, you read the statement back to the person, right?

A I read the statement back to them, and I give it to them to read for themselves.

1 Q And then they sign it, correct?

2 A After answering the last two questions, is there
3 anything you want to add or subtract from it and is
4 this statement the truth," they then sign it.

5 Q It's okay to say yes.

6 A I'm just answering your question.

7 Q Now, you read Ms. Conway the statement both
8 times, correct, and then you gave it to her to read?

9 A I did.

10 Q And she signed both copies?

11 A She signed one copy.

12 Q Okay. So she didn't sign both copies?

13 A One copy had an additional question on it.

14 MR. KRZYSTON: Beg the court's indulgence, Your
15 Honor.

16 (Pause.)

17 THE WITNESS: I stand corrected, she --- it was
18 printout. She signed it. Signed the first copy. I
19 then thought about an additional question, and I can
20 read that question. It was an additional question
21 that was pertinent to the circumstances, and then I
22 added that question to the same written format on the
23 computer. I printed out a second copy and she signed
24 that copy, as well.

25 MR. KRZYSTON: Thank you, Investigator.

1 THE COURT: Have a nice day.

2 THE WITNESS: Thank you.

3 THE COURT: All right. Call your next witness.

4 MS. SAMPSON: The State calls Diego Nova.

5 DIEGO NOVA,

6 after being duly sworn, testified as follows:

7 THE WITNESS: Diego Nova.

8 DIRECT EXAMINATION:

9 BY MS. SAMPSON:

10 Q Good afternoon.

11 A Good afternoon.

12 Q What is your official title?

13 A Special agent.

14 Q I just wanted to make sure I call you the right
15 thing?

16 A You can call me Diego.

17 Q Where do you work?

18 A SLED.

19 Q Can you tell us what SLED is?

20 A South Carolina Law Enforcement Division.

21 Q What do you do there?

22 A I work in the fugitive unit.

23 Q What does that mean, working in the fugitive
24 unit?

25 A Okay. We assist local departments trying to

1 apprehend fugitives, sometimes it's missing persons.

2 Sometimes it's amber alerts or missing persons.

3 Q I'm going to ask you to speak up just a little
4 bit. Is it only --- do you work with, you said, all
5 different agencies?

6 A The entire state.

7 Q Not just Richland County?

8 A Not just Richland County.

9 Q And I want to move you back to June 28th of 2012.
10 Were you working in that capacity back then?

11 A I was.

12 Q And you were contacted by someone from Richland
13 County to look for William Wallace; is that correct?

14 A Yes, yes.

15 Q And as part of that, did you then use information
16 to get cell phone records?

17 A I did.

18 Q And I'm going to talk to you a little bit about
19 when you request those from a cell phone company. Are
20 you allowed to get records from a cell phone company
21 if there is not an arrest warrant?

22 A Yes.

23 Q How do you go about that?

24 A We get a court order signed, or if it's a life
25 and death situation, we get an exigent form.

1 Q What is an exigent warrant?

2 A An exigent form, it's a life and death situation.
3 It's a simple form, you call up the cell phone company
4 and then you fax them that form.

5 Q Did you do that in this case?

6 A I did.

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

8 (Pause.)

9 (WHEREUPON, State's Exhibit Number 86 and 87 were
10 marked for identification only.)

11 BY MR. COBLE:

12 Q I'm going to show you what's been marked as
13 State's Exhibit Number 86 and see if you recognize
14 that?

15 A I do.

16 Q What is that?

17 A That is the fax cover sheet of the exigent form
18 that I sent to T-Mobile.

19 Q Is that for this case?

20 A Yes, it is.

21 Q Does that fairly and accurately depict what you
22 served to T-Mobile that day?

23 A Yes.

24 MS. SAMPSON: At this time we'd ask to move
25 State's Exhibit Number 85 into --- 86, I'm sorry, into

1 evidence.

2 MR. KRZYSTON: Judge, we would object to anything
3 that we discussed in our pretrial rulings.

4 THE COURT: Overruled.

5 MR. KRZYSTON: We would ask again to look at the
6 exigency request.

7 (WHEREUPON, State's Exhibit Number 86 was
8 admitted into evidence.)

9 MR. KRZYSTON: No objection, Judge. I'm sorry.

10 MS. SAMPSON: So, I'm sorry, is it in?

11 THE COURT: Eighty-six, without objection.

12 MS. SAMPSON: Thank you, Your Honor.

13 BY MS. SAMPSON:

14 Q I'm going to ask you some questions and I'm going
15 to stand here because you have my only copy. On this,
16 what do you from them?

17 A On this one I requested subscriber information,
18 call detail records, cell sites and real-time
19 location, mobile device GPS.

20 Q I'm going to ask you about that on the real-time.
21 What does that mean?

22 A That means that the cell phone company --- it
23 gives me a tower and a sector or a GPS coordinate
24 latitudes and longitude where the device is located.

25 Q Did they do that in this case?

1 A Yes.

2 MR. KRZYSTON: Judge, we would object to this
3 based on our previous objection.

4 THE COURT: All right. That objection is
5 overruled.

6 BY MS. SAMPSON:

7 Q I'm going to ask you to review what is marked as
8 State's Exhibit 87?

9 A Yes.

10 Q Do you recognize that?

11 A I do.

12 Q Is that what you received from T-Mobile?

13 A Yes.

14 Q Is that a fair and accurate representation of
15 what you received back on June 28, 2012?

16 A It is.

17 MS. SAMPSON: At this time, we'd move to
18 introduce 87 into evidence.

19 THE COURT: All right. Eighty-seven over defense
20 objection.

21 (WHEREUPON, State's Exhibit Number 87 was
22 admitted into evidence.)

23 BY MS. SAMPSON:

24 Q So what's what you received?

25 A Yes.

1 Q Based on this information, what did you do?

2 A I forwarded those records. What was most
3 important to me however, were the real-time --- and
4 when I say I forwarded the records, I forwarded them
5 to Richland County, and I started to receive the
6 real-time GPS coordinates.

7 Q And what did you receive in reference to where
8 Mr. Wallace's location --- or the location of his
9 phone?

10 A Yes, I received the locaters that put his device,
11 his phone, somewhere around the Bush River Road area.
12 I think it's Dutch Fork Mall.

13 Q Dutch Square Mall?

14 A Dutch Square Mall.

15 Q And my understanding at that time, you guys had
16 information that he was in a particular car?

17 A Yes, we had ---

18 Q I'm going to ask you specific questions about
19 that, if you don't mind.

20 A Yes, okay.

21 Q He was in a specific car and you had gotten that
22 information, correct?

23 A Yes.

24 Q Therefore, you were looking not only for Wallace
25 but also for that car?

1 A Yes.

2 Q Based on that, you gave information to the
3 Richland County Sheriff's Department to look for the
4 car and for Mr. Wallace?

5 A We did.

6 Q Did you tell them to look in that particular
7 area?

8 A Yes.

9 Q Did you yourself look in that area?

10 A I did. I was in the area myself.

11 Q So were you with anyone?

12 A I was with Lieutenant Cal Reighley. He was the
13 lieutenant of the fugitive division at the time.

14 Q So where did you all look?

15 A We looked --- we drove up Bush River Road and
16 then turned into Dutch Square Mall.

17 Q And what happened when you got to that area?

18 A When we got to that area, right when we drove ---
19 right when we made that left turn from Bush River,
20 when we were in the parking lot, we were able to see
21 Mr. Wallace coming out of Burlington Coat Factory.

22 Q How did you know it was --- well, let me rephrase
23 that. Did you see him get into the vehicle you were
24 looking for?

25 A We did. I had a picture of Mr. Wallace in my

1 possession.

2 Q All right.

3 A So and then we maintained eye contact, visual
4 contact, and we could see him go towards the vehicle.

5 Q Let me stop you. When you say you maintained eye
6 contact, you were not looking at Mr. Wallace in the
7 eye were you?

8 A No, I was looking at Mr. Wallace. I could
9 recognize him.

10 Q You saw him get into the vehicle, I believe you
11 said?

12 A Yes.

13 Q Then what did you do?

14 A We continued to maintain visual contact, now with
15 the car. We could see that the car was going towards
16 Bush River Road and made a right turn. At this time,
17 we were maintaining radio contact with the units
18 nearby giving them information as to which direction
19 Mr. Wallace was going.

20 Q And are other units coming to follow you all?

21 A Yes, they were --- I'm not sure where every unit
22 was and I'm not sure about the amount of units that
23 participated, but they were all around the area and
24 they were able to, I believe, stop them down below.

25 Q Did you participate in that stop?

1 A No.

2 Q What did you do after telling everybody which way
3 he was going and maintaining visual contact?

4 A We went back to our office. We actually drove
5 past where the stop was made, and our office was right
6 down the street from there. We didn't participate in
7 the stop. We just kind of relayed the information.
8 We saw the stop was made and the arrest was being
9 made, and so we left.

10 MS. SAMPSON: Okay. Beg the Court's indulgence.
11 (Pause.)

12 Nothing further at this time, Your Honor.

13 THE COURT: Cross?

14 MR. KRZYSTON: Thank you, Judge. May it please
15 the Court.

16 THE COURT: Yes, sir.

17 CROSS-EXAMINATION:

18 BY MR. KRZYSTON:

19 Q Hi, Nova. How are you doing today?

20 A I'm doing good; how about you?

21 Q I'd rather be in Richland than Kershaw.

22 A I understand.

23 Q Now, I believe the State just handed you a copy
24 of what was --- it's an exigency request is that what
25 it was?

1 A Yes.

2 Q In this request it has a little section --- has a
3 couple of different sections and the first one --- now
4 T-Mobile provides you this, correct?

5 A Yes.

6 Q In the top part here it says law enforcement
7 agency, right?

8 A Yes.

9 Q And you write SLED down right there. It also
10 asks for the requesting agent's name, and you wrote
11 your name?

12 A Yes.

13 Q It also says government email, correct?

14 A Correct.

15 Q And you wrote your email down, and that's
16 jnova@sled.sc.gov?

17 A It's dnova, not jnova.

18 Q I'm sorry. It looks like a lower case J and then
19 it has a little section which says the emergency which
20 exists is as follows?

21 A Yes.

22 Q Okay.

23 A I'm assuming. I don't have it in front of me, so
24 I'm assuming.

25 Q Would you like to see it?

1 A No.

2 Q Okay.

3 A All right.

4 Q And who gives you the information that you supply
5 in that section?

6 A The requesting agency in this case would have
7 been Richland County.

8 Q Okay. So Richland County provided you with this
9 information?

10 A Correct.

11 Q Did you question that information at all?

12 A I don't think I did.

13 Q Okay.

14 A I just ---

15 Q So you just get a call, write down what they tell
16 you to write down and send it off?

17 A We do vet the information. I don't just take
18 everything at face value.

19 Q Now, do you remember what officer, what deputy or
20 what captain or major?

21 A I really can't remember.

22 Q Okay. And you don't keep any notes on filling
23 these things out?

24 A We do have an internal case management system
25 that we use. It would be there.

1 Q Okay.

2 A They don't normally print it.

3 Q Okay. But this is the only thing that was turned
4 over to the solicitors, correct?

5 A Yes.

6 Q And were there any additional notes?

7 A No.

8 Q Okay. Now, I want to --- did you take a look at
9 the front of this page, or should it be the SLED cover
10 sheet?

11 A Yes.

12 Q And on that sheet, it basically says we're SLED,
13 we're sending a fax to T-Mobile, correct?

14 A Correct.

15 Q And in the little narrative part where it usually
16 says regarding, it says, "Please provide 48 hours
17 subscriber cell site historical information and GPS
18 locator every 15 minutes for target number
19 (803)404-8062?

20 A Yes.

21 Q And it says to dnova@SLED.SC.gov?

22 A Yes.

23 Q And the updates that you receive are furnished
24 from a website called Callia (phonetic) aren't they?

25 A No.

1 Q So they don't email you anything?

2 A It comes from T-Mobile.

3 Q So there is no liaison between the cellular
4 industry and law enforcement?

5 A No.

6 Q Okay. The court's indulgence, Your Honor.

7 (Pause.)

8 BY MR. KRZYSTON:

9 Q All right. Nova, what were the exigent
10 circumstances that led you to seek this warrant ---
11 excuse me, this request?

12 A In this case, it was a life and death situation.
13 If memory serves, there was a murder that took place
14 that evening, threats were being made and there was a
15 victim or living witness, I believe.

16 Q Okay. So Richland County calls you, and you
17 provide this information to T-Mobile?

18 A Yes.

19 Q And Richland County provided you the information
20 that threats were being made to somebody?

21 A Yes.

22 Q Did they tell you who that person was?

23 A I don't recall.

24 Q Okay. But since it's not included on here, you
25 probably didn't know it?

1 A No, just at one point previous to the fax being
2 sent, I do call T-Mobile to explain the situation.

3 Q Okay.

4 A This is just a very short narrative of that
5 conversation.

6 Q Okay. But if they had provided additional
7 information, you would have probably put it on there,
8 right?

9 A I'm sure.

10 Q You wouldn't put anything in this request that
11 states the emergency that Richland County didn't tell
12 you, correct?

13 A I'm not sure what you're asking.

14 Q Well, if Richland County called and told you the
15 circumstances consisted of X, Y and Z?

16 A Yes.

17 Q You wouldn't also throw a W in there?

18 A No, I wouldn't.

19 MR. KRZYSTON: Okay. No further questions, Your
20 Honor.

21 MS. SAMPSON: No questions, Your Honor.

22 THE COURT: Have a nice day.

23 All right, ladies and gentlemen. It's about
24 5:20. That's a good stopping point for the night.
25 You all have done good work today. We made it through

1 a number of witnesses. I appreciate your patience
2 with us throughout the day.

3 This is my evening reminder to you that number
4 one, you are not allowed to discuss this case with
5 anybody. Number two, you are not to do any research
6 on your own in any way, shape, or form. You are not
7 to watch the news, the newspaper, radio accounts,
8 internet accounts, no tweeting, Facebooking, anything
9 like that, no social media, no writing a blog about
10 it, anything like that. You base your decision in
11 this case off of what happens in this courtroom and
12 what happens in this courtroom alone. I appreciate
13 you're being willing to do that and your continuing to
14 do that in this matter.

15 At this point I'm going to dismiss you for the
16 evening. You will be back and ready to go at 9:30
17 tomorrow morning. Keep an open mind about the case.
18 We'll see you back here at 9:30 tomorrow. Thank you
19 very much.

20 (WHEREUPON, the jury left the courtroom at 5:21
21 P.M.)

22 THE COURT: All right. Anything before we break?

23 MS. SAMPSON: Nothing from the State, Your Honor.

24 THE COURT: Okay.

25 MR. KRZYSTON: Nothing, Judge.

1 THE COURT: All right. See you tomorrow morning.
2 (WHEREUPON, Court was adjourned for the day.)

3 August 13, 2014

4 THE COURT: All right. Anything we need to take
5 up before we get started?

6 MS. SAMPSON: We've got a couple of matters.
7 Since we're missing a juror, we might as well do it
8 now. Our first witness is Dr. Sweet, who was the
9 neurosurgeon that dealt with all three victims, and
10 then our second witness is going to be Dr. Marcus, who
11 is the pathologist.

12 THE COURT: Okay.

13 MS. SAMPSON: I don't know if you wanted to deal
14 with the photos that he would be using and wanted to
15 do that now.

16 THE COURT: Yes, that's the way to do that. I
17 see him here.

18 MS. SAMPSON: That's why I have him here. I
19 didn't know how you wanted to do that.

20 Could you just take the stand, Dr. Marcus.

21 BRADLEY MARCUS,
22 after being duly sworn, testified as follows:

23 THE COURT: I don't need all his qualifications.

24 MS. SAMPSON: I'm just going to go straight
25 through it.

1 THE COURT: Just go through the pictures.

2 DIRECT EXAMINATION (Proffered):

3 (WHEREUPON, State's Exhibit Numbers 88 through 94
4 were marked for identification only.)

5 MS. HINES: My objections, Judge, are to 89
6 through 94.

7 THE COURT: So you don't have a problem with 88?

8 MS. SAMPSON: Eighty-eight is an x-ray or CT.
9 I'm sorry, I'm using the wrong terminology. It's a CT.

10 MS. HINES: No, I don't have a problem with 88.

11 THE COURT: Okay.

12 MS. SAMPSON: I'll need to get these marked.

13 (WHEREUPON, State's Exhibit Numbers 95 through 98
14 were marked for identification only.)

15 MS. SAMPSON: Your Honor, also with him, we will
16 be using 95 through 98.

17 THE COURT: All right. Do you have them all?

18 THE BAILIFF: Yes, sir.

19 THE COURT: All right. Thank you, Mr. Addison.

20 THE BAILIFF: Yes, sir.

21 MS. HINES: I don't have an objection to those.

22 MS. SAMPSON: No objection? Okay. So we don't
23 need to go over those.

24 THE COURT: Okay.

25 MS. SAMPSON: She --- we just --- I reviewed 95

1 through 98. It's my understanding the defense has no
2 objections to those, so I'm not going to go over
3 those.

4 THE COURT: Okay. Let's just do the photos they
5 are objecting to.

6 MS. SAMPSON: Starting with ---

7 THE COURT: I assume you performed the autopsy,
8 Dr. Marcus?

9 THE WITNESS: I did both autopsies, yes, sir.

10 BY MS. SAMPSON:

11 Q I'm going to start with State's Exhibit 89. This
12 is a photograph of Athell Johnson.

13 A Okay.

14 Q Can you explain to me how this photograph would
15 help you explain or what it would help you explain to
16 the jury?

17 A Sure, this photograph here shows an entrance
18 gunshot wound and basically it's showing the stippling
19 which is --- gives you a good ---

20 THE COURT: Powder burn?

21 THE WITNESS: Powder burn, right. The powder
22 burn that comes out the end of the gun showing that
23 the gun was not held right to their head. It was kind
24 of away, maybe up to 18 inches. Again, that all
25 depends on the type of gun used and the ammunition

1 used. It's just hard if I tell the jury punk date
2 abrasions. You can see them here, put a picture in
3 the heads.

4 Q Okay. As for State's Exhibit 90?

5 A Okay. This here is --- this here is the
6 trajectory rods of the trajectory of the bullet
7 pathway in the head after I completed the autopsy. We
8 do that last.

9 Q And what does --- it shows --- I was thinking ---
10 it shows the bullet trajectory?

11 A It shows the trajectory, the pathway, the angles
12 of the bullet, the way they struck the body.

13 Q And this would help you demonstrate that to the
14 jury?

15 A Yes, this would help me demonstrate --- I would
16 just tell them and then point on my head.

17 THE COURT: And can you determine the entrance
18 wound and the exit wound by that?

19 THE WITNESS: You can, but in this case, there
20 were no --- there was no exit wound. These were only
21 entrances because we recovered the projectiles.

22 THE COURT: Okay. Thank you.

23 BY MS. SAMPSON:

24 Q And State's Exhibits 91 and 92 are the same. One
25 is a close-up and one is with the actual --- to scale.

1 Can you explain how these would help?

2 A Yes, Mr. Johnson, he sustained two gunshots to
3 the head. One entered his cranial cavity. The other
4 one, actually was a graze wound where it just clipped
5 the superficial skin behind his head.

6 Q Would that help you explain to the jury the
7 difference between an entrance wound and a graze
8 wound?

9 A Yes, definitely that would explain the difference
10 there.

11 THE COURT: What's the one with the ruler on it?

12 THE WITNESS: One is far away that we take
13 overall and this one is the close-up just showing the
14 measurement of the wound.

15 MS. SAMPSON: Your Honor, I can just use one if
16 you feel like it's duplicative. I don't have a
17 problem with that. I just needed him to explain that
18 to you.

19 THE COURT: Okay. Continue.

20 BY MS. SAMPSON:

21 Q Now, we're moving to Mr. Pratt, State's
22 Exhibit 93. What is that?

23 A Okay. Again, this is another trajectory rod
24 showing the angle of the bullet after the bullet
25 entered into the skull. Basically, because it's not

1 three dimensional, all you can see is that it's going
2 to the left. I can't --- it can't --- I can tell them
3 it may be down. I'd have to look at my report, and
4 then I would be able to tell that. It's just showing
5 that it's going to the left.

6 THE COURT: Okay.

7 BY MS. SAMPSON:

8 Q Does that help you demonstrate to them how that
9 angles?

10 A Yes.

11 Q And then State's Exhibit Number 94 is also
12 Mr. Pratt?

13 A Oh, yeah. This photo --- this is also another
14 photo of his entrance wound to his head and again
15 demonstrating the stippling, powder burning, on the
16 skin on this case.

17 Q And would that the photo?

18 THE COURT: Is that entrance wound above his
19 right ear?

20 THE WITNESS: That's correct.

21 BY MS. SAMPSON:

22 Q Again, on that one there is no exit wound?

23 A There's no exit wound, just an entrance and it
24 just shows the powder burning.

25 Q Would that help you demonstrate to the jury the

1 powder burns or the stippling, as you call it?

2 THE WITNESS: Yes, it would.

3 MS. SAMPSON: Those are the only photos I would
4 be introducing with Dr. ---

5 THE COURT: Can I see those?

6 MS. SAMPSON: Yes.

7 (Pause.)

8 THE COURT: All right, Ms. Hines, what are your
9 positions on 89, 91, ---

10 MS. HINES: I would like to ask some questions of
11 the witness if I may.

12 THE COURT: Okay.

13 CROSS-EXAMINATION (Proffered):

14 BY MS. HINES:

15 Q Okay. Can you explain stippling?

16 A Yes. Stippling --- so when a weapon is fired out
17 of the barrel comes many things, the gases from the
18 rounds going off. Also, what comes out is the
19 projectile. Also, what comes out is gunpowder is what
20 propels the projectile out of the barrel. Some of
21 that gunpowder is unburned, so there are flakes,
22 little flakes. If they hit you at a high velocity,
23 they cause small little cuts and abrasions in the
24 skin. That depends on how far away the weapon is from
25 the body.

1 Q Okay. And depending on the type of gun, you
2 can't really say how far away the weapon is from the
3 body based on stippling?

4 A Well, in general --- handguns, they're generally
5 under 30 inches, that's with handguns. Again, I can't
6 tell you exactly, you know, how far it was unless you
7 test fired the weapon with the same type of ammo.
8 Then we can give you a good estimate.

9 Q Right.

10 A I can just say up to 30 inches or so.

11 Q Okay.

12 A I can't say exactly.

13 Q And can you explain the difference between a
14 graze wound and an entrance wound?

15 A Sure.

16 THE COURT: That's not relevant, Ms. Hines. We
17 need to move on as to the pictures.

18 MS. HINES: Well, he is saying that this is
19 necessary to explain the difference between a graze
20 wound and an entrance wound.

21 THE COURT: Right and what I'm telling you is to
22 move on. I don't need that explained to me for the
23 purposes of the admissibility of the pictures.

24 MS. HINES: My point is --- what I'm getting at,
25 Judge, is that can be explained without the pictures,

1 explained sufficiently.

2 THE COURT: You can make that argument, but he is
3 not necessary for you to make that legal argument.

4 MS. HINES: I would like to proffer that.

5 THE COURT: Okay.

6 BY MS. HINES:

7 Q Can you explain the difference between the graze
8 wounds and an entrance wound?

9 A Sure. An entrance wound, the bullet actually
10 enters the body. You know, the body cavity, okay.
11 For instance you can have a gunshot to the chest. The
12 bullet will actually enter into the chest. A graze
13 wound the bullet doesn't actually enter the body
14 cavity. It just kind of skims off the body. The
15 bullet actually strikes the body at a tangential angle
16 and just makes more of a cut laceration type injury.
17 The bullet actually does not enter the body.

18 That's the difference.

19 Q Okay.

20 MS. HINES: I'd like to let the record reflect
21 that Dr. Marcus was demonstrating on his own body the
22 way that a bullet would skim off of a body.

23 THE COURT: Okay.

24 BY MS. HINES:

25 Q Are you able to explain the trajectory rod ---

1 THE COURT: The trajectory rod pictures are out.
2 You don't have to worry about that.

3 MS. HINES: Just these three?

4 THE COURT: Yes, ma'am.

5 MS. HINES: Okay. So my position on these three
6 as far as legal argument, with respect to 89 and 94,
7 Dr. Marcus testified that he needs these to help show
8 stippling. I believe that he can explain stippling
9 sufficiently to the jury to understand that. If Your
10 Honor disagrees with that, my position would be that
11 these need to be redacted to just show the area of the
12 stippling and not the blood up in here, which is on
13 picture 89. There's blood up in here. There is the
14 entrance wound, which he testified he needed it to
15 show stippling.

16 He didn't testify that he needed it to show the
17 entrance wound. Is it stippling would be here around
18 the entrance wound. The stippling would be here
19 around the hair area and my position would be that it
20 could be redacted to only show that year where the
21 stippling is. That would be less prejudicial to the
22 jury.

23 As far as photo number 91, Dr. Marcus testified
24 that he needed that to show --- to explain the
25 difference between an entrance wound and a graze

1 wound. I believe that he can sufficiently do that
2 without the photograph, and I believe that the
3 probative value of the photographs then is not
4 substantially --- does not substantially outweigh the
5 prejudicial effect.

6 THE COURT: Okay. All right. So 89, 91, and 94
7 are admitted over --- or will be admitted pursuant to
8 the proper foundation being laid, over defense
9 objection. Of these --- now, here is what I'm keeping
10 out for the record, so that the record is very clear.

11 Let me see those one more time.

12 So, the other State's Exhibit Number 90 that they
13 offered and State's Exhibit Number 93 that they
14 offered were pictures --- let's start with State's
15 Exhibit Number 92 is essentially, for lack of a better
16 term, the same picture as State's Exhibit Number 91.

17 It's of the same exact area except State's
18 Exhibit Number 92 has a ruler in it, and that is of
19 the graze wounds. State's Exhibit Numbers 93 and 90
20 --- no, no, no. That's incorrect. State's Exhibit
21 Number 93 --- there they are. State's Numbers 93 and
22 90 are of the trajectory rods inside the head, and I
23 understand why the State needs to prove --- or why the
24 State has the right to prove the way that the wounds
25 occurred and the direction for their presentation of

1 the case and to go to the element of malice, and I
2 understand that.

3 I believe that we accomplished that or that
4 Dr. Marcus can accomplish that in State's Exhibit
5 Number 89, which is a picture of the entrance wound
6 and State's Exhibit Number 94 which is a picture of
7 the entrance wound.

8 These pictures are very easy to see which side of
9 the head they went into, so I think he can accomplish
10 the trajectory wound testimony through those pictures
11 and being able to explain that. The stippling that is
12 shown, which Dr. Marcus testified goes directly to the
13 element of malice and is a probative --- of extreme
14 probative value in this case as to the facts of the
15 case and the circumstances surrounding it.

16 The other reasons that I'm excluding 90 and 93 is
17 because these gentlemen have been --- and I don't know
18 the word, but they have been cut open essentially ---

19 THE WITNESS: Yes.

20 THE COURT: As part of the autopsy, and that is
21 visible from those pictures. Even I myself find that,
22 in the thousands of crime scene and autopsy photos
23 that I've seen in my life, to be shocking and highly
24 prejudicial and that the evidence that is looking to
25 be sought from Dr. Marcus in those can be obtained

1 from the other pictures that are admitted.

2 So as to the graze wound in picture number 91,
3 the probative value of that also goes directly to the
4 element of malice and to --- directly to an element of
5 the crime that the State is allowed to prove.

6 It is a picture of this gentleman's head,
7 essentially, with what looks like to the untrained eye
8 looks like a very large --- a cut on the head or some
9 type of lesion, so I'm going to admit State's Exhibit
10 Numbers 91, 89 and 94 subject to the proper foundation
11 by Dr. Marcus as to his expert testimony and the fact
12 that he actually conducted these autopsies and things
13 like that, which I'm sure will come out in the course
14 of the trial over defense objection.

15 MS. SAMPSON: And, Your Honor, as to the ones you
16 are not allowing in, the ones that you said were
17 prejudicial due to the body being shown ---

18 THE COURT: Right.

19 MS. SAMPSON: If we could crop them so that the
20 head is shown, would they still be prejudicial --- and
21 I'm asking you ---

22 THE COURT: I don't think they're necessary.

23 MS. SAMPSON: Okay.

24 THE COURT: It's going to be --- it's not a weird
25 angle. It's not something that Dr. Marcus is going to

1 have to do something strange with his body to be able
2 to demonstrate to the jury or with his hands or
3 anything else. He could actually use the pointer if
4 he needed to, which is next to him on the right, to
5 show the trajectory on his head and in the approximate
6 area.

7 MS. SAMPSON: So he is allowed to speak about it,
8 just not use the pictures?

9 THE COURT: He is allowed to speak about the
10 trajectory all he needs to. He's allowed to
11 demonstrate it to say this is where it happened on my
12 head. He is allowed to take the wooden dowel rod and
13 put it on the back. Whatever he needs to do to
14 explain, you know, this is my expert opinion on the
15 angle of where the bullet came in. He is allowed to
16 testify to all of that. Those pictures do cause me
17 some concern greater than normal autopsy photos.

18 Now, for the family members that are in here ---

19 MS. SAMPSON: I told them.

20 THE COURT: What I don't want is --- these
21 pictures are more than likely going to be shown today,
22 okay, and I understand that viewing these pictures can
23 be very traumatic. I don't fault anybody for their
24 reaction, but since we know that's going to happen
25 through these witnesses, if you would go ahead and

1 excuse yourselves prior to that happening if you do
2 not wish to view them because I would like to minimize
3 the disruption in front of the jury. I'm just asking
4 now to both side's families with all due respect to
5 you and your right to be in here. Those photos are
6 more than likely going to come out today, and they're
7 more than likely going to come out through Dr. Marcus,
8 so when he gets called to the witness stand, if you
9 want to excuse yourself, you may.

10 MS. SAMPSON: The only other thing the ones
11 you're not letting in, do you want them as court's
12 exhibits or do you want me to return them to my --- I
13 just don't want them to get --- I was going to put
14 them away.

15 THE COURT: No, I'm going to keep them right here
16 so we don't get confused at the end.

17 MS. SAMPSON: Thank you, Your Honor.
18 You're done, Dr. Marcus.

19 THE COURT: Thank you, Dr. Marcus. All right.
20 Let's bring them in.

21 He can stay in if he wants.

22 MS. SAMPSON: He can stay in?

23 THE COURT: Yes, he is an expert witness.

24 MS. HINES: Judge, can we approach?

25 THE COURT: Sure.

1 (WHEREUPON, a bench conference was held in the
2 presence, but not within the hearing of the
3 jury.)

4 THE BAILIFF: The jury is seated, Your Honor.

5 THE COURT: Thank you very much. Good morning,
6 ladies and gentlemen. I hope you had a nice and
7 restful evening. We will continue now with the trial.

8 You may call your next witness.

9 MS. SAMPSON: The State calls Dr. Sweet to the
10 stand.

11 THE COURT: All right. Dr. Sweet, come forward
12 and be sworn.

13 DR. RAYMOND CHARLES SWEET,
14 after being duly sworn, testified as follows:

15 THE CLERK: Please have a seat. State your full
16 name for the record.

17 THE WITNESS: Raymond Charles Sweet.

18 DIRECT EXAMINATION:

19 BY MS. SAMPSON:

20 Q Good morning, Dr. Sweet.

21 A Good morning.

22 Q Let's start with your education. Where did you
23 go for undergraduate?

24 A I went to the University of Virginia.

25 Q And what did you major in?

1 A I had a BA in biology.

2 Q And what was your next step?

3 A I went to the Medical College of Virginia, now
4 known as Virginia Commonwealth University for my
5 medical decree.

6 Q Did you receive that?

7 A Yes, I did.

8 Q When, what year?

9 A 1973.

10 Q Okay. Sorry about that. What was your next step
11 in your education?

12 A I was a surgical intern at the Medical College of
13 Virginia from '73 to '74 and then a neurosurgical
14 resident from '74 through January of '79.

15 Q And as a resident, what do you do?

16 A In neurosurgery, you learn diagnosis and
17 treatment of neurosurgical problems, including trauma,
18 tumors, infections, pediatrics with gradually
19 increasing experience until you finish your residency.

20 Q And upon completing your residency, what did you
21 do then?

22 A I went into the private practice of neurosurgery.

23 Q And how long were you in private practice?

24 A Until 2006, and then I decided to retire, but
25 after a month, I got tired and went back to work

1 coming to Richland in April of 2006.

2 Q Richland Memorial here in Columbia?

3 A Richland Memorial in Columbia, yes.

4 Q And are you board certified?

5 A Yes, I am.

6 Q What are you board certified in?

7 A I'm board certified in neurosurgery.

8 Q Have you ever been qualified as an expert in
9 neurosurgery?

10 A Yes, I have.

11 Q Have you ever testified then?

12 A Yes.

13 Q And that would be in the field of neurosurgery?

14 A Right.

15 Q Have you ever wrote any publications?

16 A When I was a resident, I wrote three or four
17 publications, but not since.

18 MS. SAMPSON: At this time Your Honor, I'd ask to
19 qualify Dr. Sweet in the field of neurosurgery.

20 THE COURT: Would you like to voir dire?

21 MS. HINES: Yes, please.

22 And Dr. Sweet, when you were in private practice,
23 it was in neurosurgery?

24 THE WITNESS: Yes.

25 MS. HINES: Where did you practice?

1 THE WITNESS: Initially I practiced in the
2 Richmond Petersburg area. Later I moved to the
3 Charlotte, North Carolina area, and then I temporarily
4 retired, and then I came to Columbia, as I said, in
5 April of 2006.

6 MS. HINES: When did --- you're no longer working
7 now?

8 THE WITNESS: No. I retired in May of this year.

9 MS. HINES: How many times have you been
10 qualified as an expert?

11 THE WITNESS: Probably over 50 times.

12 THE COURT: Is there a objection?

13 MS. HINES: No. No objection.

14 THE COURT: All right. Ladies and gentlemen,
15 normally a person during a trial is not allowed to
16 give opinion testimony. Normally when a person
17 testifies, they must testify to what they either saw,
18 hear, sensed by smell or something of that nature.
19 However, there is an exception under the Rules of
20 Evidence that when someone is qualified because of
21 experience or experience they are permitted to give
22 their opinion in certain areas if I qualified them in
23 that way.

24 This witness will be qualified as an expert in
25 the area of neurosurgery, and he will be allowed to

1 give opinion testimony in that area.

2 Now, that does not mean that you have to accept
3 his opinion, but it is evidence for you to consider in
4 any way that you see fit and give it the weight and
5 the credibility that you deem appropriate as you are
6 required to do with every witness.

7 Ms. Sampson.

8 MS. SAMPSON: Thank you, Your Honor.

9 BY MS. SAMPSON:

10 Q All right. Dr. Sweet, you've already testified
11 that you worked back in 2012. You were working at
12 Richland?

13 A Yes.

14 Q And you were working then as a neurosurgeon?

15 A Yes.

16 Q Can you just tell the jury a little about what is
17 neurosurgery or as a neurosurgeon what you do?

18 A Neurosurgery is the medical and surgery treatment
19 of all parts of the central and peripheral nervous
20 system involving the bones, including the skull, the
21 neck, the back and the lower back, as well as the
22 supporting covers, including the scalp, membranes
23 around these structures, the treatment of the vascular
24 problems involving the spine and brain, as well as
25 infections. We do diagnoses, medical treatment, as

1 well as the surgical treatment of these problems.

2 Q And is that what you were doing back in 2012 at
3 Richland?

4 A Yes.

5 Q Now, you saw, I assume, many patients in a day?

6 A Yes.

7 Q Do you specifically recall June 28, 2012?

8 A I did not until I reviewed my notes.

9 Q Would looking at those help refresh your memory
10 as far as testifying to this jury?

11 A Yes.

12 Q Do you have those with you?

13 A Yes, some of them I have on my iPad and I have
14 another paper one.

15 Q Okay. Do you need another hard copy? I have
16 hard copies available, if you need them.

17 A Well, you can give me a hard copy. That might be
18 easier.

19 Q I'm going to start with Jamal Pratt --- excuse
20 me, Athell Johnson, I'm going to start with Athell
21 Johnson.

22 I want you to first look at that. Can you tell
23 the jury what you're looking at?

24 A This is a consultation for a patient, Athell
25 will Kentron Johnson, Jr. done on, I believe, that's

1 6/28/2012.

2 Q And do you make these consultation --- or does
3 someone make these consultation notes right after
4 whatever you've done has been done; is that correct?

5 A Typically what we do is we have a physician's
6 assistant or nurse practitioner that's on call at all
7 times, twenty four hours a day, at the hospital. They
8 would see the patient, do their examination and then
9 we would come down and do our examination, review the
10 laboratory data and the x-rays and decide what needs
11 to be done based on that information.

12 Q And so this consultation note, it states that you
13 were the attending physician?

14 A Yes, that's correct.

15 Q And then it says that Dr. Morrison was the
16 referring physician? What's the difference?

17 A Well, this is a level one trauma center, which is
18 the highest level of care serving this part of the
19 state.

20 As such, they have a dedicated trauma service,
21 and Dr. Morrison is one of the trauma doctors. They
22 had met all the major trauma to the trauma service.
23 They consult, like if you have a brain injury or spine
24 injury, they would consult neurosurgery. If you have
25 a broken bone, they would consult the orthopedist and

1 so on. They basically do the emergency medical
2 management, resuscitating the patients, and
3 maintaining the ventilator and keeping the blood
4 pressure and then consult the other specialists to
5 take care of their particular problems. That's what
6 occurred in this case. I believe Dr. Morrison was on
7 call for the trauma service on that day.

8 Q Okay. And it lists the reason for consultation
9 was a gunshot wound to the head?

10 A That's correct.

11 Q And is that what you found when you got there?

12 A Yes, that's correct.

13 Q And was Mr. Johnson able to speak at that time?
14 Was he responsive?

15 A No, he was unresponsive at that time and had a
16 breathing tube in place.

17 Q And is that --- is a breathing tube normal
18 procedure with a gunshot wound or can be?

19 A A gunshot wound to the head, frequently the
20 patients are unconscious and require --- cannot breath
21 on their own or handle their own secretions. Almost
22 all the time, with any severe head injury, a
23 ventilator and endotracheal tube, which goes into the
24 tubes that go into the lung will be needed.

25 Q And it discusses that his pupils were nonreactive

1 and dilated. What does that mean?

2 A That's part of our neurological exam. If the
3 pupils are dilated and nonreactive, it's usually a
4 very bad sign that there is some type of pressure on
5 the brain causing damage to the brainstem.

6 Now, there may be other causes, such as
7 medications or drugs or lack of oxygen, but basically
8 it means that there is usually irreversible brain
9 damage if there's not another reason and the patient
10 is unlikely to survive any type of problem when the
11 pupils are fixed and dilated.

12 Q Is that what you found in Mr. Johnson?

13 A Yes.

14 Q You said --- I'm using my lawyer term or medical
15 term, bilaterally decerebrate. What does that mean?

16 A We have something called a Glasgow Coma Scale
17 that's based on a number three of five. You look at
18 three things: motor examination --- and this is part
19 of the motor examination, but typically if you're able
20 to follow commands and move things normally, we would
21 give you a higher score. If you can't move, you get
22 the lowest score possible and decerebrate is almost
23 not moving at all, which is a very bad, bad sign.

24 Q And ---

25 A Along with the pupils, usually meaning a severe

1 brain injury.

2 Q This is the way he presented upon being placed in
3 the emergency room?

4 A Yes.

5 Q And the impression that is listed here is the
6 patient has suffered a fatal gunshot wound to the
7 head?

8 A Yes.

9 Q Is that what you found when you got there?

10 A Yes.

11 Q All right. So what was your --- the plan at that
12 point for Mr. Johnson?

13 A Well, at this point, it was felt that he had
14 irreversible brain injury secondary to his gunshot
15 wound to the head and there was no way that any
16 surgical treatment or medical treatment was going to
17 change this, so we recommended what we call supportive
18 care, and make sure this is correct. In order to
19 declare a brain death, we usually do certain tests and
20 wait a certain period of time. The main decision at
21 this point was to say that he could not benefit from
22 an operation, that his brain damage was irreversible
23 and there is nothing medically or surgically that
24 could be done to change that.

25 Q All right. I want to move on to Mr. Pratt at

1 this point.

2 I'm going to hand you this similarly. And is
3 that also a consultation note?

4 A Yes, this is a consultation note on Jamal Pratt
5 dated 6/28/2012.

6 Q And again, you're the attending?

7 A Yes.

8 Q And again Dr. Morrison is the referring
9 physician?

10 A Yes.

11 Q And it says 14:30 for the time, so it was around
12 2:30?

13 A 2:30 in the afternoon, that's correct.

14 Q And again, this was a gunshot wound to the head?

15 A Yes.

16 Q Okay. Was he responsive?

17 A No. Again, he was intubated, on a ventilator.

18 We stated that his GCS or Glasgow Coma Score as a
19 three, three which is the lowest score.

20 Q So would it be fair to say he and Mr. Johnson
21 were in a similar situation?

22 A Yes, that would be fair.

23 Q And again was his prognosis the same as
24 Mr. Johnson's?

25 A Yes, I mean, he would not --- this would not be a

1 survivable injury and there would be no surgical
2 treatment indicated.

3 Q And the bullet wound in this one was to the
4 right, I believe it says?

5 A Let me just double check that.

6 Q Under diagnostic data?

7 A Yes. It appeared this was a right entrance
8 wound.

9 Q Okay. And again, he would not --- this is what
10 you would consider a fatal gunshot wound?

11 A Yes. A fatal gunshot wound.

12 Q And lastly, I want to point you to Raquel Weston.

13 Q There you go. All right. With Ms. Weston, with
14 you see this again is a consultation note?

15 A Yes, it's a consultation note.

16 Q It's dated June 28, 2012?

17 A Yes.

18 Q And again, you're the attending and Dr. Morrison
19 is the referring?

20 A Yes.

21 Q And this one is approximately 2:15, correct?

22 A Yes.

23 Q And what does she have? Her chief complaint is
24 listed as what?

25 A Well, she was in much better shape than the other

1 people. She was awake and able to talk to me. She
2 stated that she had been a victim of a home invasion
3 where two other men were shot in the head and ---

4 MS. HINES: Objection.

5 THE COURT: Hold on.

6 THE COURT: The objection is what?

7 MS. HINES: Hearsay.

8 THE COURT: Oh, this is an expert, it's allowed.

9 MS. SAMPSON: Expert.

10 THE COURT: Continue.

11 BY MS. SAMPSON:

12 Q She told you that she had been shot?

13 A Yes. She had also complained of being shot in
14 the right hand and wrist area. She was seen in the
15 emergency room at that time.

16 Q I'm sorry. Were you able to look at her?

17 A You mean physically?

18 Q Yes.

19 A Yes. I was able to perform a physical
20 examination. At that time, she was awake, alert
21 oriented times three. In other words, she knew who
22 she was, where she was, and the day. Her Glasgow Coma
23 Scale was 15, which it's the highest like you and me.
24 She would be awake, alert, able to do what I told her
25 to and able to follow commands, like if I asked her to

1 lift her arm or lift her leg, so her physical
2 examination was a whole lot better.

3 Now, she did have evidence of a hole consistent
4 with a gunshot in the right frontal area and then two
5 smaller holes above the left ear, which were
6 consistent with gunshot wounds.

7 Q Okay. I want to backtrack just a little bit.
8 You said she had a Glasgow score of 15 so in other
9 words, she was able to comprehend what you were
10 talking about?

11 A Yes.

12 Q She was able to answer questions?

13 A Yes.

14 Q Was she lucid?

15 A Yes.

16 Q Did her answers make sense to you when you asked
17 her a question?

18 A Yes.

19 Q If they didn't, would that be noted in this
20 report?

21 A Yes. Her Glasgow Coma Scale would not have been
22 15. It would have been less if she hadn't made sense
23 with her answers.

24 Q Okay. And I believe you already said this, but
25 her wounds were consistent with the gunshot --- with

1 the information she gave you?

2 A Yes, with that and the physical examination.

3 Q And so based on what the injuries she had, what
4 did you do?

5 A Well, her CT scan was also supportive of her
6 head, which we always get the CT scan exam which shows
7 the inside of the head, the brain, as well as the
8 bone, and it showed depressed skull fractures on the
9 left frontal area, which would be consistent with
10 these gunshot wounds.

11 Based on my examination, the lab work, and the
12 fact that these were open wounds, it was felt surgery
13 was indicated just like any other open wound. We need
14 to debride the dirt, the residual material, and with
15 the brain injuries if there is a break in the bone,
16 sometimes it opens directly into the brain which, of
17 course, can lead to infections and brain abscesses so
18 we usually try to get surgery done rather quickly. We
19 took her to the operating room that afternoon and
20 operated on both of these areas in the head.

21 Q And what operation did you perform on her?

22 A Well, these were craniotomies or more technically
23 craniectomy, which removes the broken bone. The one
24 on the left was the more serious one. That's where
25 the bone had poked through the dura, which it went

1 through the scalp, the bone, the bone was pushed into
2 the dura, which is the tough membrane that's on top of
3 the brain and actually the fragments were pushed into
4 the brain itself, so basically what we would do is cut
5 away any dead or dirty scalp, remove the bone
6 fragments, and then remove the fragments from the
7 brain because they can be an area where a brain
8 abscesses or infection occurs at a later point. We
9 don't want to go too deep into the brain because we
10 can cause more damage, but the area up there in the
11 first couple of inches or so, we will try get rid of
12 the necrotic brain and bone tissue and then sew all of
13 this back together.

14 The one in the frontal area was not as serious.
15 It did not go through the dura to the brain so we
16 basically cleaned up the scalp, the bone fragments,
17 and then closed that one back up. We did put
18 artificial titanium mesh to cover the defects from the
19 bone.

20 Q Why do you do that?

21 A Well, it provides protection for the brain where
22 the bone is not there anymore and plus for cosmetic
23 reasons.

24 Q Okay. And was the surgery successful?

25 A Yes, the surgery was successful.

1 Q I think you mentioned she had an injury to her
2 arm. You didn't have to do --- you personally didn't
3 have to do anything to that?

4 A No, like I said, the trauma team kind of
5 coordinates the care for all the specialists. As I
6 recall, I think she was referred to an orthopedist. I
7 don't know if she had surgery on that hand or not.

8 MS. SAMPSON: Thank you, Dr. Sweet. Please
9 answer any questions the defense has.

10 THE COURT: Cross?

11 MS. HINES: Beg the Court's indulgence.

12 (Pause.)

13 MS. HINES: I have no further --- I have no
14 questions for this witness.

15 THE COURT: Thank you very much. Have a nice
16 day.

17 THE WITNESS: Thank you.

18 THE COURT: Call your next witness.

19 MS. SAMPSON: The State calls Dr. Marcus Bradley.

20 DR. BRADLEY MARCUS,
21 after being duly sworn, testified as follows:

22 THE CLERK: Please have a seat. State your full
23 name for the record.

24 THE WITNESS: Dr. Bradley J. Marcus, M-A-R-C-U-S.

25 DIRECT EXAMINATION:

1 BY MS. SAMPSON:

2 Q Good morning, Dr. Bradley. I'm sorry, I always
3 want to switch it; it's Dr. Marcus. You have two
4 first names. I get a little confused there.

5 Can you tell us a little bit about your
6 educational background?

7 A Yes. I have an MD degree. To get that, I had to
8 go to college. I went to the University of North
9 Carolina Chapel Hill for my undergrad, graduated from
10 there. I enrolled in a medical school, The American
11 University of the Caribbean. I spent two years in
12 St. Martin and then two years in Ireland working to
13 get my MD degree. Graduated in 2001, started
14 residency and training program at the Medical
15 University of South Carolina in anatomical pathology,
16 clinical pathology, forensic pathology, and
17 cytopathology. I did that through 2008, so I spent
18 six years in MUSC in Charleston training to be a
19 pathologist, a forensics pathologist, a clinical
20 pathologist and a cytopathologist.

21 Q I'm going to break each one of those down. What
22 is anatomical pathology?

23 A Anatomical pathology deals with diseases of the
24 body. Particularly, the thing I do the most every day
25 is I diagnose cancer, breast cancer and so forth. A

1 surgeon will go get a breast biopsy. What we do is
2 bring it to a lab, and then under the microscope we
3 will take a look at it, make a diagnose of what type
4 of cancer it is and so forth. That's anatomical
5 pathology.

6 Q What is clinical pathology?

7 A Clinical pathology is the part of the hospital
8 that no one really knows about. Every time you give
9 blood or have a blood test, it goes to the clinical
10 lab, so our job as a clinical pathologist is to
11 interpret those blood tests and so forth. If someone
12 has lupus, they do a test. Then we sign off on
13 everything.

14 Q And what is forensic pathology?

15 A Forensic pathology is the subspecialty of
16 pathology dealing with autopsies, determining the
17 cause and manner of death of people. For instance,
18 cause of death can be listed as, you know,
19 complications of breast cancer, okay.

20 We do that through doing an autopsy. Now,
21 granted, yes, a woman who has breast cancer generally
22 doesn't get an autopsy because it's --- clinically you
23 can see how she died. You know, what I mean. In
24 cases in forensic pathology dealing with the medical
25 legal aspects of death investigation dealing with, if

1 some sort of foul play was involved, usually the
2 coroner or the sheriff, depends on what jurisdiction
3 you're in, orders an autopsy to investigate the cause
4 of death. My job is to come up with a cause of death
5 statement.

6 For instance, if someone is hit about the head
7 with a hammer, I would, you know, I do an autopsy to
8 confirm that and then I would say cause of death would
9 be blunt trauma to the head due to being struck with a
10 hammer or something along those lines.

11 That's my job to determine the cause of death.
12 Now, cause of death by definition is a disease or
13 injury that brings about death. And my job is to
14 determine that and write a report based on that.

15 Q And are you --- do you have a license?

16 A Yes, I have an unrestricted South Carolina,
17 Georgia, and North Carolina medical license.

18 Q And what are you licensed in?

19 A I'm licensed in medicine.

20 Q Okay.

21 A In medicine.

22 Q And have you ever been an instructor or college
23 instructor?

24 A Yes, I work as an instructor for a year at the
25 Medical University of South Carolina teaching

1 residents. That was after I --- well, it was when I
2 was completing a fellowship. Then in 2008, I moved to
3 Columbia, and I worked, and where I am now currently
4 working, for Professional Pathology Services.

5 Q And do you have privileges? Where do you have
6 hospital privileges?

7 A I have privileges at several hospitals. I have
8 privileges at Kershaw, I have privileges at Baptist,
9 Palmetto Health Baptist, Palmetto Health Richland,
10 Park Ridge Hospital and Newberry Hospital, which I
11 work in all of these hospitals throughout the month.

12 Q Are you a member of any professional societies?

13 A Yes, I'm a member of the National Association of
14 Medical Examiners, College of American Pathologists,
15 American Society of Clinical Pathology, and I'm also
16 --- the most important thing is I'm also a member of
17 the pathology board. I'm board certified in
18 pathology.

19 Q Are you board certified in anything besides ---

20 A I have four board certifications. I have
21 certification in anatomical pathology, clinical
22 pathology, forensic pathology, and cytopathology,
23 which I practice all those and I take my --- I took a
24 test to that --- I took a test for that.

25 Q And are you published?

1 A Yes, I've published several articles when I was
2 at MUSC.

3 Q Are they all on different versions of pathology
4 or different parts of pathology?

5 A I believe I did all of them in forensic
6 pathology.

7 MS. SAMPSON: At this time Your Honor, I'd ask
8 that Dr. Marcus be made an expert in the field of
9 anatomical pathology and forensic pathology for this
10 particular case.

11 THE COURT: Voir dire?

12 MS. HINES: Yes, please.

13 Good morning, Dr. Marcus.

14 THE WITNESS: Good morning.

15 MS. HINES: How are you?

16 THE WITNESS: Very well.

17 MS. HINES: When did you become certified in ---
18 or licensed in North Carolina?

19 THE WITNESS: I became licensed recently. I'd
20 have to look at my CV. I believe it was in 2013. Let
21 me --- let's double check that. Yes, it was the
22 Spring of 2013, because I renewed my license once
23 already. Yes.

24 MS. HINES: Do you know when you became licensed
25 in Georgia?

1 THE WITNESS: It was around the same time. I
2 believe it was the Spring or early Summer 2013.

3 MS. HINES: And you've been licensed in South
4 Carolina for a number of years, correct?

5 THE WITNESS: Yes, approximately nine years.

6 MS. HINES: And can you explain again anatomical
7 pathology.

8 THE WITNESS: Anatomical pathology is the study
9 of disease by looking at the gross tissues. Like I
10 said, it's --- for instance --- okay. So, for
11 instance today, I have to --- a woman has malignant
12 fluid on her abdomen, so they drained the fluid. They
13 sent it to the lab and they made a slide of it. So
14 today after I go to court, I'm going to look at the
15 microscope and determine what type of cancer she has.
16 I'm going to issue a report, sign it and then she goes
17 to an oncologist and gets treated for that. That's
18 what anatomical pathology is, studying tissues, cells
19 in the body.

20 MS. HINES: So as an anatomical pathologist,
21 you're looking at, not a deceased's body, but you're
22 looking at tissue samples that have been sent from ---

23 THE WITNESS: It depends. Sometimes, you know, I
24 will have to go to see a person, and in this case in
25 Richland, I will do the biopsies sometimes myself on a

1 patient. I've done that many times.

2 MS. HINES: Right, but the live patients. The
3 anatomical ---

4 THE WITNESS: Right, generally, and ---

5 MS. HINES: --- diagnosis of something for
6 treatment.

7 THE WITNESS: Right. And generally I'm not
8 dealing with live patients. You're kind of behind the
9 scenes.

10 MS. HINES: I have no further questions. I do
11 have an objection. Can we approach?

12 (WHEREUPON, a bench conference was held in the
13 presence, but not within the hearing of the
14 jury.)

15 THE COURT: All right. So the defense objects to
16 him being qualified as an expert in the area of
17 anatomical pathology. They have no objection to him
18 being admitted in the area of forensic pathology. The
19 objection as to anatomical pathology is overruled and
20 Dr. Marcus will be qualified as an expert in the areas
21 of anatomical and forensic pathology based on his
22 experience, knowledge, training, education and work
23 history.

24 Ladies and gentlemen, as I have told you before,
25 normally a person is not allowed to give opinion

1 testimony. They must testify as to what they either
2 saw, heard or sensed by smell or something of that
3 nature. There is an exception when somebody is
4 qualified by the court as an expert. This witness
5 will be qualified as an expert in the area of forensic
6 and anatomical pathology.

7 He will be allowed to give opinion testimony in
8 those areas. Now, that does not mean that you must
9 accept the opinion, but it is evidence for you to use
10 in any way that you see fit and to give this testimony
11 the weight and the credibility that you believe is
12 appropriate as you are required to do with every
13 witness that appears before you.

14 Ms. Sampson, continue.

15 MS. SAMPSON: Thank you, Your Honor.

16 BY MS. SAMPSON:

17 Q Now, Dr. Marcus, I'm going to move you on to back
18 in June of 2012. How did you become involved in this
19 case?

20 A I take call. I usually take call two times
21 a month. So on the weekends I'm on call as the
22 forensic pathologist on call. I believe the coroner's
23 office was notified of a sudden unexpected death in
24 the hospital, and I believe it involved gunshot
25 wounds, so they got --- the coroner's office got

1 involved. They basically do the death investigation,
2 and then they decide whether or not a body gets sent
3 for autopsy or not. I happened to be on call that
4 weekend, so I was notified of an autopsy, that they
5 needed two autopsies to be performed.

6 Q So you did both autopsies on Athell Johnson and
7 Jamal Pratt; is that correct?

8 A Correct.

9 Q I know you're referring to some notes. Does
10 referring to your notes help refresh your memory of
11 what you did and said back in 2012?

12 A Yes, it does.

13 Q I'm going to start --- do you have a preference
14 of which one we start with?

15 A It makes no difference to me.

16 Q Then I'd like to start with Athell Johnson.

17 A That's fine.

18 Q You did the autopsy on Mr. Johnson?

19 A Yes. I did the autopsy on Mr. Johnson on
20 June 30th, 2012, at 9:45 a.m.

21 Q Okay. And I'm going to talk about --- I want you
22 to talk about in general a little bit about --- what's
23 the first thing you do when you receive a body that
24 you're going to autopsy?

25 A The first thing that we do when we receive a body

1 that we're going to autopsy is we check the, you know,
2 check the --- we bring the body out. Check the body
3 bag, make sure the name matches.

4 Then I look at the --- the coroner gives their
5 report of what his initial investigation has shown so
6 far, you know, names, so forth like that.

7 I check all that. Then I make my labels. Then
8 they --- usually the coroner and the police that are
9 investigating whether it was Columbia or Richland
10 County, and I can't recall in this case which agency
11 was involved in the investigation, but generally
12 someone is there during the autopsy doing the crime
13 scene, fingerprints and so forth like that.

14 Then basically open the body bag. We start to
15 examine the body as it was received in the morgue.

16 Q Is that what you did to Mr. Johnson?

17 A That's what I did, yes.

18 Q So what is the first thing that you did upon
19 receiving --- you said you opened the bag. Then what
20 do you do?

21 A We opened the bag. Then both the coroner's
22 representative and the police agency that's
23 investigating, they start taking photos of the body
24 and then they generally --- I generally fingerprint
25 the bodies. Sometimes they do it at the scene or if

1 this person is in the hospital, they may have done it
2 at the hospital. I can't recall exactly. They might
3 do fingernail scrapings, depending on the
4 circumstances. Then we basically start to unclothe
5 the body. I start looking for any type of injury.

6 Q In this case, is that what you did?

7 A Yes. That's what we did. I believe this body
8 was unclothed due to him being in the hospital.

9 Q And what was your normal next procedure? Do you
10 start with the body, the head?

11 A Well, in this case, I noticed that he had an
12 injury to his head. It appeared to be a gunshot wound
13 and he had actually in this case he had two injuries
14 to the head. He had a what appeared to be a gunshot
15 wound to his right head and then it appeared to be a
16 grazed gunshot wound to the back of the head.

17 Q I'm going to stop you for just a second and ask
18 you to look at State's Exhibit Number 97 and tell the
19 jury --- don't show it to them, but tell them what
20 that is.

21 A This the diagram that I prepared during the
22 autopsy of Mr. Johnson. I prepared a diagram. We
23 also take notes.

24 Q Why do you prepare that diagram?

25 A I prepare the diagram so I have --- it's my notes

1 when I dictate my autopsy report. I can go through my
2 template that I have. I'm able to remember what I do,
3 because in this case I had multiple cases that day, so
4 I had to remember everything and basically also, you
5 know, if you need to project it in a courtroom or
6 something, you need to have a diagram as a backup for
7 the photos. Back when I started, you know, in the
8 early 2000, I used to use the 35-millimeter film, and
9 every once in a while the film would get exposed and
10 you have to have a backup.

11 Q Does that copy of your diagram accurately reflect
12 the way you made it back in 2012?

13 A Yes, ma'am.

14 MS. SAMPSON: At this time we would ask to
15 introduce State's number 97 into evidence, Your Honor.

16 MS. HINES: No objection.

17 THE COURT: Ninety-seven without objection.

18 (WHEREUPON, State's Exhibit Number 97 was
19 admitted into evidence.)

20 MS. SAMPSON: Beg the Court's indulgence. We
21 have the computer.

22 (Pause.)

23 BY MS. SAMPSON:

24 Q Can you see that from there or would it help to
25 come down?

1 A It would help to come down. I'm at a bad angle.

2 Q Come on down.

3 THE COURT: There is a pointer right to your
4 right, if you need it, doctor.

5 BY MS. SAMPSON:

6 Q You talk pretty loud. I don't think that's a
7 problem. You can stand wherever you need to

8 A Yes.

9 Q You can come over here. Whatever works for you.

10 A It projects better. So this is the diagram.
11 Now, there is another, you know, part to it. You can
12 scan down.

13 Q Make it come closer?

14 A No, this part. Name is Athell Johnson, date of
15 the autopsy. These are my labels I print out. That's
16 the Richland County coroner's office case
17 investigation number. That's my internal autopsy
18 number.

19 So here is, you know, I do height, weight,
20 length, temperature, rigor. Rigor is the stiffening
21 of the body after death. So when you die, your
22 muscles don't have any energy anymore, so you start to
23 get stiff, okay. It's rigor, rigor, rigor. Some
24 people pronounce it differently.

25 Livor is the settling of blood when your heart

1 stops beating and you're laying. Gravity just pulls
2 your blood so you get a reddening discoloration of
3 your back or of your front. Depends on where you're
4 found lying.

5 Here, it's facial hair, eyes, ears, nose, teeth,
6 neck, abdomen, genitalia. I document that. Then I go
7 to the body and I start documenting, you know, scars,
8 some medical therapy, tattoos, scaly skin on the feet,
9 so forth like that. I document things like.

10 Q Now, in this particular one, you have an area in
11 the middle right here. What is that?

12 A Yeah, here he had --- here, it looks like he had
13 been --- well, I know this because I was told this,
14 but it appeared that he had been shot before in this
15 area.

16 So a surgeon had to go in and open his abdomen,
17 so he had this really dark hyper-pigmented skin there.
18 So I'm thinking what happened was that he was in the
19 hospital for awhile and the surgeon opened him up to,
20 I guess, retrieve a bullet or repair whatever was
21 damaged in there.

22 Because it's so hyper-pigmented, I think the
23 surgeon actually left the abdomen open to heal that
24 way. I think it's called healing by secondary
25 intention. What you get is just tissue grows in and

1 then closes the abdomen slowly over time. I believe
2 that's probably what happened because he also had a
3 tracheotomy scar there, so if he had been in the
4 hospital for a long while at some point earlier in his
5 life.

6 Q You can tell that this is not from this
7 particular injury?

8 A No, it's old. It's definitely old. It's hyper-
9 pigmented skin; new skin always grows in very light in
10 color.

11 Q Could you tell if he was paralyzed or able to
12 move after that injury?

13 A I couldn't tell. I know he was in a wheelchair.
14 That I know, so I'm assuming he was paralyzed.

15 Q You were given that information?

16 A I was given that information verbally.

17 Q And that was prior to this incident?

18 A Yes.

19 Q Is there anything else on that picture you need
20 to show the jury?

21 A No.

22 Q I'm going to move onto State's Exhibit Number --
23 - I'm going to leave you standing there. Number 98.
24 Can you tell the court what this is before we show it
25 to the jury?

1 A Yeah, this is a picture of the head. I diagram
2 out every gunshot wound that I labeled. In this case
3 he had sustained a gunshot wound to his right head, so
4 I diagrammed it out to the best of my ability.

5 Q And is this a fair and accurate reflection of the
6 diagram that you made?

7 A Yes. That's the diagram that I made.

8 MS. HINES: Without objection.

9 MS. SAMPSON: We'd ask to introduce State's
10 Exhibit Number 98 without objection.

11 THE COURT: All right.

12 (WHEREUPON, State's Exhibit Number 98 was
13 admitted into evidence.)

14 MS. SAMPSON: Thank you, Your Honor.

15 BY MS. SAMPSON:

16 Q I'm going to use this now, Doctor. Can you tell
17 the jury what this shows?

18 A Yes, in doing my external exam of the body, I
19 noticed that, you know, he had a gunshot wound here.
20 So when someone has a gunshot wound, the first thing I
21 do when they have a gunshot wound is I call x-ray down
22 to x-ray the body. Because one, finding bullets in a
23 body is lot easier said than done. I always call
24 x-ray down to get the anatomical location of where in
25 the body it is and look at the x-ray.

1 Now, in this case he had had a previous CT scan
2 that I had access to via the computer. I went online.
3 I saw the CT scan. I was able to document in the CT
4 scan that he did have a gunshot wound to his head and
5 where the bullet was. So in this case I forgo any
6 x-rays of the body because it was already done on a CT
7 scan and a CT scan will actually give me a better
8 anatomical location of where the bullet is rather than
9 an x-ray.

10 Q And in this case, you've got some notes that says
11 GSW? What is that?

12 A This is my shorthand. This is gunshot wound (A).

13 Q Okay.

14 A I label it as (A).

15 Q Okay, and you have STIPL right here?

16 A All right. So Mr. Athell Johnson had hair in
17 this area, so what I did was I cut the hair away. Any
18 time you have a gunshot wound to the head, you want
19 to --- especially if you have thick hair, it's hard to
20 see. So, you know, to get the best description of
21 what I needed to make sure that this was an entrance
22 wound not an exit, I needed to shave the head around,
23 shave the head and look at it without no hair around
24 it. I shaved the hair so I noticed that was an
25 entrance gunshot wound and then around the gunshot

1 wound there were these little abrasions on the skin.
2 Now, an abrasion is like a cut. You fall down and you
3 skin your knee, that's an abrasion. You have
4 superficial, you know, loss of the skin. Superficial
5 loss of the skin is an abrasion.

6 This is what we call stippling, also known as
7 tattooing, also known as powder burns.

8 Q And we're going to talk about that more later.

9 A That's fine.

10 Q I just wanted you to tell the jury what that was.
11 You mentioned just now that you got a CT scan of his
12 head or they provided you?

13 A Yeah Dr. Sweet's team provided us a CT scan.

14 Q I'm going to show you what's been marked as
15 State's Exhibit 88. Is this the CT scan you're
16 referring to?

17 A Yeah, this is actually it.

18 Q Don't show it to the jury yet. Does that fairly
19 and accurately depict the CT scan as you saw it back
20 in 2012?

21 A It does.

22 MS. SAMPSON: I would like to offer State's
23 Exhibit Number 88 into evidence, Your Honor.

24 MS. HINES: Without objection.

25 THE COURT: State's Exhibit Number 88 without

1 objection. That's the CT scan?

2 MS. SAMPSON: Yes, sir.

3 (WHEREUPON, State's Exhibit Number 88 was
4 admitted into evidence.)

5 BY MS. SAMPSON:

6 Q Is this what you were referring to?

7 A Yes.

8 Q What does it show?

9 A So this is actually --- this is my computer
10 screen in the autopsy room. I had either the coroner
11 or the police take a photo of it. So basically a CT
12 scan, it uses very complex x-ray algorithms. It takes
13 slices through your body as the scan goes down you, so
14 when you --- when that photo was taken, you're
15 actually looking at the body. The body is laying down
16 and you're looking at it from the feet up. That's
17 basically a cross section of the head. These are your
18 sinus cavities so right side, left-side there.

19 Q So it would basically if I can turn you around.
20 It would be like this?

21 A Yes, like that (indicating).

22 Q All right. So can you tell us what that is?

23 A Yes, on the right side of his head, you have some
24 of this --- when you have radio --- when you have
25 gunshots, you get the fragments of bullets and this

1 here is a bullet, some fragments of bullets here, and
2 an obvious defect in the skin right over here with the
3 black shows air, so you have a defect in the skin
4 compared to over here.

5 That's some of the projectiles that are in the
6 head.

7 Q And were you able to remove those at some point?

8 A Yeah, I removed most of them.

9 Q All right. At this point, since you're up here,
10 I'm going to go over some other things. We'll get
11 back to that. You stated --- maybe you haven't. Did
12 Mr. Johnson have more than one gunshot wound or just
13 one?

14 A Yeah, Mr. Johnson had a gunshot wound to the
15 right head. He also had a graze wound.

16 Q And I'm going to talk about the graze wound first
17 and show you what's been marked as State's Exhibit
18 Number 91. Can you show us what that is?

19 A Yes.

20 Q What is that?

21 A This is a graze wound to the posterior head.

22 Q And that's a photo of what you saw back in 2012?

23 A Yes.

24 Q Does it fairly and accurately depict the way that
25 you saw it back on June 30th, 2012?

1 A Yes, it does.

2 MS. HINES: Judge, I do object to the admission
3 of this based on previous argument.

4 THE COURT: All right. State's Exhibit Number 91
5 admitted over defense objection.

6 (WHEREUPON, State's Exhibit Number 91 was
7 admitted into evidence.)

8 BY MS. SAMPSON:

9 Q I'm going to put this up here. If you could
10 explain to the jury what they are seeing in this
11 picture.

12 A Okay. So in this case, Mr. Johnson's forehead is
13 right here. This is his hair. He had quite thick
14 hair. I noticed that he had a wound to the back of
15 his head here. So I shaved the area around the wound
16 exposing the wound.

17 Q I'm sorry. It's the computer. Okay. There you
18 go.

19 And how can you tell that's a graze wound versus
20 a penetrating wound?

21 A Because underneath it, it never penetrated the
22 skull. Okay. The bullet never actually entered the
23 cranial cavity. It just kind of --- the bullet went
24 like this. It just kind of.

25 Q You can use my head.

1 A Turn around.

2 Q Okay. Like this?

3 A So the projectile that was fired just actually
4 went like this across the scalp like that.

5 Q Would that injury itself be fatal?

6 A No. It's not a fatal wounds. It could be fatal.
7 The scalp tends to bleed like crazy. In this case,
8 that --- since I another gunshot wound, too, that
9 other wound was the fatal wound. This is not a fatal
10 wound right here.

11 Q You were able to conclude, in your expert
12 opinion, that that's not a fatal wound?

13 A Yes. I'm able to conclude that, yes.

14 Q I'm going to show you what's been marked as
15 State's Exhibit Number 89. What is that?

16 A This is this entrance gunshot wound to the right
17 head.

18 Q And does this photograph fairly and accurately
19 depict the way that you saw it back on June 30th,
20 2012?

21 A Yes, ma'am.

22 MS. HINES: Judge, I'm going to object to this
23 based on my previous argument.

24 THE COURT: All right. State's Exhibit Number 89
25 admitted over defense objection.

1 (WHEREUPON, State's Exhibit Number 89 was
2 admitted into evidence.)

3 BY MS. SAMPSON:

4 Q All right. Could you explain to the jury what
5 they are seeing in this photograph?

6 A Yes. Okay. So this is Mr. Johnson laying on the
7 table. You have his shoulder is there. Ear is right
8 here. As you see, he had quite thick hair. So I
9 shaved around where the hair was, where the gunshot
10 wound was. This here is --- this here is a picture of
11 what an entrance gunshot wound looks like. The bullet
12 goes in. It slightly abrades the skin around here
13 okay. This is a textbook photo of an entrance gunshot
14 wound.

15 But then in addition to that, if you notice and
16 this is covering it, but do you see these little punk
17 tape abrasions.

18 Q Yes. I see.

19 A They even actually extend out to over here, this
20 is what we call the stippling or the powder tattooing.
21 It's known as powder burns that occur when sometimes a
22 gun is fired in close proximity to somebody.

23 Q You said tattooing. You are not referring to ---
24 like I have a tattoo from a tattoo parlor?

25 A No, it's just different terms, people use

1 different things.

2 Q So what do you mean by tattooing or powder burns?

3 A Powder burns --- basically when a gun is fired,
4 when a gun is fired, out of the barrel comes many of
5 the gases that are formed. The projectile comes out
6 of the barrel, but also what propels the bullet down
7 the barrel is the burning of the gunpowder, but in
8 some cases, all the gunpowder actually does not burn.
9 Some of it comes out, out of the barrel with the
10 projectile, with the bullet.

11 Now, that gunpowder is kind of like, it's flakes.
12 Like, think of very course sand, okay. Everyone has
13 been on the beach, the sand hits you. When it's
14 traveling at several hundred feet per second, this
15 unburned gunpowder, what it does is it makes little
16 small abrasions on the skin, little scratches on the
17 skin.

18 Q So what does that stippling signify to you?

19 A That signifies to me with handguns that this gun
20 was in close proximity to his head. Maybe up to 30
21 inches, two feet. There is a range of variation when
22 stippling can cause damage to the skin, all right.
23 The only way to know for certain exactly how far the
24 gun was from somebody's body is to test fire the
25 weapon, the same weapon with the same type of

1 ammunition. That's the only way to know. I call
2 these intermediate range gunshot wounds.

3 Q Intermediate in your opinion means that it was
4 close enough to leave stippling, but not so far that
5 you didn't?

6 A Right. It wasn't across the room.

7 Q Is there anything else that this picture shows?

8 A No, ma'am.

9 Q Before I remove it, you said the gunshot wound, I
10 think you said it was textbook, but does it --- not
11 from this picture I know you can't do it, but can you
12 explain to the jury the trajectory of the bullet
13 entering the brain?

14 A Only from this picture I can say it's going to
15 the left. I wrote down the trajectory in my report.
16 I can give them a demonstration if need be.

17 Q Can you do that with me?

18 A Yes.

19 Q Do you need your report?

20 A Yes.

21 Q You can use --- that's it right here. I just
22 want to do everything before you sit back down.

23 A That's fine. So this gunshot, this one I labeled
24 as number (A).

25 Q You mean letter (A)?

1 A Letter (A), okay. The gun --- so this gunshot is
2 going to the left, going from right to left. It's
3 going slightly backward, so maybe like that and
4 slightly downward.

5 So something like --- something like this. Again
6 it's hard, but something along these lines, okay.
7 Okay. Something along those lines. That's the
8 trajectory of the bullet pathway in the head.

9 Q So it's going downward?

10 A It's going downward, yes.

11 Q It wasn't front on. From the trajectory that you
12 got, it wasn't a front on shot?

13 A It could have been if he had turned his head.

14 Q Could have been?

15 A Correct.

16 Q It's not like straight on his face. It's to the
17 side?

18 A To the side of his right head, that's correct.

19 Q You can sit down.

20 So to kind of sum up what we've shown the jury,
21 there were two gunshot wounds?

22 A Yeah, there were two gunshot wounds. I think I
23 left my notes somewhere around there.

24 Q Is that what you need?

25 A Yes, ma'am.

1 Q So there were two gunshot wounds?

2 A There's two. There's gunshot wound labeled
3 number (A) and then a graze wound to his head, that's
4 correct.

5 Q All right. Which gunshot wound was fatal?

6 A The gunshot wound (A) was fatal.

7 Q Were you able to determine with a reasonable
8 degree of medical certainty what he died from?

9 A Yes.

10 Q And what did he die from?

11 A He died as a result of his gunshot wound to the
12 head.

13 Q And what damage did he receive as a result of
14 this gunshot wound to the head?

15 A Okay. So he had a subarachnoid hemorrhage. He
16 had bleeding around the brain. He had ---

17 Q I'm going to stop you. What's a subarachnoid ---
18 we heard about the dura from Dr. Sweet. What's the
19 subarachnoid?

20 A Subarachnoid is the membrane that lies on the
21 brain itself. Blood is underneath. You can't
22 actually wipe the blood away. When you have the brain
23 in your hand and you try to wipe the blood away, it
24 doesn't wipe away. It's right there adjacent, next to
25 the brain fragment itself, the tissue. He had

1 cerebral contusions, which are actual hemorrhage in
2 the brain itself from the trauma. He had a subdural
3 hemorrhage, which is outside the dural membrane. It's
4 outside, so those you can wipe away.

5 He had skull and anterior, the bottom part of the
6 skull, anterior cranial fractures, so he had a bunch
7 of broken bones up in his skull. He had scalp
8 hemorrhage, which is in the tissue, a lot of
9 hemorrhage out there. He had cerebral edema, which is
10 swelling of the brain. The brain when you have a
11 traumatic injury like anything, trauma, traumatic, it
12 swells. You know, the brain has no where to go cause
13 it's in a boney vault.

14 So he had --- and then what you get from cerebral
15 edema, swelling of the brain, is you get uncal
16 herniation, which is the brainstem herniates down
17 through the foramen magnum, which is where the spinal
18 cord goes through. When you have that, you can't
19 breathe and it's --- that's considered brain dead.

20 Q You also note in your report--- you note that
21 there was stippling present, correct?

22 A Right. There's stippling present and then I
23 noted that the bullet was recovered.

24 Q And based on --- I think I just said this, your
25 determination was he died as a result of a gunshot

1 wound that was fatal?

2 A That's correct.

3 Q I'm going to move on to Mr. Pratt. Do you have
4 his notes up there with you?

5 A Yes, ma'am.

6 Q I'm not going to go through your entire procedure
7 again, but did you do the same procedure with
8 Mr. Pratt as you've already testified that you did
9 with Mr. Johnson?

10 A Yes, I performed the autopsy on Mr. Pratt on
11 June 30th, 2012, at 8:00 a.m. in the morning.

12 Q Did you do these basically --- were they near in
13 time to each other?

14 A Yeah, this one I had done first, and then I did
15 Mr. Johnson's second.

16 Q Okay.

17 A I did this one at 8:00 a.m. I did Mr. Johnson at
18 9:45.

19 Q Okay. So Mr. Pratt, you received him, did all
20 the same things you said with Mr. Johnson. Did you do
21 a diagram with him, as well?

22 A I did.

23 Q Before you come --- I'll have you come down in a
24 minute. Let me just do all of these with you so I
25 don't have to stop you in the middle. I want to show

1 you what's been marked as State's Exhibit 95 and 96
2 and ask if you recognize those?

3 A Yeah. These are the diagrams I prepared during
4 the autopsy of Mr. Pratt.

5 Q And do these fairly and accurately depict the
6 diagrams that you made that day?

7 A Yes, yes; yes, ma'am.

8 MS. SAMPSON: At this time, we'd ask to introduce
9 State's Exhibit 95 and 96 into evidence, Your Honor.

10 THE COURT: Are those the diagrams?

11 MS. SAMPSON: Yes, sir, both diagrams, one of the
12 head and one of the body. I'm showing them to
13 Ms. Hines.

14 MS. HINES: Without objection.

15 THE COURT: All right. Ninety-five and 96
16 without objection.

17 (WHEREUPON, State's Exhibit Number 95 and 96 were
18 admitted into evidence.)

19 THE COURT: Hold on a second.

20 (Pause.)

21 MS. SAMPSON: Okay. Is it okay for us to
22 proceed, Your Honor?

23 THE COURT: Yes, ma'am, I'm sorry.

24 BY MS. SAMPSON:

25 Q All right. So I'm going to start with State's

1 Exhibit Number 95 and it has --- I'll have you start
2 at the top again.

3 A Okay.

4 Q You have the same information as you did with
5 Mr. Johnson?

6 A Yeah, I have the same thing as Mr. Johnson, the
7 basic things I measure out, height, length, rigor, so
8 forth. Again, that's the sticker I give him.

9 8:00 a.m., Richland County coroner's office
10 investigation number, my internal control for my
11 autopsy.

12 Q Okay.

13 A And this is the diagram. Again, what we did ---
14 the same thing we did is the body comes out, the
15 coroner's office and the investigating agency start to
16 photograph the body. Document any clothing that was
17 on him. Again, he was in the hospital, so he didn't
18 have any clothing, as I recall.

19 From that point on, I start looking for any type
20 of, you know, injuries. After I do the basic exam,
21 you know, any scars, tattoos and so forth. I start
22 looking for any type of the injuries that were on him.

23 Q Actually at the top right here, I think that you
24 did note he had multiple tattoos?

25 A When I start getting --- when somebody has, you

1 know, one tattoo I might say a single tattoo, but when
2 they have multiple tattoos, I used to draw them all
3 out, but since we take photos I just photograph them
4 now. They can become very complex.

5 Q So when you're saying multiple tattoos in that
6 one, you're not talking about stippling, you're
7 talking about actual tattoos?

8 A Right. Ink tattoos.

9 Q All right. I'm going to move onto State's
10 Exhibit Number 96. Is this the other diagram that you
11 prepared?

12 A Yeah, this is the other diagram. Again the same
13 thing. I noted a gunshot wound to the right head on
14 Mr. Pratt, and what I did then, again, is try to x-ray
15 the body, but in this case, he was admitted to the
16 hospital, and I know --- I went to the computer. he
17 did have a CT scan again done on him that showed that
18 a projectile was in his head along with the injuries,
19 so I forgo any x-rays since we already had it
20 documented by radiograph that a bullet was in him.

21 Q Okay. And the little --- are those little dots -
22 --- is that stippling here or not?

23 A Okay. Yeah, so again, we have a gunshot wound
24 labeled as (A) and that's our hole in the head, and we
25 had, again, all these little marks around. They

1 covered the ear and again this was stippling that I
2 noted, that I noted, and what I do is I document its
3 height in vertical and horizontal dimensions.

4 Q So where you have 4.5 here and 4 even; is that
5 4.5 inches and 4 inches?

6 A Yes, ma'am.

7 Q So that's your measurements. You actually took a
8 tape measure and measured them?

9 A I measured them, yes, with a ruler.

10 Q And while you're standing there --- all right,
11 I'm going to show you what's been marked as State's
12 Exhibit Number 94. Is that what you saw back in 2012
13 in June 2012?

14 A Yes, ma'am.

15 Q And does that fairly and accurately depict the
16 way you saw it back then?

17 A Yes, ma'am.

18 MS. HINES: I object to the entrance of this
19 photograph, Judge.

20 THE COURT: What number is it?

21 MS. SAMPSON: Ninety-four.

22 THE COURT: Is that one we previously did?

23 MS. SAMPSON: Yes, sir. I'll show you.

24 THE COURT: All right. State's Exhibit
25 Number 94, over defense objection.

1 MS. SAMPSON: Thank you, Your Honor.

2 (WHEREUPON, State's Exhibit Number 94 was
3 admitted into evidence.)

4 BY MS. SAMPSON:

5 Q All right. Can you explain to the jury --- this
6 is Mr. Pratt, correct?

7 A Yes.

8 Q Can you explain to the jury what they are seeing
9 in this photo?

10 A Yes, again --- again, rather thick hair around
11 the area of the entrance gunshot wound and so again
12 what I did is I shaved around the wound to get a
13 better visualization of the entrance wound. That's
14 just basically a picture of the gunshot wound entrance
15 wound here with the stippling that you saw that I
16 diagramed on my diagram around very exactly, you know,
17 almost exactly like previous --- the previous ---
18 Mr. Johnson's.

19 Q And when you say --- you're talking about the
20 stippling?

21 A Yeah, the stippling and the entrance wound looks
22 almost exactly identical and almost in the exact same
23 spot.

24 Q So the demo on me would be the same as you did,
25 more or less?

1 A The only thing, Mr. Pratt did not receive a graze
2 wound to his head. He only received a single entrance
3 gunshot wound.

4 Q And you were able also on this one to see
5 stippling, I think you already said that?

6 A I was able to see stippling on this one, yes.

7 Q Okay. You can have a seat.

8 Q So again with Mr. Pratt, is it your medical
9 opinion that he died from a gunshot wound?

10 A Yes, he died of a gunshot wound, that's correct.

11 Q And can you determine that to a fair degree of
12 reasonable certainty?

13 A Absolutely certain.

14 Q Okay. Can you tell us what injuries he had as a
15 result of that gunshot wound?

16 A Yes. He had a subdural hemorrhage, which is
17 hemorrhage around the dural of the brain. He had a
18 subarachnoid hemorrhage, the hemorrhage that you can't
19 wipe away on the brain. He had cerebral contusions on
20 his --- on his brain. He had, again, uncal herniation
21 at the base of the brain because the base of the brain
22 was swelling and herniated and basically you can't
23 breathe. That's the brain death. He also had scalp
24 hemorrhage, again, from the bullet, you know, damaging
25 the scalp as it entered into the head and stippling

1 present at the entrance wound.

2 Q I didn't ask you with the other, but with both
3 gentlemen, did you take blood for toxicology?

4 A I do.

5 Q Do you submit that somewhere?

6 A It's submitted to either a private lab or we
7 submit it to SLED for toxicology.

8 Q And in this particular case, would the drug
9 screen change your opinion at all?

10 A No. It wouldn't change it at all because they
11 had fatal gunshots to their head.

12 Q So drugs or alcohol or anything wouldn't have
13 changed their outcome?

14 A No.

15 MS. SAMPSON: Beg the Court's indulgence.

16 (Pause.)

17 BY MS. SAMPSON:

18 Q Doctor, you --- I think you said this, but were
19 you able to retrieve the bullet from Mr. Pratt's head,
20 as well?

21 A Yes, I was able to get a bullet out of his head
22 also.

23 Q And you took bullets and a jacket I believe out
24 of Mr. Johnson's head, correct?

25 A I think so. Let me double check that.

1 A Yes, the bullet with a deformed gray metal
2 projectile with a deformed copper toned jacket, that's
3 correct.

4 Q So you took --- just because you said that really
5 fast, you took a copper metal jacket and a projectile?

6 A Yeah, basically this --- bullets are made out of,
7 you know, gray lead and they put ---

8 MS. HINES: Objection. It's outside the scope of
9 expertise.

10 MS. SAMPSON: I think he can talk.

11 THE COURT: Overruled.

12 MS. SAMPSON: Thank you, Your Honor.

13 BY MS. SAMPSON:

14 Q Go ahead, Doctor.

15 A Again, the bullet is made of gray metal, usually
16 lead and then around the bullet is a copper jacket.
17 Sometimes the bullets, you know, you get them intact
18 in the body. Sometimes, especially if they hit bone,
19 the jacket rips off the bone and you get those two
20 pieces.

21 Q And you were able to retrieve those out of
22 Mr. Johnson?

23 A Yes, ma'am.

24 Q And what did you do with them once you retrieved
25 them?

1 A I signed them over to the --- whatever
2 investigating agency there was.

3 Q If I told you it was Richland County, you
4 wouldn't disagree with me?

5 A Probably --- yea, now that I think about it,
6 since it was out on Garner's Ferry Road, it was
7 probably Richland County, yes.

8 MS. SAMPSON: All right. Thank you, Dr. Bradley
9 --- Dr. Marcus. Please answer any questions Ms. Hines
10 may have.

11 THE WITNESS: No problem.

12 CROSS-EXAMINATION:

13 BY MS. HINES:

14 Q Hello, Dr. Marcus.

15 A Hi.

16 Q How are you?

17 A Very well.

18 Q You actually work with law enforcement quite
19 frequently, correct?

20 A Yes, ma'am.

21 Q And you consider yourself kind of an arm of law
22 enforcement in doing these autopsies, don't you?

23 A I guess you could say that, yeah.

24 Q Yeah?

25 A Yes, ma'am.

1 Q And part of your --- what you consider --- just a
2 second. What you consider to be part of your job is
3 --- hold on just a ---

4 MS. HINES: Beg the Court's indulgence.

5 (Pause.)

6 MS. HINES: Sorry about that.

7 BY MS. HINES:

8 Q So you have actually --- you --- you feel that
9 you speak for the dead?

10 A Oh, yes. I've been known to say that in the
11 past.

12 Q You've been known to say that. You've also been
13 known to say that your feeling is that when you get on
14 the stand, it's over for the defendant?

15 A Right.

16 Q You've said that?

17 A I said that on a TV program, that's correct.

18 Q And you also said, "Based on my track record over
19 the last ten years, when I go to court and testify,
20 people are convicted?"

21 A That's correct.

22 Q So as an arm of law enforcement, you're here
23 testifying as an expert pathologist, but also as an
24 arm of law enforcement with the intention of having
25 someone convicted, correct?

1 A If that's what the jury sees. Again, I have a
2 loyalty to my two --- they're called victims, but I
3 see them as my patients, so basically I'm speaking for
4 them trying to say what happened in their last moments
5 of their life, and I'm trying to paint that picture.

6 Q You're a member of the National Association of
7 Medical Examiners?

8 A Yes, ma'am.

9 Q Okay. And they have standards, correct?

10 A Yes, they do.

11 Q And one of the standards, actually A1.1 is
12 "Medicolegal death investigation officers should
13 operate without any undue influence from law
14 enforcement agencies and prosecutors," correct?

15 A Correct.

16 Q And yet some of the things that you have said on
17 television and here today might go against that.

18 A Well, you know, you're talking about a television
19 program. Now, we're in court, so I haven't said --- I
20 just --- basically, I know what I have said here
21 today. I basically have said that these people died
22 of gunshot wounds. I have not said or told anybody
23 who is responsible for that.

24 Q Because you can't ---

25 A I don't know.

1 Q --- know who is responsible?

2 A That's correct. I don't know.

3 Q And when you do your autopsies, you have
4 information from law enforcement, though, correct?

5 A Generally, I have very limited information, first
6 because the autopsies are generally usually done
7 within 12 hours of when these incidents occur. So I'm
8 given a little bit of information, yes, but most of
9 what I go on is in my own coroner's report and what
10 the investigating officer at the autopsy says to me.

11 A lot of times that officer has never gone to the
12 scene and they're just there to do the crime scene in
13 the autopsy room.

14 Q Right. In this case --- now, let me just ask you
15 a couple of questions about this case in particular.
16 Just to clarify for the jury, you mentioned hemorrhage
17 several times. I'm not sure if you defined it for the
18 jury. I mean, that just means bleeding, excessive
19 bleeding, correct?

20 A That's correct, excessive bleeding, correct.

21 Q Just --- I'm not sure if I missed it or if you
22 even defined it. I know you defined some of the other
23 terms, but I didn't hear the definition of that, and
24 in this case, when you examined these victims,
25 Mr. Johnson and Mr. Pratt, did you see any signs of

1 burning on either of them? I mean, you talked about
2 the stippling --- let me just clarify. You talked
3 about the stippling and that's sometimes called powder
4 burns. Those are not actually burns, correct?

5 A Because the gunpowder is hot, it technically
6 could be considered a burn.

7 Q It ---

8 A It could be either ---

9 Q But ---

10 A --- the velocity of what struck you, too.

11 Q Right. It could be a burn or it could be an
12 abrasion from what struck you?

13 A That's correct, you could say that, yes.

14 Q Other than the stippling that you've testified to
15 already, you didn't see any signs of burning, burn
16 marks on either of these victims, correct?

17 A Not that I can recall, no, ma'am.

18 Q And you didn't see any signs that either of these
19 victims had been choked?

20 A No, ma'am.

21 Q And the projectiles, the bullet and bullet
22 fragments that you pulled out --- that you removed,
23 did you wash them?

24 A Yeah, I generally wash them because a lot of
25 times, sometimes if they have tissue stuck on them,

1 you know, I try to wash them because I don't want
2 them --- they're already a biohazard, but if you have
3 tissue stuck to the bullets, it becomes even greater
4 of a biohazard. So I do wash them and photograph
5 them. Sometimes the tissue is so embedded in the
6 metal --- the lead is very soft, so soft that you
7 can't even get the tissue out of them. I do the best
8 I can.

9 Q What do you use to wash them with?

10 A Water.

11 Q Just water?

12 A Yes, ma'am.

13 Q No soap?

14 A No, ma'am. I don't use any soap. I just use
15 water.

16 Q Do you wipe them now?

17 A Sometimes I put them in just a little bit of a
18 water bath and then I might wipe it down. I'm not
19 sure. It depends. Sometimes I just lay a bullet on
20 a --- like a towel, because --- and maybe let it dry
21 because then either the coroner's office or the
22 police, they take a photo of it. I don't like to take
23 a photo of a bloody bullet.

24 Q Right. When you put them in the water bath, do
25 you jiggle it around at all or do you just let it

1 soak?

2 A I generally keep it in my hands, because I don't
3 like to --- I generally just keep it in my hands.

4 Q So you keep the bullet in your hand and put it
5 down into the water bath and just kind of ---

6 A Uh-huh.

7 Q --- swirl it around a little bit and then ---

8 A And pull it out, yeah.

9 Q And you mentioned that both Mr. Pratt and
10 Mr. Johnson had tattoos?

11 A That's correct.

12 Q Do you recall what those tattoos were of?

13 A No, ma'am. I'd have to look at the photos to
14 tell you exactly what they are.

15 Q Okay. That's quite all right.

16 MS. HINES: Beg the Court's indulgence just a
17 moment.

18 (Pause.)

19 BY MS. HINES:

20 Q Now, you mentioned earlier, when you were talking
21 about the bullet and when it impacts bone, it
22 fragments?

23 A It can.

24 Q It can. The --- and when a bullet impacts bone,
25 you expect to see damage to the bullet?

1 A You can. It depends, you know, the temporal
2 skull is probably one of the thinnest parts of the
3 head. You can have damage. You might not, you know.

4 Q Okay.

5 A A 22 bullet for instance, I've seen them almost
6 perfectly intact in the brain after they have
7 penetrated bone.

8 Q And in this case, the bullet fragment and jacket
9 that you pulled from Mr. Johnson had significant
10 damage, correct?

11 A Yeah, I said it was, you know, it was deformed,
12 so yes, that's damage.

13 Q Yeah. On the bullet that you pulled from
14 Mr. Pratt, it had very little damage?

15 A Can I check my report, ma'am?

16 (Pause.)

17 Yeah, I wrote that this one is slightly deformed.

18 Q Can I look at your --- can I see what you have up
19 there? Is it just your autopsy reports?

20 A This stuff is the sweet stuff.

21 MS. HINES: I nothing further for this witness.

22 THE COURT: Redirect?

23 MS. SAMPSON: Briefly, Your Honor.

24 (WHEREUPON, State's Exhibit Numbers 99 through
25 104 were marked for identification only.)

1 MS. HINES: Judge, can we approach?

2 THE COURT: Talk amongst yourselves. Stand up,
3 stretch.

4 (WHEREUPON, a bench conference was held in the
5 presence, but not within the hearing of the
6 jury.)

7 THE COURT: Okay. We'll take a break in just a
8 few minutes. Bear with me.

9 Okay. Go ahead.

10 REDIRECT EXAMINATION:

11 BY MS. SAMPSON:

12 Q Dr. --- Dr. Marcus, I keep doing that.

13 A Yes, ma'am.

14 Q All right. I'm going to show you what's been
15 marked as State's Exhibits 99 through 104 and ask you
16 to look at them all.

17 (Pause.)

18 A Yes, ma'am, I looked at them.

19 Q Okay. Other than what I just did by cutting this
20 one, do they fairly and accurately depict what you saw
21 back in June of 2012?

22 A Yeah. This is generally the way I would place
23 the bullets on a towel.

24 Q And we're going to go through each one. I just
25 want to get through that part first. There are

1 pictures of the bullets, bullet fragment and the
2 jacket; is that correct?

3 A That's correct.

4 Q And they fairly and accurately depict what you
5 saw back in June of 2012?

6 A Yes, ma'am.

7 MS. SAMPSON: I'd ask to introduce State's
8 Exhibit 99 through 104 into evidence.

9 MS. HINES: Without objection.

10 THE COURT: All right. State's 99 through 104
11 without objection.

12 (WHEREUPON, State's Exhibit Numbers 99 through
13 104 were admitted into evidence.)

14 BY MS. SAMPSON:

15 Q I'm not going to ask you to --- if you can just
16 hold them and show them to the jury as we go through
17 them.

18 A Okay.

19 Q I'm going to start --- let's just go
20 chronological with 99. Can you tell the jury what
21 that is?

22 A That's a slightly deformed copper metal jacketed
23 projectile.

24 Q And is that the bullet you were discussing with
25 Ms. Hines on cross?

1 A Yeah, that was --- this looks like it came from
2 Mr. Pratt.

3 Q Can you show it to the jury? So this is the
4 bullet. There's something on the end of that. Can
5 you tell what that is?

6 A That appears to be a hollow point bullet.

7 Q Okay. What about State's Exhibit Number 100?
8 You can just put everything right there.

9 A Yeah, this is just another photo. This here is
10 just another photo of the --- you take it from a
11 higher --- the back, a back, higher photo. He took
12 the photo higher up of the bullet.

13 Q Okay. And State's Exhibit Number 101, what is
14 that?

15 A Okay. Yes. Remember, I had said that we --- on
16 Mr. Johnson, the jacket separated from the bullet
17 itself. So in this case, I pulled out some, you know,
18 some gray metal and I also pulled out a jacket, a
19 deformed jacket.

20 Q On cross-examination she asked you some questions
21 about that. Is that what you were speaking of?

22 A Yes, ma'am.

23 Q Can you show that to the jury what you're talking
24 about?

25 A What we have here is, that's the core of the

1 bullet, the gray metal. That's just part of the
2 jacket of that bullet. It's separated.

3 Q Okay. And 102, what is that?

4 A Okay. Again, this is the jacket of that bullet
5 that we just saw here. It's a close up because you
6 can see the copper color to it.

7 Q Okay. And State's Exhibit 103?

8 A That's just another picture of the jacket, the
9 deformed jacket.

10 Q That's what you're talking about. It becomes
11 deformed and that's what it ended up looking like?

12 A Sometimes it can be worse, but that's what this
13 one looked like.

14 Q And State's Exhibit Number 104?

15 A This here, that appears to be the gray metal core
16 of the bullet.

17 Q And those were all that you took out of --- the
18 core and the jacket were from Mr. Johnson, and the one
19 that's together is from Mr. Pratt; is that correct?

20 A That's correct.

21 Q Now, she asked you about some things you said in
22 the past, all the law enforcement and all that stuff.
23 Does law enforcement being there change your position
24 in this case at all?

25 A No, no. It doesn't. Basically, this is my

1 patient. Although the patient is dead, it's still my
2 patient, so I'm still responsible for that patient
3 doing the autopsy to the best of my ability for that
4 patient.

5 Q And when you were discussing it, did you even
6 remember who was at the autopsy as far as law
7 enforcement until I told you?

8 A I can't remember who was there.

9 Q Did they in any way, shape, or form change your
10 decision that both of these people died of a gunshot
11 wound?

12 A No, no, no, ma'am, not at all.

13 Q Did they in any way change your position that
14 there is stippling on the head?

15 A No, no.

16 Q Did they in any way change the position about the
17 trajectory of the bullet?

18 A No, those were all my decisions.

19 Q Okay. And the fact that you're not supposed to
20 have any undue influence, as she stated from the
21 membership and what that says, did you have any in
22 this case?

23 A No, I didn't.

24 Q Did it in any way shape or form your opinion?

25 A No.

1 Q And again, your opinion is that both of these
2 people died from a gunshot wound to the head?

3 A That's correct.

4 MS. SAMPSON: That's all I have.

5 THE COURT: Recross?

6 MS. SAMPSON: Oh, oh, I'm sorry, one more thing,
7 Your Honor.

8 BY MS. SAMPSON:

9 Q She asked you about choking. Can someone be
10 choked and not have marks from choking?

11 A It depends on how long they were choked for.

12 Q So, if you're just briefly choked, would that
13 leave marks?

14 A Not necessarily.

15 MS. SAMPSON: Nothing further, Your Honor.

16 THE COURT: Recross?

17 MS. HINES: Just briefly, Judge.

18 RE CROSS-EXAMINATION:

19 BY MS. HINES:

20 Q And again, you testified on cross-examination
21 just a moment ago that you do consider yourself an arm
22 of law enforcement?

23 A Sure, yes.

24 Q Thank you. That's it.

25 THE COURT: All right. Thank you very much.

1 Have a nice day.

2 All right. Ladies and gentlemen, we've been
3 going for almost an hour-and-a-half. Dr. Marcus,
4 you're excused. We're going to take our mid morning
5 break now. If you will retire to the jury room. Keep
6 an open mind, do not discuss the case. We'll see you
7 back in about 15 minutes. Thank you very much.

8 Everyone remain seated while the jury is dismissed.

9 (WHEREUPON, the jury left the courtroom at 11:22
10 A.M.)

11 THE COURT: Anything before we break?

12 MS. SAMPSON: Not from the State, Your Honor.

13 MS. HINES: Nothing from the defense.

14 THE COURT: All right. Fifteen minutes.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: All right. Bring them in.

17 (WHEREUPON, State's Exhibit Numbers 105 through
18 116 were marked for identification only.)

19 MS. SAMPSON: Your Honor, before we get started
20 with the jury, since we were at a break, we thought we
21 would go ahead. One is short, but the one after is
22 Stan Richards, and we have marked 105 through 112,
23 which are photographs. There are some photographs
24 that I believe the defense is objecting to 105 ---
25 hold on one second, Your Honor. I mis-numbered this.

1 It's actually 105 through 116. And I believe she is
2 objecting to 113, 114, 115, 116 and 105, so --- is
3 that, correct?

4 MS. HINES: That is correct. It's Mr. Krzyston's
5 witness, though.

6 THE COURT: Let me see them.

7 MS. HINES: I can argue.

8 THE COURT: All right. So tell me why you need
9 105?

10 MS. SAMPSON: I've got to look at them, Your
11 Honor. I believe --- oh, I just needed to check if 17
12 is already in, then we can agree not put that one in
13 that we already have that is similar.

14 THE COURT: I have 17 as being in.

15 MS. SAMPSON: So we can agree to not using that
16 one.

17 THE COURT: All right.

18 MS. SAMPSON: And I believe that one that you
19 have is ---

20 THE COURT: 113.

21 MS. SAMPSON: For our presentation, Your Honor,
22 it goes to show the state of the apartment as they
23 found it once the victims had been removed. Their
24 argument has been in part that this is a drug deal or
25 where it happened. There is blood nowhere else in the

1 apartment except there and the other room, and I think
2 that just shows that everything happened in the
3 bathroom. That would be the purpose of the
4 photograph.

5 MS. HINES: And this is the same --- as we argued
6 yesterday on number 20 and I think Your Honor ruled
7 yesterday on number 20 that they had to make a
8 foundation on that, that you needed more information
9 as to whether --- because the argument on that is that
10 that's not how it was. The blood was not on the
11 toilet --- we have no testimony that the blood was on
12 the toilet when EMS arrived. The photograph --- it's
13 13 or 15 shows the side of the bathtub where there is
14 no blood, and so this is after EMS removed the body.
15 It's not how it was at the time.

16 MS. SAMPSON: The difference is 20 actually
17 showed the tub and like all down --- we just did a
18 wide angle. It's not --- I don't see the prejudice if
19 it's a wide angle. There's no --- you can't tell it's
20 pooling of brain matter or any of that, which was the
21 objection to 20 yesterday. I'm not using it for that
22 purpose at all.

23 THE COURT: All right. 114.

24 MS. SAMPSON: I'll remove that one, as well.
25 It's the same as the one that has already been

1 introduced.

2 THE COURT: All right. 115.

3 MS. SAMPSON: It is --- again, there is a little
4 bit of blood at the doorway, and they take a
5 photograph of that. That's what that is and our
6 person is going to come testify about taking it.
7 Again, there's been some conversations about what we
8 did and what we didn't do. That just goes to show
9 that that was one of the things we looked at. It's
10 just a spot of blood. It's not even a pooling.

11 MS. HINES: Our contention with that is the
12 State's theory just articulates that all the blood was
13 in the bathroom. That is by the front door. We
14 believe that was when EMS was removing them and
15 therefore wouldn't be relevant. I don't believe that
16 accurately reflects how the scene was when they
17 arrived. It's after EMS removed the bodies. There
18 was ---

19 THE COURT: You have no foundation to make that
20 statement, though, right?

21 MS. HINES: We can take testimony.

22 THE COURT: I mean, do you have a foundation? Do
23 you have anybody that says that wasn't there when they
24 walked in?

25 MS. HINES: No.

1 THE COURT: Okay. All right. And 116?

2 MS. SAMPSON: That is --- and I believe their
3 objection to that one, Your Honor, is ---

4 THE COURT: What is it?

5 MS. SAMPSON: It's a close-up. If you go to ---
6 it's a close-up. It's not in this one. It's in one
7 of the other ones that we agreed not to use. It's
8 right around here, a close-up.

9 MS. HINES: Is that a fragment?

10 Our objection is just to cut the blood out. The
11 probative value is the very center there by (J), the
12 fragment, the metal fragment not the blood around it.
13 I know that when we introduced the other picture of
14 the fragment at the autopsy, the State agreed to cut
15 the blood in the picture out.

16 MS. SAMPSON: I didn't have a problem with that
17 one because it had more value than the autopsy photo
18 and the blood was from --- clearly didn't have
19 anything to do with this case. That is an actual
20 picture of the crime scene, so I do have a problem
21 with that.

22 THE COURT: And what's the fragment? What's the
23 testimony of that? What do you expect on that?

24 MS. SAMPSON: That's one of the fragments that
25 they found at the scene near the body of Mr. Johnson.

1 MS. SAMPSON: Yes, my understanding --- I'm
2 asking because --- I'm looking at Mr. Eaton because
3 it's not any witness. I have a copy of the report to
4 be sure.

5 MS. HINES: My understanding is that it was a
6 bullet fragment, but it was untestable.

7 MS. SAMPSON: They couldn't match it to anything
8 one way or the other, but it is one of the fragments
9 found by the body.

10 THE COURT: 113 is out. It has no relevant
11 value. This 113 is out because the body is moved.

12 MS. SAMPSON: Which one is 113?

13 THE COURT: Number 113 is the one in the bathroom
14 that's almost identical to the picture that I excluded
15 earlier. It has no probative value, and it's
16 prejudicial effect would outweigh its probative value.
17 115 is admissible. 115 is in. The officers can say
18 whatever the officers they can say about it, but I
19 don't --- it's not prejudicial. It's a spot of blood
20 on the floor in a doorway. There is virtually no
21 prejudicial effect to it in any way, shape, or form.
22 It is relevant due to this being a crime scene under
23 404 or 401, and 116 is in. It's a bullet, picture of
24 a bullet fragment, a lead bullet fragment found at the
25 scene. There is blood on the floor and the overview

1 of this area is already admitted into evidence. This
2 is just a close-up of the bullet fragment and the
3 blood that is in the picture is not overwhelming at
4 all, so the probative value of it outweighs any
5 potential prejudicial effect that it has.

6 All right.

7 MS. SAMPSON: That's it, Your Honor. Is there
8 anything else?

9 MS. HINES: I'm just checking to make sure I have
10 rulings on all of them.

11 (Pause.)

12 Yes, that's it.

13 MS. SAMPSON: These are the --- did you say yes
14 or no?

15 THE COURT: Those are in.

16 MS. SAMPSON: Do you have the other ones?

17 THE COURT: No. I'm keeping them.

18 MS. SAMPSON: The ones that --- I thought there
19 were other ones that were in. I'm confused.

20 THE COURT: The only ones I was told there is an
21 objection to are those three.

22 MS. SAMPSON: Perfect, thank you, Your Honor.
23 The rest of them are right here, and we also showed
24 them exhibits 110, 106, 107, 108, 109, 10, 11 and 12.
25 My understanding is, based on foundation, of course,

1 but there was no objection as to probative versus
2 prejudicial issues on these; is that correct?

3 MS. HINES: Yes, there is no objection under 403.

4 MS. HINES: Okay.

5 All right. Bring them in.

6 THE BAILIFF: Yes, sir.

7 (WHEREUPON, the jury entered the courtroom at
8 11:55 A.M.)

9 THE COURT: Who is the next witness?

10 MR. EATON: Craig Montjoy, Your Honor.

11 THE COURT: Okay.

12 THE BAILIFF: The jury is seated, Your Honor.

13 THE COURT: Thank you very much. Welcome back,
14 ladies and gentlemen.

15 Call your next witness.

16 MR. EATON: Craig Montjoy.

17 THE BAILIFF: Place your left hand on the Bible,
18 raise your right hand.

19 CRAIG MONTJOY,
20 after being duly sworn, testified as follows:

21 THE CLERK: Please have a seat. State your full
22 name

23 THE BAILIFF: Watch your step.

24 THE COURT: State your full name, sir.

25 THE WITNESS: Timothy Craig Montjoy.

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION:

3 BY MR. EATON:

4 Q Good morning, Mr. Montjoy. Mr. Montjoy, what to
5 you do?

6 A I'm a paramedic for Richland County.

7 Q Were you doing that in June of 2012?

8 A Yes.

9 Q Were you working June 28th, 2012?

10 A Yes, sir.

11 Q Do you remember all your calls that day in
12 detail?

13 A Not in detail. I remember most of the calls that
14 day.

15 Q Do you recall a call around noon more
16 specifically?

17 A Yes, sir.

18 Q Okay. Would it help refresh your memory about
19 that call if I showed you patient records?

20 A Yes, sir.

21 MR. EATON: May I approach, Your Honor?

22 THE COURT: Yes.

23 BY MR. EATON:

24 Q So, Mr. Montjoy, what happened when you responded
25 to 8100 Garners Ferry?

1 A When I arrived, I was actually one of the
2 supervisors that arrived before the ambulance arrived.
3 As we entered an apartment complex there or actually
4 entered an apartment, we found two victims. One was
5 laying in the floor, I believe, of the bedroom. One
6 was laying in the bathtub. Both victims had gunshot
7 wounds to the head.

8 Q Were people on the scene already?

9 A Law enforcement and two other supervisors from my
10 department was there.

11 Q And how many of y'all were there? I'm sorry, how
12 many EMT's were there?

13 A There was two supervisors and --- two other
14 supervisors other than myself there when I arrived.

15 Q And what did y'all do when you got there?

16 A We went in and assessed the patients. As I
17 stated earlier, both of them had gunshot wounds to the
18 head.

19 Q And where did you find them in the house?

20 A One was laying in the bedroom floor and one was
21 laying in the bathtub.

22 Q What did you do in the way of aid?

23 A We assessed the pulse, determined that they did
24 have a pulse and were breathing, both the patients.
25 Once the unit got there, we took spinal immobilization

1 and removed them from the residence and transported
2 them to the hospital.

3 Q And how did you remove them?

4 A We put them on what we call a long back board,
5 which is to protect the spine and their neck.

6 Q I assume you transported them in an ambulance?

7 A Yes, sir.

8 Q To where did you transport them?

9 A To Richland Memorial.

10 Q Did you do anything on the way?

11 A Yes, sir, we monitored their vital signs,
12 monitored their EKG and started I.V.'s on both of them
13 and assisted in their respirations.

14 Q When you arrived at the hospital, what happened
15 then?

16 A We turned patient care over to the hospital staff
17 and gave our report and got some information as far as
18 patient name and age and stuff like that and then we
19 left the hospital.

20 MR. EATON: Thank you. No further questions.

21 MR. KRZYSTON: Thank you, Judge Hood. May it
22 please the Court.

23 CROSS-EXAMINATION:

24 BY MR. KRZYSTON:

25 Q I'm not going to keep you too long. I hope you

1 weren't busy last night.

2 Mr. Montjoy, you stated that you arrived at the
3 crime scene after law enforcement?

4 A Yes, sir.

5 Q When you arrived, was law enforcement inside the
6 apartment or outside?

7 A They were both inside and outside.

8 Q Okay.

9 A The best I can remember.

10 Q So there was no tape securing the area or
11 anything like that?

12 A Not at that time.

13 Q And you arrived at 12:03? Excuse me, go ahead.

14 A That's what time the unit arrived. The units was
15 all actually on the scene at 12:22.

16 Q Okay.

17 A But as I stated earlier, I was one of the
18 supervisors and I responded in a separate unit.

19 Q After you removed the individuals from the house,
20 was law enforcement in there still behind you?

21 A Yes, they were there in the residence with us.

22 Q And when you left, they left with you?

23 A No, sir, they stayed there at the residence.

24 Q Okay. But you did carry individuals out of the
25 house?

1 A Yes, sir.

2 MS. SAMPSON: Okay. Thank you. No further
3 questions, Judge.

4 MR. EATON: Nothing further, Your Honor.

5 THE COURT: Have a nice day.

6 Call your next witness.

7 MR. EATON: The State calls Stan Richards.

8 STAN RICHARDS,

9 after being duly sworn, testified as follows:

10 THE CLERK: Please have a seat. State your full
11 name for the record.

12 THE WITNESS: Stan Richards.

13 DIRECT EXAMINATION:

14 BY MR. KRZYSTON:

15 Q Is it Sergeant Richards?

16 A It is.

17 Q Good morning, Sergeant Richards. What do you do,
18 Sergeant Richards?

19 A I'm the operations officer for the crime scene
20 unit at the Richland County Sheriff's Department.

21 Q Was that your job in June of 2012?

22 A It was.

23 Q What was your involvement with this case?

24 A My --- one of my investigators, Investigator
25 Bouknight, received a call to respond at 8100 Garners

1 Ferry Road at the Deer Meadow Apartments, Apartment
2 412, for what was believed to be two victims of
3 gunshot wounds. He responded as the supervisor on
4 call that day. I went with him to assist.

5 Q And what did you find there?

6 A When we first got there, we were informed that
7 two victims --- like I said, who were presumed to have
8 gunshot wounds at the time, had already been
9 transported, so they were no longer at the apartment.
10 The apartment was secured, a crime scene log was being
11 maintained at the time, and we waited for a short
12 period of time in order to get the search warrant
13 before we could enter.

14 Q Did the search warrant come?

15 A It did. After we got the search warrant around
16 12:47 to 12:50, we entered the apartment both
17 Investigator Bouknight and myself. We walked --- we
18 did a walk through to assess the situation and things
19 that we seen, some items that might be of importance
20 to us. Once we did the walk through and the
21 assessment, we started documenting the interior of the
22 apartment, taking photographs.

23 Q So you took a number of photographs?

24 A I did. So did he.

25 MR. EATON: If I may approach the witness, Your

1 Honor.

2 BY MR. EATON:

3 Q I'm going to show you State's Exhibits 106, 7, 8,
4 9, 10, 11, 12, 15, and 16 for identification.

5 (Pause.)

6 A Yes, these were photographs that either myself or
7 Investigator Bouknight took that morning.

8 Q You recognize those?

9 A I do.

10 Q You recognize the scene?

11 A I do.

12 Q Do those fairly and accurately represent the
13 scene as it looked that day when you took the
14 pictures?

15 A Yes, I do.

16 MR. EATON: Your Honor, I would offer these as
17 State's Exhibits --- do you need the numbers again?

18 THE COURT REPORTER: Yes, please, and if you
19 could say like 110, instead of 10 to avoid confusion
20 later.

21 MR. EATON: Oh, sure. State's Exhibits 106, 107,
22 108, 109, 110, 111, 112, 115 and 116.

23 MR. KRZYSTON: Judge, we would object insofar as
24 we already --- 115 and 116 as outlined in pretrial.

25 THE COURT: All right. So, 106, 107, 108, 109,

1 110, 111, 112 are admitted without objection. 115 and
2 116 are admitted over defense's objection.

3 (WHEREUPON, State's Exhibit Numbers 106 through
4 112 and 115 and 116 were admitted into evidence.)

5 MR. EATON: Thank you, Your Honor.

6 BY MR. EATON:

7 Q And Sergeant Richards, did you take any physical
8 evidence?

9 A Yes, once the photography was done and
10 Investigator Bouknight went through and marked several
11 items of interest to us, I went back through and
12 collected several items of interest myself and so did
13 Investigator Bouknight.

14 MR. EATON: If I may approach again, Your Honor.

15 (WHEREUPON, State's Exhibit Numbers 117, 118 and
16 119 were marked for identification only.)

17 BY MR. EATON:

18 Q Okay. I'm handing you what's been marked for
19 identification as State's Exhibit 117. Do you
20 recognize that, Sergeant?

21 A I do. It has my initials on the back and the
22 date that it was submitted to evidence.

23 Q And the jury has heard this with the previous
24 witnesses, but briefly would you describe the process
25 of collecting that and putting it into evidence?

1 A Yes, as I said, when we identify something that's
2 important to us, or believe it might be important, we
3 will mark it with a number or a letter, photograph it
4 again, and then we will collect it. Sometimes they
5 are to be processed back in our lab before they are
6 turned in to evidence, but once those things are done,
7 they are eventually turned in to evidence in a sealed
8 envelope, with an evidence label signed by whoever
9 turned it in. In this case it was me. It goes then
10 to the proper lab, be it the firearms section or DNA
11 section. Whoever needs to do the analysis.

12 Q Can you tell from the packaging that --- well,
13 what can you tell from the packaging?

14 A What can I what?

15 Q What can you determine from the packaging right
16 now?

17 A These were three items that I collected at the
18 scene. Number one was a nine millimeter cartridge
19 casing. That means it was a fired cartridge casing,
20 which means that this had already been fired and the
21 casing had ejected or was laying there from some type
22 of weapon, and this was a nine millimeter and it was
23 marked number (D). That was on the bed in the bedroom
24 at the end of the hallway of the apartment, another
25 one was a nine millimeter unfired cartridge. That

1 means it was the entire bullet. It had not been
2 fired. That was found in a closet down the hallway to
3 the right. I say a closet. I was a small closet that
4 contained the water heater and those types of things
5 in the apartment. It was lying on the floor. It was
6 marked as (B).

7 Then I also, later in the day, found a fragment,
8 which means a portion of the bullet that expended from
9 the cartridge. The bullet was not found in its
10 entirety, but a very small piece of it is called a
11 fragment. That was found on the bedroom floor.

12 That's also in the bedroom at the end of the hallway
13 that was marked (J) and collected by me. All three of
14 these items were collected by me.

15 Q Can you tell from the packaging and tape and
16 everything the procedures for submitting it?

17 A Yes. Myself, I put the items inside the
18 envelope, I seal it. I put my initials and the date
19 over the top, so if it's torn open by anyone, it would
20 have to be resealed with their initials, plus you can
21 always go through our computer system and identify and
22 track the chain of custody from these things. If it's
23 entered by me, taken in by evidence, and if someone
24 checks it out from evidence, if it's DNA or some other
25 section, that can be tracked also. That's the way

1 it's handled.

2 Q If you would please, go ahead and open that?

3 A This contains three smaller envelopes. All three
4 of those also sealed, my initials are probably the
5 initials of the firearm examiner. They are marked as
6 (B), which was an unfired nine millimeter Luger
7 cartridge. That means the entire bullet.

8 Marked as (D), a nine millimeter cartridge
9 casing, which is just a casing and the bullet had been
10 expended from that casing, also a Luger.

11 And marked as (J), the fragment that was also
12 found on the floor of the bedroom at the end of the
13 hallway and all three are sealed.

14 Q Thank you. If you could go ahead and open those,
15 please.

16 A This is the unfired cartridge. As I was talking
17 about, that's the entire bullet. The casing is on
18 your left, the bullet itself, the projectile, is on
19 your right. It's just what is considered a cartridge
20 or a bullet in its entirety. This would be the one
21 that was found in the closet of the hallway.

22 MR. KRZYSTON: Objection, Judge. We'd ask that
23 he refrain from publishing it.

24 BY MR. EATON:

25 Q At this point if you would just look at them, let

1 me know if they are in the same condition as when you
2 found them, please.

3 A Yes.

4 A This is ---

5 Q I'm sorry, Sergeant, if you would just go ahead
6 and look at them and not ---

7 A Just look at them, not show them?

8 Q Yes, I apologize. Just take a look at them. Let
9 me know if they are in the same condition as when you
10 found them and collected them and put them into
11 evidence, please.

12 A Yes, all three in the same condition as I found
13 them.

14 MR. EATON: I would offer these --- I'll stand
15 corrected as State's Exhibit 117, 118 and 119.

16 MR. KRZYSTON: We'd object to the admission until
17 such time the chain is procedurally established.

18 THE COURT: It's not fungible, admitted over
19 defense's objection. 117, 118, 119.

20 (WHEREUPON, State's Exhibit Numbers 117 through
21 119 were admitted into evidence.)

22 MR. EATON: For the record, fired nine millimeter
23 Luger cartridge marked as (D) Delta, that is 117,
24 fragment marked as (J) Juliette is 118, and unfired
25 cartridge marked as (B) Bravo is 119.

1 MR. EATON: Sergeant, if I could get you to step
2 down for a second?

3 You may want to grab the pointer over there.

4 THE COURT: If you will stand on the other side
5 for me, Sergeant ---

6 THE WITNESS: Yes, sir.

7 THE COURT: I appreciate that. Keep your voice
8 up so the last jurors on the back row can hear you and
9 madam court reporter can hear you.

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Thank you.

12 BY MR. EATON:

13 Q Sir, as we go through these, just tell the jury
14 what they are. This is State's Exhibit 107?

15 A That's the cartridge in its entirety, the bullet.

16 Q Which one?

17 A This one.

18 Q Right.

19 A That's the one that was found in the hallway to
20 the right down the hallway. That would be a closet
21 that I told you that there with the hot water heater
22 and things of the nature that was found lying on the
23 floor.

24 Q State's Exhibit 106?

25 A Yes, that's the same cartridge. It's just with a

1 Marker (B). As I indicated, as we mark each one, we
2 photograph it before they are collected so we can
3 place them back if need be.

4 Q 115?

5 A 115 is Marker (A). Once we entered, we started
6 assessing the --- what was inside the apartment and
7 started photographing for documentation. We noticed a
8 stain just inside the entrance way to the apartment.
9 This was thought to possibly be blood. We don't
10 determine that at the scene, of course, but we mark it
11 with Marker (A) and photograph it. I collected a swab
12 of that stain, and it was returned to our DNA lab.

13 Q This is Exhibit 116.

14 A This is (J), as you can see, you can see right
15 there a very, very small piece of metal. That is what
16 I indicated as being a fragment, a projectile
17 fragment.

18 Sometimes when a gun is fired and a projectile is
19 expended from the weapon itself and hits something, it
20 can fragment. That's what happened to something in
21 this room. This was on the floor of the rear bedroom
22 at the end of the hall.

23 Q And 108?

24 A 108 is just another (B). You can barely see the
25 (B), the marker. This is the hallway that's coming

1 from the entrance down to the end. This is the closet
2 on the right. This is approximately where that
3 cartridge was found.

4 Q And State's Exhibit 112?

5 A 112 is (K) and this was marked and collected by
6 Investigator Bouknight. I believe this indicates the
7 computer that's on the bed --- in the bedroom at the
8 end of the hallway.

9 Q And what does State's Exhibit 110 depict?

10 A This is Marker (D). This is a fired cartridge
11 casing that was also found on the bed in the bedroom
12 at the end of the hallway. A fired cartridge casing
13 means, as you can tell, there is no projectile or
14 bullet at the end of it, so that means it had already
15 been fired. It was found on the bed. We marked it as
16 (D). I collected this.

17 Q And finally State's Exhibit 109?

18 A 109 is the bed itself. You can see where we
19 marked a fired cartridge casing as (D). This was the
20 bed in the bedroom at the end of the hallway. That's
21 where that fired cartridge casing was found.

22 Q Did you do any other processing?

23 A Yes, I collected --- besides the cartridge
24 casings fired and unfired and the fragment, I did
25 indicate that I took a swab of a stain marked (A) at

1 the entrance way of the apartment.

2 I also took some additional swabs, one on the
3 floor in this bedroom as a matter of fact, which was
4 marked (C). It was also thought to be possible blood,
5 so I swabbed it. I took two additional swabs in a
6 bathroom where a victim was found and one was from the
7 bathtub. One was from the floor on the bathroom.
8 They were marked (E) and (F) and I collected those
9 also.

10 Q Did you collect any fingerprints?

11 A No, I didn't.

12 Q If you want to take a seat, that's fine. Thank
13 you.

14 And just finally, Sergeant, do you remember doing
15 any other analysis back at the lab?

16 A Yes, any time we have items of interest that can
17 be processed for latent prints, that's also done. I
18 took the cartridge casings, both fired and unfired and
19 fragment, of course, back to our lab at on Two Notch
20 Road. The following morning about 8:30, I started
21 processing those two items that I felt like I might
22 could get something off of. It's very hard to get
23 anything off of a shell casing or a bullet for that
24 matter, but I did process both and did not get any
25 latent prints from either one, but I swabbed both for

1 possible DNA.

2 MR. EATON: Thank you. That's all my questions.

3 MR. KRZYSTON: Thank you, Your Honor. May it
4 please the Court.

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION:

7 BY MR. KRZYSTON:

8 Q Good morning, Mr. Richards. How are you doing
9 today?

10 A Fine, sir.

11 Q This thing is a little heavy, so bear with me
12 while I move it.

13 Q Now, you don't go out to a scene unless you're
14 asked, correct?

15 A Asked?

16 Q To go out to a scene. You don't just get a call
17 and respond, do you? Your superiors call you and tell
18 you to go some place?

19 A We can get a call from a deputy ---

20 Q Right.

21 A --- who may be on the scene, and yes, we will
22 respond.

23 Q And when you responded in this instance, you
24 walked into the home, correct?

25 A After receiving a search warrant, yes.

1 Q And just kind of took in the general situation?

2 A Yes.

3 Q And it's your job to investigate the apartment
4 thoroughly, correct?

5 A Yes, for physical evidence, yes.

6 Q So if a door is closed, you'll open and it take a
7 look inside?

8 A Yes.

9 Q Because evidence can sometimes be secreted in
10 locations, such as closets and drawers et cetera?

11 A Correct.

12 Q In this case when you arrived at the scene, you
13 found the closet door with the tires and the unfired
14 cartridge closed?

15 A Correct.

16 Q In going through the rest of the apartment,
17 anything that you saw that was of evidentiary value,
18 you swabbed or collected that, correct?

19 A Yes.

20 Q The unfired nine millimeter cartridge that was
21 marked as (D), you tested that for fingerprints?

22 A I did.

23 Q And that was negative results, meaning no
24 fingerprints were found?

25 A No.

1 Q And you also swabbed it for DNA?

2 A I did.

3 Q And you didn't test it for DNA, did you?

4 A I don't do the analysis, no.

5 Q But it is Richland County's job to do the
6 analysis?

7 A We don't ---

8 Q But not your particular ---

9 A That's correct.

10 Q Somebody else has to tell them or tell the other
11 individual to test it, correct?

12 A Yes.

13 Q And the bullet --- excuse me, the cartridge
14 marked (B)?

15 A Yes.

16 Q You tested that for fingerprints?

17 A I did.

18 Q Again, that had no --- had negative results, no
19 fingerprints on it?

20 A No.

21 Q And you swabbed that for DNA test, correct?

22 A I did.

23 Q And you submitted that just like you submitted
24 Item (D)?

25 A I did.

1 Q And when you were doing all that, you noticed
2 that bullet (D) was a good bit different from bullet
3 (B), correct?

4 A One was fired, one was unfired.

5 Q Okay, and you also noticed that they were
6 different colors?

7 A I didn't put it in my report as them being
8 different colors, no.

9 Q And you also noticed that Item (D) was a Tula
10 nine millimeter shell and Item (B) was a Remington
11 shell?

12 A I have both Luger.

13 Q Okay. Then the last thing you did was you
14 photographed the scene?

15 A Yes.

16 Q And then you released it to the property manager.

17 A Well, we went back the second day.

18 Q After ---

19 A I mean, after everything was finished and we went
20 back the second day and did some other items there,
21 Investigator Bouknight collected some more items
22 there, yes, we briefed then Lieutenant McDonald on
23 what we had found and we released the scene.

24 Q And when you release a scene, it goes back to
25 property management, and they're free to clean the

1 apartment, rent it, et cetera?

2 A Either that or whoever is on the lease, if
3 they're still available, yes.

4 Q And throughout the entire time and throughout
5 reviewing all the evidence, you didn't find --- you
6 personally didn't find any of William's fingerprints?

7 A Not me personally, no.

8 Q And you didn't find any of William's DNA?

9 A Not me personally, no.

10 MR. KRZYSTON: Thank you. No further questions.

11 THE COURT: Redirect?

12 MR. EATON: Briefly, Your Honor.

13 REDIRECT EXAMINATION:

14 BY MR. EATON:

15 Q Now, Sergeant Richards, do you always find prints
16 or anything on a shell casing?

17 A On a shell casing or cartridge casing or a bullet
18 that's intact, seldom, very, very seldom.

19 Q Why is that?

20 A Well, for one reason, when you leave a ---

21 MR. KRZYSTON: Objection, Your Honor. Calls for
22 speculation.

23 THE COURT: Overruled.

24 BY MR. EATON:

25 Q Go ahead.

1 A When you leave a fingerprint, it's because you're
2 leaving water, salts, amino acids, and other liquids
3 and particles from the pores in the ridges on your
4 fingers. Those type of things are destroyed very
5 easily. They go away if something is touched or they
6 can be smeared. Particularly on a round or a
7 cartridge that's put into a gun, whether it's in a
8 magazine or whether it's in a cylinder, those are
9 going to be handled very hard and not very loosely, so
10 you're looking at the possibility of destroying any
11 fingerprints there.

12 Even if there were some there, once they are
13 fired out of the gun, if one is fired, it's very
14 seldom you get anything there because of the heat
15 that's inflicted, the twisting that's coming out of
16 the barrel, and other things of that nature.

17 Basically what you'll find on the cartridge
18 that's been fired is maybe some etching. That means
19 something has been there for a little while, maybe
20 heated for a little bit and etched into the metal. If
21 we find that and that's why we process every one any
22 way because we very seldom find a fingerprint, but
23 there's a possibility that etching exists. So we
24 process it and if we find something, then we would
25 photograph it and we would submit it to our latent

1 print section.

2 Q Okay. Thank you, Sergeant.

3 MR. EATON: May I approach, Your Honor?

4 BY MR. EATON:

5 Q I'm going to show you one more photo. This is
6 State's Exhibit 17.

7 A Yes, this is the rear ---

8 Q And I'm sorry --- do you recognize that?

9 A I recognize it, yes, sir. It depicts what we
10 saw.

11 MR. EATON: Thank you. I would offer this as
12 State's Exhibit 17. I think there was some confusion
13 about whether it was in. It was one that had been
14 discussed, Your Honor.

15 MR. KRZYSTON: Judge, we would object to it to
16 the extent we've already argued it and obviously based
17 on further objection.

18 THE COURT: All right. So 17 is already in.

19 MR. KRZYSTON: Over the defense objection,
20 correct?

21 THE COURT: Yes.

22 BY MR. EATON:

23 Q And if you would, Sergeant Richards, just from
24 there show the jury that picture and tell them what it
25 shows, please.

1 A As you can see this, that is the bedroom at the
2 end of the hallway that we've been talking about. You
3 can see the markers on the floor. Next to the bed is
4 Marker (C). That is what we believed to have been
5 blood on that floor. You can pick up Marker (D) on
6 the bed. That is where the fired cartridge casing was
7 located.

8 You find a couple of (H) and (I), I believe,
9 which is the computer that Investigator Bouknight
10 would have collected and some kind of electronic
11 device on the floor that seemed to be out of place,
12 that's the reason it was marked and photographed, and
13 Investigator Bouknight collected that.

14 MR. EATON: Thank you, sir, no more questions.

15 THE COURT: All right. State's 17 was not in.
16 It is now in over defense objection based upon the
17 proper foundation. I had that it was not in.

18 Just out of an abundance of caution, if it wasn't
19 in earlier, it is now over defense's previously stated
20 objection.

21 (WHEREUPON, State's Exhibit Number 17 was
22 admitted into evidence.)

23 THE COURT: Recross?

24 MR. KRZYSTON: Yes, sir. May it please the
25 Court.

RECROSS-EXAMINATION:

BY MR. KRZYSTON:

Q Again, throughout the entire scene and throughout all the evidence you collected, William's fingerprints weren't at the scene?

A I don't know if they were or not.

Q Well, you didn't ---

A Of the things I collected and processed, no prints were found.

Q Okay. But you didn't collect anything with his fingerprints on it?

A I did not.

Q And you did not collect anything with his DNA on it, correct?

A I do not know. I didn't do the analysis. I collected swabs from several locations, but I didn't do the analysis.

Q And you have not heard back anything?

A I have not heard back.

MR. KRZYSTON: Thank you.

THE COURT: Have a nice day.

MR. COBLE: The State calls Investigator Bouknight, Your Honor.

THE COURT: Okay.

MS. SAMPSON: If we can approach while we're

1 waiting for him.

2 HAROLD BOUKNIGHT,
3 after being duly sworn, testified as follows:

4 THE COURT: Please have a seat.

5 THE WITNESS: Investigator Harold Bouknight.

6 DIRECT EXAMINATION:

7 BY MR. COBLE:

8 Q Investigator Bouknight, where are you currently
9 employed?

10 A Richland County Sheriff's Department crime scene
11 investigation unit.

12 Q How long have you been with them?

13 A Nine years this month.

14 Q And what are some of your roles in the crime
15 scene unit?

16 A I'm a supervisor in the crime scene unit. I also
17 respond to crime scenes for processing, documenting,
18 collecting and preserving evidence. Also, I do blood
19 stain pattern examination, fingerprint examination,
20 footwear and tire wear examination, shooting
21 reconstruction and crime scene reconstruction.

22 Q Were you in that same capacity on June 28th,
23 2012?

24 A I was.

25 Q Did you respond to this incident location?

1 A I did.

2 Q When did you get there; do you recall? Was it
3 the day of this incident?

4 A Yes, on the 28th.

5 Q What did you when you arrived?

6 A When we got there, we observed that there were
7 some reddish brown stains that we believed to be blood
8 just inside the front door. There was a blue and
9 white iron on the kitchen counter and there was some
10 more reddish brown stains on the master bedroom floor
11 in the second bedroom or the second bathroom floor and
12 the tub and the toilet. There was a laptop on the
13 master bedroom bed and a cartridge casing on the bed
14 as well, and an LG wall charger on the phone and
15 unfired cartridge in the hallway closet.

16 Q Were there other responding deputies still at
17 this location?

18 A Yes, sir.

19 Q Who did you go with from CSU?

20 A Sergeant Richards.

21 Q Who just testified?

22 A Yes.

23 Q What was y'all's role when you went there?

24 A To process the scene, we had to wait on a search
25 warrant. Whenever we got the search warrant, we were

1 able to go in and photograph and then document
2 evidence, look for anything that looked out of place.
3 Blood obviously looks out of place at a residence. and
4 we also were able to look at some other photos that
5 showed what the crime scene looked like before EMS got
6 there and the bodies were removed.

7 We were able to tell that the blood from on the
8 floor and in the second bathroom were post incident
9 artifacts from EMS removing the bodies.

10 Q What do you mean by post incident artifacts?

11 A Meaning it didn't occur during the incident.
12 Whenever the deputies arrived, the incident was over
13 and there was no blood on the bathroom floor and then
14 by EMS removing that, it created what could be
15 considered, you know, a blood incident, but it was not
16 related to the actual incident.

17 Q So by the time you arrived ---

18 MR. KRZYSTON: Judge, objection, I have a matter
19 of law.

20 THE COURT: Ladies and gentlemen, if you'll
21 retire to your jury room. We're not going to take a
22 lunch break right now. We'll be back with you just as
23 soon as possible. Do not discuss the case. Keep an
24 open mind.

25 (WHEREUPON, the jury left the courtroom at 12:32

1 P.M.)

2 THE COURT: All right.

3 MR. KRZYSTON: Judge, this relates to the
4 photograph that showed the droplet of blood at the
5 doorway, the entry way to the apartment. We were just
6 told by the State that there was no evidence or no way
7 of knowing where that blood droplet came from. The
8 defense has not been made aware or have not received
9 any documentation indicating that that droplet of
10 blood was not related to the actual allegations as
11 opposed to that droplet of blood being placed there or
12 being there as a result of EMS as opposed to an
13 artifact.

14 MS. SAMPSON: Your Honor, I believe he just
15 testified about what was in the bathroom, not the
16 front door.

17 THE COURT: What did you say about the front door
18 blood?

19 THE WITNESS: It was my knowledge that that
20 wasn't there when the deputies arrived. I don't have
21 a photograph to prove that.

22 THE COURT: Okay.

23 THE WITNESS: The only photographs I have are
24 about the blood and the bathroom.

25 THE COURT: Alright. So what's the motion?

1 What's the objection?

2 MR. KRZYSTON: Discovery objection. We have to
3 move for a mistrial.

4 THE COURT: Based upon what?

5 MR. KRZYSTON: Based on the fact that we were
6 just told by the State they had no way of knowing that
7 that blood was there or wasn't there when deputies
8 arrived. They represented to the court that that
9 possibly could be part of the altercation.

10 THE COURT: Nobody represented that to the court.

11 MR. KRZYSTON: When Ms. Hines was making her
12 objection, she was asked if she had any evidence that
13 that would be a post action type thing.

14 THE COURT: Right.

15 MR. KRZYSTON: And we did not because that
16 information was not disclosed to us by the State.

17 THE COURT: Okay. How is that exculpatory?

18 MR. KRZYSTON: It's potentially exculpatory and
19 it's relevant material.

20 THE COURT: It's not exculpatory. You can't
21 state to me how it is exculpatory.

22 MR. KRZYSTON: Again, it --- again, it could be
23 potentially exculpatory and it's relevant.

24 THE COURT: How? How?

25 MR. KRZYSTON: It's relevant.

1 THE COURT: How?

2 MR. KRZYSTON: Okay.

3 THE COURT: How can it be potentially
4 exculpatory?

5 MR. KRZYSTON: Although it may not establish that
6 is potentially relevant --- excuse me, potentially
7 exculpatory. It is relevant and material.

8 THE COURT: And how is it ---

9 MR. KRZYSTON: To the admission of that
10 photograph.

11 THE COURT: Okay. Well, I'm happy to exclude
12 that photograph now that somebody said it didn't
13 happen when they came in.

14 MR. KRZYSTON: It's already been published to the
15 jury, Your Honor.

16 THE COURT: It has?

17 MS. SAMPSON: (A) has?

18 THE COURT: The picture of the blood stain near
19 the door.

20 THE WITNESS: That would be (A).

21 THE COURT: What?

22 THE WITNESS: That's Marker (A).

23 MS. SAMPSON: I think it may have been, Your
24 Honor.

25 THE COURT: Well, I just don't understand how it

1 affects your client negatively. Somebody testifies
2 that doesn't have anything to do with the incident. I
3 don't know how that hurts your client at all.

4 MS. SAMPSON: Does Your Honor want to see it?

5 THE COURT: No, I remember it very clearly.

6 MR. KRZYSTON: Again, Judge, it's just yet
7 another example of the issues we have with the
8 discovery in this case.

9 THE COURT: Is this just another example of a
10 witness you were free to talk to prior to trial that
11 you could have interviewed about this issue and he
12 could have explained it to you.

13 MR. KRZYSTON: I believe we're entitled under
14 Riddle to learn that information prior to ---

15 THE COURT: I think you have a misreading of
16 Riddle. This is not exculpatory information about
17 your client. Investigator Bouknight is free like
18 every other State's witness to be interviewed by the
19 defense to say what do you know or not know and how
20 did you know it and when did you know it? I mean,
21 it's a drop of blood on an entry way to a door and to
22 the room that a State's witness has just testified
23 that in his opinion, essentially as a crime scene
24 investigator, had nothing to do with the incident
25 based upon what he learned. I just don't understand

1 the relevance of why we're even dealing with this
2 argument.

3 MR. KRZYSTON: I just wanted to preserve
4 objections and have them noted for the record.

5 THE COURT: Okay. Your motion for a mistrial is
6 denied. Let's move on.

7 Bring the jury back in.

8 (WHEREUPON, the jury entered the courtroom at
9 12:37 P.M.)

10 THE BAILIFF: The jury is seated, Your Honor.

11 THE COURT: All right. Thank you very much.
12 Welcome back.

13 You may continue.

14 BY MR. COBLE:

15 Q Investigator Bouknight, when we left off, you
16 were talking about processing on June 28, 2012, this
17 incident location?

18 A Yes, sir, the other processing that I did was
19 using black powder. I processed the door knobs inside
20 the residence, the bedrooms and the bathroom, didn't
21 get any fingerprints on those and then swabbed those
22 for possible DNA and whenever we do that, it's just
23 distilled water and a swab, a sterile swab, place it
24 in a box and then that's forwarded to our DNA lab for
25 our analysis. I collected the iron and the LG wall

1 plug and brought those back for processing at the lab
2 at a later time.

3 Q You said you processed the door knobs for
4 fingerprints?

5 A Correct.

6 Q With negative results?

7 A Correct.

8 Q Do you usually get results when you process them,
9 in your experience?

10 A It's hit or miss. It depends. I think with a
11 fingerprint, if you look at your hand, you can see
12 you've got lines on the palm of your hand and on your
13 fingers, think of that like an ink stamp. If there's
14 ink on a stamp, it's going to leave that impression.
15 You have to have something on your fingers whether
16 it's sweat, oils, paint, or something else that will
17 leave that impression. Sometimes things aren't left.
18 Sometimes things are smudged. They're 99 percent
19 water so they're very fragile.

20 Q Did you process anything outside of the house ---
21 excuse me, outside the apartment?

22 A I photographed a vehicle that may have been
23 related. I was never told anything else about the
24 vehicle.

25 THE COURT: May I approach the witness, Your

1 Honor?

2 THE COURT: Yes, sir.

3 (WHEREUPON, State's Exhibit Numbers 120 through
4 125 were marked for identification only.)

5 BY MR. COBLE:

6 Q I'm going to show you been marked as 120 through
7 125. Can you just briefly look at those without
8 showing them to the jury?

9 A Yes.

10 Q Are those pictures of the apartment?

11 A Items in the apartment, yes, sir.

12 Q Do all those photographs fairly and accurately
13 represent the scene on that day as you remember it?

14 A Yes, sir.

15 MR. COBLE: Your Honor, I'd now move to introduce
16 State's Exhibit 120 through 125 into evidence.

17 THE COURT: Without objection?

18 MR. KRZYSTON: Without objection. I'm sorry,
19 Judge.

20 THE COURT: Admitted without objection, 120
21 through 125.

22 (WHEREUPON, State's Exhibit Numbers 120 through
23 125 were admitted into evidence.)

24 MR. COBLE: May I publish, Your Honor?

25 THE COURT: Yes, sir.

1 MR. COBLE: Investigator Bouknight, do you mind
2 stepping down?

3 THE COURT: Make sure you keep your voice up,
4 please, investigator.

5 THE WITNESS: Yes, sir.

6 BY MR. COBLE:

7 Q If you don't mind standing right over here. I'm
8 going to show you what's marked as State's
9 Exhibit 121. What is that?

10 A That's a photograph of the fired cartridge case
11 that we located on the bed.

12 Q And who is we?

13 A Sergeant Richards and I.

14 Q Did you collect that cartridge?

15 A Sergeant Richards did, yes.

16 Q And this is number 121?

17 A Yes, sir. That's a closer up view of the fired
18 cartridge casing.

19 Q 122?

20 A The Toshiba laptop that was marked as (I).

21 Q And what is that right there?

22 A That's a scaled marker that we use to identify
23 pieces of evidence and if we need an enlargement, it
24 has millimeter scales on it.

25 Q 123?

1 A That's the blue and white iron that was in the
2 kitchen.

3 Q The 124?

4 A That's the LG wall charger that was on the master
5 bedroom floor.

6 Q And again this is what you placed?

7 A Yes, sir.

8 Q And 125?

9 A The blue and white iron also.

10 Q Is this the kitchen in the apartment, correct?

11 A Yes, sir.

12 Q Thank you. You can take your seat.

13 Q Investigator Bouknight, did you return to the
14 scene after June 28th?

15 A Yes. The next day on the 29th that morning, I
16 processed the iron and the LG wall charger using
17 superglue fuming and black powder with negative
18 results from that, and then I swabbed those items.
19 Once again, I turned the swabs into evidence.

20 I went back out the next day to search for any
21 additional evidence to clear the scene, and there was
22 a roll of translucent trash bags in the bedroom. I
23 collected those and brought those back and processed
24 those once again with superglue fuming and black
25 powder with no prints developed. I swabbed those and

1 turned the swabs in to be sent for DNA analysis.

2 Q Again, is it difficult to collect fingerprints
3 from trash bags?

4 A Yes, sir. Your best surface is a smooth
5 nonporous surface such as glass, ceramic, painted
6 items, metal, things like that.

7 Q Why did you go back out the next day to that
8 incident location?

9 A We typically go back out the next day. We wait
10 until after autopsy and just do a final sweep for any
11 more evidence.

12 Q Your Honor, may I approach the witness?

13 THE COURT: Yes.

14 (WHEREUPON, State's Exhibit Numbers 126 was
15 marked for identification only.)

16 BY MR. COBLE:

17 Q I'm going to show you what's been marked as
18 State's Exhibit 126. Do you recognize that?

19 A Yes, sir, that's the iron.

20 THE COURT: Are you saying iron like a ---

21 THE WITNESS: Clothes iron.

22 THE COURT: Like you iron clothes with?

23 THE WITNESS: Yes, sir.

24 MR. KRZYSTON: No objection, Judge.

25 BY MR. COBLE:

1 Q Does this fairly and accurately represent the
2 iron as you saw it in that apartment on that day?

3 A Yes, sir.

4 Q Your Honor, I'd now move State's Exhibit 126 into
5 evidence?

6 THE COURT: Admitted without objection.

7 MR. COBLE: Thank you.

8 (WHEREUPON, State's Exhibit Numbers 126 was
9 admitted into evidence.)

10 BY MR. COBLE:

11 Q Will you show the jury what you collected on that
12 day? You can take it out of the bag?

13 A Do you have any gloves?

14 Q Yes, sir. And how did you process that?

15 A Using superglue fuming, cyanoacrylate. It's a
16 fuming chamber. The fumes will adhere to the moisture
17 in the print and you get a better bond. Then they can
18 be further developed with black powder, other
19 fluorescent powder, things like that, and then it's
20 swabbed for any possible DNA.

21 Q When it's swabbed --- what do you do what do you
22 do with the swabs?

23 A They're packaged in a box and then inside of an
24 envelope, and then turned it in to evidence to be in
25 forwarded to our DNA lab.

1 Q So you don't do any analyzing of DNA?

2 A No, sir.

3 Q After leaving the incident location on June 29th,
4 what was your further involvement with this case?

5 A On July 3rd I received a Hi-Point nine millimeter
6 and magazine from the evidence custodian and processed
7 that using the same techniques, the cyanoacrylate, the
8 superglue fuming or black powder with no fingerprints
9 developed. Then I swabbed the barrel, the exterior of
10 the handgun and the magazine. Then I transferred that
11 to --- the handgun and magazine to Investigator
12 Collins.

13 MR. COBLE: Your Honor, may I approach the
14 witness one more time in?

15 THE COURT: Yes, sir.

16 BY MR. COBLE:

17 Q I'm going to show you what's been marked ---
18 what's in evidence as 25 and 26. Do you recognize
19 these?

20 A Yes.

21 Q What are those?

22 A That's the Hi-Point and the magazine, the
23 handgun.

24 Q Are these the ones that you processed?

25 A Yes, sir.

1 Q So you swabbed them for DNA?

2 A Yes, sir.

3 Q And collected fingerprints?

4 A There were no fingerprints.

5 Q And in your dealings as a --- you're working in
6 the crime scene unit, do you usually get fingerprints
7 off of weapons?

8 MR. KRZYSTON: Objection to leading.

9 MR. COBLE: Withdrawn. Withdrawn.

10 THE COURT: You can answer that.

11 THE WITNESS: Okay. It depends. It's hit or
12 miss. Sometimes we get them. Sometimes we don't.
13 The heat from a firearm discharging a lot of times
14 will --- like I said, it's 99 percent water, so like I
15 said, we just get smudges.

16 MR. COBLE: Thank you, Investigator Bouknight.

17 THE COURT: Cross-examination?

18 MR. KRZYSTON: Thank you, Judge. May it please
19 the Court.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION:

22 BY MR. KRZYSTON:

23 Q This is battle of the podium. It keeps moving
24 around the courtroom. I don't know who is winning.

25 All right. Investigator Bouknight, you just

1 testified that the best surface to pull a latent, or
2 fingerprint, off of is glass, metal, or ceramic?

3 A Yes, plastics, also. Just a smooth nonporous
4 surface.

5 Q A nonporous surface. Okay.

6 MR. KRZYSTON: Judge, permission to approach the
7 little pad up there?

8 THE COURT: Yes, sir.

9 BY MR. KRZYSTON:

10 Q When you do the fingerprint --- the --- how do
11 you say it again?

12 A Cyanoacrylate.

13 Q Okay. You mentioned a fuming chamber. What
14 you're talking about is a clear box, correct?

15 A It has a clear window.

16 Q Okay. So it's a window and it probably has a
17 stand inside?

18 A It has hooks that we hang things from or we can
19 place things on stands.

20 Q And when you place something in there, you also
21 place like a Petri dish with chemicals, correct?

22 A It's a small aluminum pan that we put superglue
23 in.

24 Q And the entire chamber fills with fumes and
25 powder and particulates, correct?

1 A Just the fumes from the cyanoacrylate.

2 Q And those attach to any moisture or any
3 fingerprint that's on that surface?

4 A Yes, sir.

5 Q So you don't miss anything. You're not in
6 jeopardy of ever missing anything that had ---

7 A Unless you don't look for it, correct.

8 Q And you conducted that test on the firearm?

9 A Yes, sir.

10 Q And you conducted that test on the casings?

11 A I didn't conduct it on the casings, no, sir.

12 Q But you did process door knobs and, again, you
13 processed the firearm?

14 A Yes, sir.

15 Q And you processed the roll of translucent bags?

16 A Yes, I did.

17 Q And no fingerprints were found on any of that
18 evidence?

19 A No, sir, they weren't.

20 MR. KRZYSTON: No further questions, Judge.

21 THE COURT: Redirect?

22 MR. COBLE: Nothing, Your Honor.

23 THE COURT: Have a nice day.

24 All right. Ladies and gentlemen, we're going to
25 break for lunch. It's about ten till one. If you

1 will take a break for lunch. Do not discuss the case.
2 Keep an open mind about the case and we'll start back
3 at 2:30. Thank you very much.

4 Everyone remain seated while the jury is
5 dismissed.

6 (WHEREUPON, the jury left the courtroom at 12:50
7 P.M.)

8 THE COURT: Thank you, Investigator. You're free
9 to leave.

10 All right. Anything before we break for lunch?

11 MS. SAMPSON: Not from the State, Your Honor.

12 MR. KRZYSTON: Nothing from the defense, Your
13 Honor.

14 THE COURT: Okay. On this issue of exhibit
15 number 17. When it was originally argued by --- and
16 we do this for the purposes of expediency and trying
17 to move things in front of the jury in an efficient
18 manner. The defense, as they should have, had
19 notified me, you know, we're going to object to this
20 picture pursuant to the proper witness bringing it in
21 or not. At that point in time I said State's Exhibit
22 Number 17 would be admissible. When the State went to
23 introduce it through Sergeant Moreland, Sergeant
24 Moreland said I never saw the scene like that, and so
25 they withdrew it at that point, so State's Exhibit

1 Number 17 was never properly introduced through a
2 witness until the witness that it came in through
3 today who was able to lay the proper foundation of the
4 picture based upon the scene as he saw it.

5 So that's the history of how we came into State's
6 Exhibit Number 17, which is now evidence over defense
7 objection based upon my reasoning that I ruled in the
8 pretrial hearing. Okay.

9 Anything else?

10 MR. COBLE: No, sir.

11 THE COURT: All right. 2:30.

12 MR. HAWKS: Thank you, Judge.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: All right. Anything before we bring
15 in the jury?

16 MS. SAMPSON: Your Honor, with the next couple of
17 witnesses, there are some lay witnesses.

18 THE COURT: Okay.

19 MS. SAMPSON: I was going to go ahead and settle
20 the record. Let me go and check. I can do Diggs
21 record right now.

22 THE COURT: Okay.

23 MS. SAMPSON: We have two other witnesses,
24 Kimberly Conway and Tashonda Toatley. We were
25 provided the raps, but literally right this minute, I

1 left them upstairs so I just sent my clerk to go get
2 them. I figured we could do it before we brought the
3 jury in. She should be back any minute.

4 DeAndre Diggs, as far as a rap sheet goes, Your
5 Honor, I believe the only prior that would come in
6 would --- he had a habitual traffic offender in 2011.
7 He has prior convictions, but they're beyond the ten
8 year range.

9 THE COURT: Okay. Are any those beyond the ten
10 year range dealing with crimes of dishonesty?

11 MS. HINES: Accessory after the fact of attempted
12 armed robbery.

13 THE COURT: I thought the court ruled that armed
14 robbery wasn't a crime of dishonesty.

15 MS. HINES: Without more information.

16 THE COURT: Yes.

17 MS. SAMPSON: And I don't have --- I mean, it's a
18 Richland County case, but I didn't go get --- they
19 didn't put me on any notice about that one so I didn't
20 go look for it in terms of if they were going to
21 trying to get that one in. That was it. I didn't
22 know any more about it. It is from 1993.

23 THE COURT: Okay.

24 MS. SAMPSON: But I would agree the habitual
25 traffic offender could come in. It was from 2011.

1 THE COURT: All right.

2 MS. SAMPSON: Other than that I don't know of any
3 prior that would come in.

4 THE COURT: So what about Mr. Diggs, besides the
5 HTO?

6 MS. HINES: That's the only thing that we have,
7 Judge.

8 THE COURT: Okay.

9 MS. HINES: Other than the specific information.
10 We do have the indictment.

11 THE COURT: Okay. All right. So on Mr. Diggs,
12 the habitual traffic offender from 2011 will be
13 admitted.

14 MS. SAMPSON: And if you'll give me ---

15 THE COURT: It's permissible for impeachment
16 purposes.

17 MS. SAMPSON: If you'll give me just one second.
18 I just want to make sure --- Ms. Toatley has a hit and
19 run from 2005, theoretically, I guess that could be a
20 crime that come in.

21 THE COURT: It depends on what kind of hit and
22 run it is.

23 MS. SAMPSON: It is hit and run with accident and
24 property damage. She got a year suspended on a year's
25 probation.

1 THE COURT: Okay.

2 MS. SAMPSON: Well, doesn't sound like it ---
3 well, actually it does 56-5-1220.

4 MS. HINES: That carries up to a year.

5 THE COURT: Right.

6 MS. HINES: And I would argue that would be
7 indicative of a crime of dishonesty.

8 THE COURT: Do you have a case that says that?

9 MS. HINES: I don't have a case specifically on
10 hit and run, but for purposes to evade and not provide
11 your information.

12 THE COURT: So it's definitely not in excess of
13 one year, so the issue is, it is a crime of
14 dishonestly or false statement.

15 MS. HINES: I would argue that it would be a
16 crime of dishonesty when you have hit and run and
17 leaving the scene without providing information in an
18 attempt to ---

19 THE COURT: It doesn't have anything to do with
20 the decedents, so I'm not going to allow it.

21 MS. HINES: Okay.

22 THE COURT: Dishonesty and false statements are
23 deceit, and leaving the scene of the accident doesn't
24 go to deceit unless we have some more factual basis to
25 base that on.

1 All right.

2 MS. SAMPSON: And then the on other thing we have
3 is Kimberly Conway. She has a possession with intent
4 to distribute cocaine and the proximity charge, as
5 well as an attempt and conspiracy of drug laws from
6 2003 where she received five years suspended upon
7 three years' probation. That would be within the ten
8 year time period ---

9 THE COURT: Okay.

10 MS. SAMPSON: --- of when she was released. And
11 a forgery from 2003, she received one year suspended
12 upon one year probation. Out of an abundance of
13 caution, it may fall into the category of one year. I
14 don't know when the probation ended.

15 THE COURT: All right.

16 MS. HINES: For forgery, that would be a crime of
17 dishonestly.

18 THE COURT: Yeah, does it fall under the ten year
19 rule?

20 MS. SAMPSON: I'll be honest, I can't tell from
21 this. She received the convictions in March of 2003.
22 If she completed her probation a year later, she would
23 have been released in March of 2004, so it would be
24 outside the range of ten years. We're not provided
25 with when they complete, so that's --- again, I have

1 the court date that she pled to. If they used that
2 date, she would have been off probation and
3 therefore --- I don't have that she was revoked on
4 probation or anything like that. That would be on the
5 rap sheet, so if she completed a year later, she would
6 be outside of the ten year range.

7 THE COURT: So the drugs are definitely in on
8 Ms. Conway, the issue is the forgery within the ten
9 year portion of the rule.

10 MS. SAMPSON: Correct.

11 MS. HINES: We could get someone to check with
12 probation.

13 THE COURT: Okay.

14 MS. HINES: As to when she completed probation.

15 THE COURT: Good.

16 MS. HINES: They're in the building.

17 THE COURT: That would be great.

18 MS. SAMPSON: She is our first witness. I did
19 not --- if you can give us five minutes to go get
20 probation and just check with them. The next one is a
21 lot longer. I can do it the opposite way. I'd prefer
22 to get her in and out since she is much quicker and
23 shorter. Is that okay, Your Honor?

24 THE COURT: Somebody see if you can find Troy.

25 (Pause.)

1 MS. SAMPSON: I checked with probation and a
2 member of the Public Defender's Office. It expired in
3 March of 2004.

4 THE COURT: Okay. So that's outside the ten year
5 timeframe. So on Ms. Conway, the drugs and the
6 conspiracy are in for impeachment purposes. All
7 right.

8 MS. SAMPSON: The only other matter that ---
9 there's been all these disclosure issues, in preparing
10 for this afternoon, we believe Mr. Diggs' codefendant
11 of Mr. Wallace is going to testify, Your Honor. His
12 attorney Ms. Barbier is here. Prior --- when we broke
13 for lunch, she had met with her client today, and he
14 informed her that since, on the afternoon --- and I'm
15 looking at her to make sure I repeat this right, that
16 on the day that we turned over some communication
17 letters that her client had received from the
18 defendant, we gave that to the defense to let them
19 know that we had them, that that day when he returned,
20 the defendant was agitated --- they're in the same
21 dorm, and that he then received some threats in terms
22 of --- I don't want to get the wording incorrect, but
23 that he better handle business or that he would take
24 care of business or something to that effect. You can
25 ask her the specifics. I'm just disclosing that to

1 the other side and I just found out like an hour ago.

2 THE COURT: Okay.

3 MS. SAMPSON: If you have any questions or want
4 the specifics, you can ask Ms. Barbier. I didn't even
5 talk to the defense ---

6 MS. HINES: If he received some threats, I would
7 be curious, was it threats from Mr. Wallace or other
8 inmates or what?

9 THE COURT: Yes, ma'am, Ms. Barbier.

10 For the record, that's Debbie Barbier, who
11 represents Mr. Diggs.

12 MS. BARBIER: Your Honor, my understanding is
13 that Mr. Diggs received these threats through another
14 inmate who indicated that he had been told the
15 prosecution had received these letters and that
16 Mr. Wallace had asked this inmate to take care of
17 Mr. Diggs, and Mr. Diggs indicated that this inmate
18 said he was --- inmate said he would take care of him,
19 meaning he threatened him, and threatened to harm him.

20 THE COURT: When was this?

21 MS. BARBIER: This was last week, Your Honor. He
22 said after Mr. Wallace received a visit from his
23 lawyer --- apparently, it was believed that during
24 that meeting, those letters were disclosed to
25 Mr. Wallace and that was what resulted in the threats

1 being made.

2 THE COURT: Does the State intend on introducing
3 that?

4 Thank you, Ms. Barbier.

5 MS. SAMPSON: I think in terms of they may --- I
6 don't know what their --- it might be in redirect. I
7 wasn't planning on getting into it in my case in
8 chief, no.

9 THE COURT: Okay.

10 MS. HINES: We would object to without being able
11 to cross-examine that other inmate or have knowledge
12 of who that inmate is.

13 THE COURT: Well, they're not intending or
14 introducing it at this point. I would assume the
15 caveat would be unless the door is opened.

16 All right. Let's go. Bring them in.

17 THE BAILIFF: Yes, sir.

18 (WHEREUPON, the jury entered the courtroom at
19 2:45 P.M.)

20 THE BAILIFF: The jury is seated, Your Honor.

21 THE COURT: All right. Welcome back, ladies and
22 gentlemen. I hope you enjoyed your lunch. Tomorrow I
23 am going to be providing lunch for you, so you can
24 plan accordingly. That will help the day go a little
25 bit faster. We aren't real fancy on where we get food

1 from, but at least it doesn't cost you anything.

2 Call your next witness.

3 MR. EATON: The State calls Kimberly Conway.

4 THE COURT: All right.

5 KIMBERLY CONWAY,

6 after being duly sworn, testified as follows:

7 THE BAILIFF: Watch your step.

8 THE COURT: State your full name.

9 THE WITNESS: Kimberly Conway.

10 DIRECT EXAMINATION:

11 BY MR. EATON:

12 Q Hi, Ms. Conway.

13 A How are you?

14 Q Ms. Conway, where are you from?

15 A Columbia, South Carolina.

16 THE COURT: I need you to speak up a little bit,
17 ma'am, get closer to the microphone for me. Thank
18 you.

19 BY MR. EATON:

20 Q Do you still live here?

21 A Yes, I do.

22 Q Ms. Conway, how do you know William Wallace?

23 A I've been knowing William for awhile. Grew up
24 pretty much at the same time in the same neighborhood.

25 Q And in 2012, what was your relationship with him?

1 A He was my friend.

2 Q Okay. Now Ms. Conway, before we go any further,
3 just about your background, I understand in 2003 you
4 were convicted of a few charges; is that correct?

5 A A few charges?

6 Q Yes, ma'am.

7 A No.

8 Q Were you convicted of possession with intent to
9 distribute crack cocaine?

10 A That was in 2001.

11 Q Okay. Excuse me, but you were convicted of that?

12 A Uh-huh.

13 Q As well as a proximity charge for a school and
14 then a conspiracy charge, as well?

15 A Correct.

16 Q Okay. And did you complete whatever sentence you
17 had?

18 A Yes, I did.

19 Q Now, Ms. Conway, you said you and William were
20 friends?

21 A Uh-huh.

22 Q Did you see him a good bit?

23 A Yes, I did.

24 Q How frequently would you say you saw him?

25 A Every day.

1 Q Okay. Did you see him on June 28, 2012?

2 A Yes, I did.

3 Q When did you see him that day?

4 A After class.

5 Q About what time of day, do you know?

6 A After 12:30.

7 Q Okay. And where did you see him?

8 A At his aunt's house.

9 Q Who is his aunt?

10 A Vernell.

11 Q Okay. Is that 1203 Denny street?

12 A Yes.

13 Q And William was there?

14 A Yes, he was.

15 Q Who else was there?

16 A It was another guy and his cousin.

17 Q And was --- I'm sorry, two other guys?

18 A No, it was another guy and his cousin.

19 Q Okay. And when you got there, what were they
20 doing?

21 A They went in the house.

22 Q Okay. And what did y'all do?

23 A When we got there, he came on out and saw me.

24 THE COURT: Who is he?

25 THE WITNESS: William. So we left.

1 BY MR. COBLE:

2 Q You and who?

3 A Me, William and the other guy.

4 Q Did you know his name or anything?

5 A No, I didn't.

6 Q Where did you go?

7 A I took him to work.

8 Q Him?

9 A That's the other guy.

10 Q The other guy. Where did he work?

11 A At that chicken farm.

12 Q Okay. After y'all had dropped him off at the
13 chicken farm, where did you go?

14 A After I dropped him off to the chicken farm, we
15 stopped by somebody's house, but I wasn't sure who it
16 was.

17 Q About where was that?

18 A Off Rosewood.

19 Q Off Rosewood. What kind of place was that?

20 A I would assume apartments, some kind of
21 apartments.

22 Q Apartments off Rosewood. What did y'all do
23 there?

24 A I stayed in the car. He got out, and I assumed
25 the person wasn't home because he came straight back.

1 Q Did you see him go up to the apartments or what
2 did you see him do exactly?

3 A Well, he got out. The apartment was like around
4 a curve, so, you know, he was like around a curve and
5 in the back.

6 Q All right. And from there, where did y'all go?

7 A We went over on Broad River. I needed to check
8 to see about getting my brakes done in time to get him
9 back home. We went to Midas.

10 MR. KRZYSTON: Objection. Approach judge?

11 THE COURT: Yes, sir.

12 (WHEREUPON, a bench conference was held in the
13 presence, but not within the hearing of the
14 jury.)

15 BY MR. EATON:

16 Q Ms. Conway, so you all checked on getting the
17 brakes done. Where did you go from there?

18 A From there he had on a tank top. I wanted to get
19 something to eat. I told him he couldn't go to Ruby
20 Tuesday's to get something to eat with a tank top like
21 he had on, so we went to Family Dollar and he got him
22 a t-shirt. We went to Ruby Tuesday. I got me
23 something to eat, but he wasn't hungry. When we went
24 from there, we went to Burlington.

25 Q Which Ruby Tuesday? Let me back up. Which

1 Family Dollar, do you remember?

2 A The Family Dollar was on Bush River.

3 Q What about the Ruby Tuesday?

4 A On Bush River.

5 Q So after you go to Ruby Tuesday, where did you
6 go?

7 A When we left Ruby Tuesday, we went to Burlington.
8 We just walked around Burlington.

9 Q And what happened after that?

10 A Once we left Burlington, we was leaving out.
11 That's when we was surrounded.

12 Q Now, do you know anything about earlier that day?

13 A No.

14 MR. EATON: Thank you, Ms. Conway. Please answer
15 the defense questions.

16 THE COURT: Yes, sir.

17 MR. KRZYSTON: Thank you, Judge. May it please
18 the Court.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION:

21 BY MR. KRZYSTON:

22 Q How are you doing today, Kimberly?

23 A I'm doing good.

24 Q All right. Now, back then you were renewing your
25 nursing certification, weren't you?

1 A Uh-huh.

2 Q Did that come out all right?

3 A It did.

4 Q All right. I only have a few questions for you.
5 I'm going to let you get out of here pretty soon, but
6 on June 28th, you picked William up at Vernell's
7 house?

8 A Uh-huh.

9 Q She doesn't live there now, but it used to be
10 1203 Denny Road, right?

11 A Uh-huh.

12 Q And from there you went to the chicken farm?

13 A Uh-huh.

14 Q And then you went down towards Bush River Road,
15 correct?

16 A No, once we left the chicken farm, we went to off
17 of Rosewood.

18 Q I'm sorry. I'm sorry. That's right, but after
19 that you went down to Bush River?

20 A Uh-huh.

21 Q And William was wearing a tank top at the time,
22 correct?

23 A Yes.

24 Q And he was wearing that same tank top when he was
25 arrested, wasn't he?

1 A Yes.

2 Q That was under t-shirt that you made him buy?

3 A Yes.

4 Q You made him buy that because you wanted to go
5 into Ruby Tuesdays, right?

6 A Right.

7 Q Now, William didn't tell you what had happened
8 earlier in the day?

9 A No.

10 Q Okay. And you didn't know Gottie, who was in the
11 car --- the man you dropped off at the chicken farm,
12 you didn't know him?

13 A No.

14 Q But he didn't say anything to you, did he?

15 A No.

16 Q And you knew Athell, right?

17 A Yes.

18 Q Or Tron, and you knew his brothers, you knew of
19 his brothers?

20 A Yeah.

21 Q But you didn't want William to hang out with
22 them, right?

23 A Only because of the incident he had prior.

24 Q And the reason for that is because you looked ---
25 MR. EATON: Objection.

1 MR. EATON: May we approach, Your Honor.

2 THE COURT: Yes, sir.

3 (WHEREUPON, a bench conference was held in the
4 presence, but not within the hearing of the
5 jury.)

6 BY MR. KRZYSTON:

7 Q And you look out for William's best interests,
8 don't you?

9 A Yes.

10 Q Because you care about William?

11 A Yes.

12 Q And you actually knew William and Athell from
13 coming up together in the neighborhood, right?

14 A No.

15 Q Okay. But you did know William and Athell
16 individually?

17 A I knew William. I did not know Athell.

18 Q But do you know that William and Athell are like
19 family?

20 A From me being around him, he was --- I knew they
21 were friends.

22 Q Okay. You never knew William to have any kind of
23 beef with Athell whatsoever?

24 A Right.

25 Q Okay.

1 Q Thank you Kimberly. That's all I have today?

2 MR. EATON: Nothing further, Your Honor.

3 THE COURT: Have a nice day, ma'am.

4 THE WITNESS: Thank you.

5 THE COURT: Thank you.

6 MS. SAMPSON: The State calls DeAndre Diggs.

7 THE COURT: All right.

8 THE COURT: Come on over, Mr. Diggs.

9 DEANDRE DIGGS,

10 after being duly sworn, testified as follows:

11 THE CLERK: Please have a seat for me. State
12 your full name.

13 THE WITNESS: My name is DeAndre Diggs.

14 MS. SAMPSON: Can you spell your first name for
15 us?

16 THE WITNESS: DeAndre Diggs, D-E-A-N-D-R-E.

17 THE COURT: Mr. Diggs, can you speak up, please.

18 Can you move a little closer to that microphone? If
19 you can't, I can get somebody to help you.

20 DIRECT EXAMINATION:

21 BY MS. SAMPSON:

22 Q Now, let's address the big elephant in the room,
23 Mr. Diggs. You're in a jailhouse uniform. Where are
24 you currently staying?

25 A I'm in the shoe.

1 Q Which is where?

2 A Lock up.

3 Q At what facility?

4 A Alvin S. Glenn Detention Center.

5 Q And you're there because you're charged with
6 several crimes, correct?

7 A Yes, ma'am.

8 Q You're charged with --- in this particular case,
9 correct?

10 A Yes, ma'am.

11 Q You have the same charges as Mr. Wallace,
12 correct?

13 A Yes, ma'am, I do.

14 Q So you have two counts of murder?

15 A Yes, ma'am.

16 Q You have an armed robbery?

17 A Yes, ma'am.

18 Q You have three counts of kidnapping?

19 A Yes, ma'am.

20 Q And you have an attempted murder?

21 A Yes, ma'am.

22 Q Okay. And we've spoken before, correct?

23 A Yes, ma'am, we have.

24 Q And your lawyer is here?

25 A Yes, ma'am, she is.

1 Q Was she there when we talked?

2 A Yes, ma'am, she was.

3 Q Did I make you any promises?

4 A No, ma'am.

5 Q About ---

6 A You didn't.

7 Q Did I promise to let you go if you talked?

8 A No, ma'am, you didn't.

9 Q Did I promise you a lesser sentence if you
10 talked?

11 A No, ma'am, you didn't.

12 Q Did I promise to dismiss any charges if you
13 talked?

14 A No, ma'am, you did not.

15 Q Did I tell you anything about your charges?

16 A No, ma'am, you didn't.

17 Q But let's be clear. You're hoping it helps you,
18 correct?

19 A I pray.

20 Q You pray that it helps you, and you actually ---
21 before you even met me, you spoke with Investigator
22 McDonald, correct?

23 A Yes, ma'am, I did.

24 Q And you spoke with other law enforcement?

25 A Yes, ma'am, I did.

1 Q Did they make any promises to you when you talked
2 to them?

3 A No, ma'am, they did not.

4 Q Did they tell you they weren't going to charge
5 you?

6 A No, ma'am, they did not.

7 Q In fact, they charged you after you spoke?

8 A Yes, ma'am, they did.

9 Q All right. Now, I want to backtrack a little
10 bit. I just wanted to kind of get that established.
11 Do you have a nickname?

12 A Gottie.

13 Q Gottie. People call you that?

14 A Yes, ma'am.

15 Q Did Mr. Wallace call you that?

16 A Yes, ma'am, he does.

17 Q How long have you known Mr. Wallace?

18 A I've known Mr. Wallace since he is about eight
19 years old.

20 Q Are you guys related?

21 A Cousins.

22 Q Do you know how that works, or do you just know
23 you're cousins?

24 A We just know that we folks.

25 Q And how old are you?

1 A I'm 39.

2 Q So you're older than Mr. Wallace?

3 A Yes, ma'am, I am.

4 Q I'm going to take you back and actually --- I'm
5 going to take you back to June 28th, 2012. Where did
6 you work at that time?

7 A I worked at Columbia Farms.

8 Q And where is that?

9 A Beginning of West Columbia.

10 Q So it's over in the West Columbia area?

11 A West Columbia area.

12 Q What did you do there?

13 A Package.

14 Q So what is that; I've never worked in a chicken
15 farm?

16 A I packaged the chicken legs and breasts.

17 Q Okay. And you worked --- how long had you been
18 working there on June 28th?

19 A Close to eight months.

20 Q And I want to do one thing I kind of left out a
21 little bit. In talking about in terms of any charges
22 you've ever had or anything like that, you have one
23 conviction for a habitual traffic offender, don't you?

24 A Yes, ma'am, I do.

25 Q Okay. All right. So you were working at

1 Columbia Farms back in June of 2012. Did you ever
2 receive a phone call from Mr. Wallace?

3 A Yes, ma'am, I did.

4 Q What did he want?

5 A He wanted me to come with him.

6 Q Come with him where?

7 A He didn't say exactly, but I went with him.

8 Q And I'm going to stop you a little bit. I just
9 want to focus on the phone call, okay.

10 A Uh-huh.

11 Q Where were you when he called you?

12 A I was at my job.

13 Q Were you working?

14 A It was at the beginning of --- before the shift
15 started.

16 Q What time did you normally show up to work?

17 A About 8:15, 8:20.

18 Q Did you go that day about that time?

19 A Yes, ma'am, I did.

20 Q And were you feeling well that day?

21 A Not too well.

22 Q Okay. Had you been sick that day?

23 A I was.

24 A I was a little nauseated. I didn't know at the
25 time, but a female was pregnant by me.

1 Q Okay.

2 A And I had like morning sickness.

3 Q And so you received a call from him. Had you
4 clocked in to work?

5 A I did. No, I didn't. I didn't.

6 Q Did you clock in at all or clock back out or do
7 you remember?

8 A I clocked --- I clocked in. As soon as when I
9 get there I clock in.

10 Q And he called you after you clocked in or before?

11 A It was after I clocked in.

12 Q So did you clock back out or what did you do?

13 A I went and clocked back out. I went to my
14 supervisor and informed my supervisor that I was very
15 nauseated. My supervise said I could have the day
16 off.

17 Q So you clocked back out?

18 A Yeah.

19 Q So what happened after you clocked back out?

20 A Mr. Wallace gave me a call, and he arrived at my
21 job.

22 Q He came and picked you up?

23 A Yes, ma'am, he did.

24 Q Do you remember what kind of car he picked you up
25 in?

1 A A white LeSabre.

2 Q Was there any damage to the car?

3 A Passenger's side, passenger's side mirror.

4 Q What was wrong with the mirror?

5 A It was hanging off.

6 Q Did you get in the car?

7 A Yes, ma'am, I did.

8 Q And what did you do once you're in the car?

9 A We drove. We didn't do much talking.

10 Q Okay. Where did you guys go?

11 A We went to his grandmother's house.

12 Q Do you remember what street it was on?

13 A Palmland.

14 Q And what did you do while you were there?

15 A He collected two guns.

16 Q Did you see what kind of guns?

17 A Yes, I did.

18 Q What kind were they?

19 A AK-47 and a nine millimeter, 380, one of the two.

20 Q One of the two. Okay. Did you see him go get
21 it, or did he just come out of the house or what
22 happened?

23 A I was in there when he got it.

24 Q Does he give you either of the guns?

25 A Not at that time.

1 Q So what do you all do at that point?

2 A We get in the vehicle and we take a ride. We
3 ended up on Garners Ferry Road at some apartments.

4 Q Did he ever tell you where you were going?

5 A Not at that point in time.

6 Q So you get to some apartments, I think you said?

7 A Yes, ma'am.

8 Q What do you do once you're at the apartments?

9 A We get out and we walked to the apartments. We
10 hang on to some stairs. A guy comes out. He tells me
11 to hold off.

12 Q And I'm going to stop you. Who tells you to hold
13 off?

14 A Mr. Wallace.

15 Q Okay.

16 A Evidently he recognized who he was, because he
17 told me we had to wait until the guy came back.

18 Q Now, I'm going to stop you for a minute. What
19 did you think you were there for?

20 A I knew it had the to be something illegal.

21 Q You thought you were going to do something
22 illegal?

23 A Yeah, I knew it was something illegal.

24 Q Did you think --- and I'm --- you thought you
25 were going to rob somebody or steal something?

1 A I thought it was more likely a robbery.

2 Q So he told you to wait a minute?

3 A Yes, ma'am.

4 Q So where do you guys wait?

5 A He waited on the stairs.

6 Q You waited on the stairs? Are they the stairs to
7 the apartment building?

8 A The stairs to the apartment building, yes.

9 Q I'm going to show you what's been marked as
10 State's Exhibit Number 28. Is that where you're
11 talking about?

12 A Yeah. That was the stairs, but the backside of
13 the stairs.

14 Q So you were on the part of the stairs we can't
15 see?

16 A On the part that you can't see.

17 Q Okay. But this would be the stairs that you're
18 talking about?

19 A Yes, ma'am.

20 Q You don't have any doubt this is where you were?

21 A No doubt.

22 THE COURT: What's he referring to?

23 MS. SAMPSON: I'm sorry. We're referring to
24 State's Exhibit 28, the stairs on there.

25 THE COURT: All right.

1 BY MS. SAMPSON:

2 Q Just so we're clear, you said that you were
3 behind the stairs where we can't see?

4 A It was a level up.

5 Q You were above? You had gone up the stairs?

6 A Went up the stairs.

7 Q And you waited. How long did you all stay up
8 there?

9 A I can't say how long we stayed up there.

10 Q A few minutes, a few seconds?

11 A More than a few minutes.

12 Q What happened while you were up there? Did you
13 speak? What happened?

14 A Yeah, we talked and he said the guy would be
15 back. He told me to hold on.

16 Q Did he tell you who the person was?

17 A Not at that point.

18 Q Did you know who it was at that point?

19 A No, I didn't know who.

20 Q Does he return?

21 A Yes, the person returns.

22 Q What happens when he returns?

23 A Wallace goes down the stairs and approaches him
24 with a gun in hands.

25 Q Now, is he --- which gun did he have?

1 A He had the AK-47.

2 Q Did you have a gun at that point?

3 A No, I didn't.

4 Q So he goes up to --- does he say something to the
5 guy?

6 A He said something to him, but I can't really say
7 what he said. I don't quite remember, but the guy
8 acknowledged Wallace because I assume from my looking
9 that he knew who I was.

10 MS. HINES: Objection, speculation.

11 MS. SAMPSON: I can lay some foundation.

12 THE COURT: Okay.

13 BY MS. SAMPSON:

14 Q You said that you thought he --- why did you
15 believe that he knew him? Did he respond or did he
16 shake his hand or what did he do?

17 A Could you repeat the question?

18 Q You stated that you thought that the person knew
19 Wallace.

20 A Uh-huh.

21 Q Did he do something that made you think he knew
22 him; did he shake his hand, do something or ---

23 A No, they just looked at each other.

24 Q To you that meant he knew him?

25 A Yes, ma'am.

1 Q So I this I you said they were speaking. You
2 couldn't hear him?

3 A I couldn't hear what was being said.

4 Q So then you --- did you go back down the stairs?

5 A I came down the stairs halfway until Mr. Wallace
6 entered with the guy and went inside.

7 Q Did you follow them inside?

8 A I followed --- I followed them inside.

9 Q What did you see once you got inside?

10 A Mr. Wallace had one guy apprehended and another
11 guy was asleep on the couch.

12 Q Okay. Who was asleep on the couch?

13 A Mr. Johnson.

14 Q Did you know Athell Johnson?

15 A I knew him prior to an incident.

16 Q You knew who he was?

17 A I didn't know who he was at that point in time.

18 Q Okay. I'm going to show you what's been marked
19 as State's Exhibit Number 32 and entered into
20 evidence. Is this the living room you went into?

21 A Yes, ma'am, that's the living room.

22 Q That was the living room you went into?

23 A Yes.

24 Q And where was he asleep?

25 A On the couch.

1 Q He was asleep on that couch right there?

2 A That couch.

3 Q Is there any doubt in your mind that he was
4 asleep on the couch --- or that he was on the couch,
5 let me put it that way?

6 A He was on the couch, definitely.

7 Q And so you and Mr. Wallace enter?

8 A Yes, ma'am.

9 Q What happens once you get inside?

10 A Mr. Wallace put the guy that he met inside on the
11 breezeway on the floor, and told Mr. Johnson to don't
12 move.

13 Q And what did --- did the other guy --- is that
14 who we know to be Mr. Pratt now?

15 A Yes, ma'am.

16 Q Okay. Did he say anything?

17 A No, he didn't say anything. Mr. Wallace grabbed
18 a handgun that was on the floor.

19 Q So he got a gun from inside the apartment?

20 A Yes, ma'am.

21 Q What did he do with that gun?

22 A He kept it on his person.

23 Q Mr. Wallace did?

24 A Yes, ma'am.

25 Q And what, if anything, did Mr. Johnson say?

1 A He didn't say much.

2 Q So what happens at that point?

3 A Mr. Wallace asked him where is the items.

4 Q You can say the way he says it. What did he say?

5 A He say where the shit was.

6 Q And what did you think that meant?

7 A Drugs.

8 Q Okay. So you thought he was wanting the drugs?

9 A Yes, ma'am.

10 Q And what --- did Athell --- did Mr. Johnson say
11 anything?

12 A He told him where it was.

13 Q And where did he tell him?

14 A He said something like in the kitchen and also
15 some --- somewhere else.

16 Q Okay.

17 A I'm not sure.

18 Q And then what happened?

19 A Mr. Wallace hands me a gun.

20 Q He hands you a gun?

21 A He hands me a gun.

22 Q Which gun?

23 A The handgun.

24 Q The one he had just taken or the one that he went
25 in the house with?

1 A The one that he had just taken.

2 Q Okay.

3 A He ties up Mr. Pratt and Mr. Johnson.

4 Q Ties them up with what?

5 A Trash bags.

6 Q Did you guys bring those or were they in the
7 house?

8 A They was already in the house.

9 Q He ties them up and then what happens?

10 A He searches the house.

11 Q And this is an apartment?

12 A That's an apartment.

13 Q Can you see where he goes and searches or ---
14 what did you do?

15 A He goes towards the kitchen, realizes it's not in
16 the kitchen, and he asked him again and they went
17 towards the back of the house, the apartment.

18 Q And does he eventually find drugs?

19 A He finds them.

20 Q What were they in?

21 A I don't know what we was in, but when he came
22 out, they was in luggage.

23 Q A piece of luggage?

24 A Like a suitcase luggage.

25 Q So some sort of bag or suitcase?

1 A Bag, suitcase, yes.

2 Q And did he find anything else?

3 A He found a vest and a Tec-9.

4 Q A Tec-9. Is a Tec-9 a gun?

5 A Yes, ma'am.

6 Q So he finds a vest, a Tec-9 and drugs?

7 A Yes, ma'am.

8 Q And you see that?

9 A Yes, ma'am.

10 Q All right. So what happens at that point?

11 A Mr. Wallace gets Mr. Johnson to call a girl.

12 Q And why does he ask him to do that?

13 A Because Mr. Wallace --- as soon as Mr. Wallace
14 knew that the girl had the money.

15 Q Okay. So they asked him to call the girl?

16 A Yes, ma'am.

17 Q Did Johnson want to call her or could you tell?

18 A I couldn't tell.

19 Q Okay. So does he call her?

20 A Yes, he does.

21 Q And what does he say?

22 A He tells the girl to bring the money.

23 Q So what do you guys do after that?

24 A We wait.

25 Q And?

1 A Until the girl gets there.

2 Q Are they still tied up?

3 A Yes, ma'am.

4 Q Are your guns still out?

5 A Yes, ma'am.

6 Q What happens when she gets there?

7 A She comes to the door and she was about to come
8 in, but she was kind of hesitant until Mr. Wallace
9 pulled her in.

10 Q He pulls her in?

11 A He pulls her in.

12 Q Any doubt in your mind that Mr. Wallace did that?

13 A Yes, ma'am, he did.

14 Q Okay. And once she is in the house, what
15 happens?

16 A He takes a bag from her.

17 Q She has a bag on her?

18 A She has a bag, a purse and he asked where the
19 money was. She says in the purse. Mr. Wallace grabs
20 the money out of her purse.

21 Q What happens? Where does he tell her to sit or
22 does he?

23 A He asks her to sit on the couch.

24 Q Okay. So she is sitting next to Mr. Johnson?

25 A No, Mr. Johnson is on the floor.

1 Q Okay. Who put him on the floor?

2 A Wallace told him to get on the floor or pulled
3 him to the floor.

4 Q So she is sitting on the floor, did anyone tie
5 her up?

6 A I did.

7 Q With what?

8 A A trash bag.

9 Q Why did you do that?

10 A Mr. Wallace told me to.

11 Q So what --- I'm going to ask you, did an alarm
12 ever go off while you were there?

13 A Yes, several.

14 Q And did you do anything when that happened?

15 A Before it was over, I left out.

16 Q So this was later on that the alarm goes off?

17 A Yes, it went all the way off.

18 Q So I just want to make sure I haven't missed
19 anything. She's --- at this point the girl is there
20 tied up, Mr. Johnson and Mr. Pratt, they're both still
21 tied up?

22 A Yes, ma'am.

23 Q You and Mr. Wallace are both still armed?

24 A Yes, ma'am.

25 Q Then what happens?

1 A Mr. Wallace is talking to the girl, Raquel, and
2 he had --- him and Ms. Raquel go to the back of the
3 apartment and stay for awhile and they talk.

4 Q And are you still in the living room?

5 A I'm still in the living room.

6 Q Do you say anything to Pratt or Johnson at that
7 time?

8 A No, ma'am, I don't.

9 Q But you still have your gun?

10 A Yes, ma'am.

11 Q Do they come back out?

12 A Yes, ma'am, they do.

13 Q Then what happens?

14 A They sit, and they --- well, she sits back down,
15 and Wallace is still moving around, so she goes --- he
16 grabs her --- well, not grabs her, but he asks her to
17 come back to the back of the apartment again, so she
18 went back with him.

19 Q Does Mr. Wallace ever leave the apartment?

20 A Yes, ma'am, he does.

21 Q And does he take anything with him when he
22 leaves?

23 A He takes the suitcase with the items.

24 Q With the drugs, the vest, and the guns?

25 A Guns.

1 Q And the money?

2 A And the money.

3 Q Okay. Well, does he put the money in that
4 suitcase?

5 A Yep, he does.

6 Q That's after Ms. ---

7 A That's after Ms. Raquel has come over.

8 Q Okay. So at some point he leaves and takes
9 everything outside?

10 A Yes, ma'am, he does.

11 Q You stayed in the apartment?

12 A Yes, ma'am, I do.

13 Q So he comes back?

14 A Yes, ma'am.

15 Q And what happens after he comes back?

16 A The alarm goes off, and I wanted to leave.

17 Q The alarm in the apartment building is going off
18 or the alarm on you?

19 A No, the alarm on me. It was an alarm on the
20 apartment building that went off. I went out and came
21 back.

22 Q Did you see anyone when you went out?

23 A Yes, ma'am, I did.

24 Q A man, a woman?

25 A I seen a man and a woman.

1 Q Okay. And then you go back in the apartment?

2 A Yes, ma'am, I do.

3 Q So you said that at some point you're ready to
4 go?

5 A Yes, ma'am.

6 Q So what happens?

7 A I leave out.

8 Q Before you leave out, do you do anything with the
9 towel?

10 A I grabbed the --- I took a towel and wiped down
11 the walls.

12 Q Why did you do that?

13 A Because I had touched the walls.

14 Q Did Mr. Wallace direct you to do that?

15 A No, ma'am, he didn't.

16 Q Did he wipe down anything or do you know?

17 A Not that I know of.

18 Q But you did?

19 A I did.

20 Q Okay. Did you ever see him take Mr. Pratt or
21 Mr. Johnson anywhere in the apartment?

22 A He took them to separate rooms, I believe.

23 Q And how did he take them?

24 A Pratt walked and he pulled Athell.

25 Q How did he pull Athell?

1 A By his hands.

2 Q Did he drag him, carry him?

3 A Dragged him.

4 Q He dragged him?

5 A Yes, ma'am.

6 Q Was he using the plastic bags or just by the
7 hands?

8 A He was using his hands.

9 Q So he drug him down the hall?

10 A Down the hall.

11 Q All right. And at that point, do you leave?

12 A Yes, ma'am, I do.

13 Q So when you leave, Athell --- Mr. Johnson and
14 Mr. Pratt are alive?

15 A Yes, ma'am, they are.

16 Q Did you ever hear any gunshots yourself?

17 A No, ma'am, I didn't.

18 Q And Ms. Weston is still in the apartment when you
19 leave?

20 A Yep, she is.

21 Q So when you leave the apartment, what do you do?

22 A I go to the vehicle.

23 Q The vehicle you guys had come in?

24 A Yes, ma'am.

25 Q Why did you go there?

1 A Because I didn't want any part of what was going
2 down anymore. I didn't want, I canceled myself out.

3 Q Okay. So you were okay with robbing, is that a
4 fair?

5 A Yes, ma'am.

6 Q You were okay if you were going to do a robbery?

7 A Yes, ma'am.

8 Q And you were okay with stealing?

9 A Yes, ma'am.

10 Q But you thought something else was going to
11 happen, so you left? Is that what you were saying?

12 A No. I didn't think anything else was going to
13 happen. I just --- something just overcame me, and I
14 didn't want any part of it.

15 Q Okay. So did you leave?

16 A I left out of the apartment, but I didn't leave
17 the apartment complex.

18 Q Once your in the car, why don't you drive off?

19 A I don't know. I should have.

20 Q You just stayed in the car?

21 A Yes, ma'am.

22 Q How long were you in the car, do you know?

23 A I can't say.

24 Q A couple minutes, an hour?

25 A About ten, ten minutes.

1 Q Okay. And did you see Mr. Wallace again?

2 A Yes, ma'am.

3 Q And when --- is he with anyone?

4 A He is with Ms. Weston.

5 Q Is her --- are her hands tied or untied?

6 A Untied.

7 Q Okay. Does he still have the gun?

8 A Yes, ma'am.

9 Q Can you see it?

10 A Yes, ma'am.

11 Q Where is he holding it?

12 A He is holding it in his hand close to his body.

13 Q Is he holding her?

14 A He is holding her by the arm.

15 Q So they come to the car?

16 A They come to the car.

17 Q Where are you sitting in the car or, were you?

18 A I was standing outside of the car after I ---

19 after I moved the car.

20 Q Oh, let's go back to that. You moved the car?

21 A I moved the car from where it was originally
22 parked.

23 Q Did you not park in front of the apartment at
24 first or did you park it further away?

25 A I parked it towards the front of the apartment

1 entrance at the gate.

2 Q When you first get there, is Mr. Wallace driving?

3 A Yes.

4 Q Where did he park the car?

5 A He had parked the car catty-corner behind the
6 building.

7 Q So you move it from that spot to closer to the
8 front of the building --- or the front of the
9 apartment complex?

10 A Yes, ma'am.

11 Q So when you see them you get out of the car or at
12 some point you get out of the car?

13 A I was already out of the car.

14 Q And they come to the car?

15 A Yes, ma'am.

16 Q And then what happens?

17 A Mr. Wallace put Ms. Weston in the backseat. I
18 got in the backseat.

19 Q Why didn't you get in the front seat?

20 A Again, I cancelled myself out.

21 Q What do you mean by you cancelled yourself out?

22 A I didn't want to have anything else to do with
23 it.

24 Q So you guys are in the car. Do you know where
25 you're going?

1 A No, ma'am.

2 Q Okay. So where --- is there any conversation in
3 the car?

4 A From Ms. Weston.

5 Q Do you remember what that was about?

6 A She just asked was anything going to happen to
7 her.

8 Q And what was the response?

9 A I told her no.

10 Q You told her no. Okay. Did you ask Mr. Wallace
11 anything about Jamal --- Mr. Pratt or Mr. Johnson?

12 A Yes, ma'am.

13 Q What did you ask him?

14 A I asked him what happened to the boys. He said
15 they were asleep.

16 Q What did you take that to mean?

17 A That he had killed them.

18 Q Did he say anything about being permanent?

19 A Ma'am?

20 Q All he said was he put them to sleep?

21 A Yes, ma'am.

22 Q You took that to mean he killed them?

23 A Yes, ma'am.

24 Q Okay. So what happens once you all are in the
25 car?

1 A We drive towards Bluff Road.

2 Q Okay.

3 Q And then where do you go?

4 A We go to Beckham Swamp.

5 Q Okay. And I'm going to show you State's
6 Exhibits 22 and 46. Are these where you went? Does
7 it look familiar to you?

8 A Not the dirt Road. It was a paved Road.

9 Q It was paved. What about this area?

10 A It looks somewhat familiar.

11 Q State's Exhibit Number 11. Is that where you
12 went?

13 A Yes, ma'am.

14 Q So where the sign says Beckham and Bluff Road?

15 A Bluff Road.

16 Q And any doubt in your mind you were with
17 Mr. Wallace when you were there?

18 A Yes, ma'am. I was with Mr. Wallace.

19 Q So there is no doubt in your mind?

20 A No doubt.

21 Q And so you guys get there to this area. What
22 happens?

23 A We pull up.

24 Q And who is driving?

25 A Mr. Wallace is driving.

1 Q Okay. And what happens?

2 A We pull up to the swamp area. We get out and
3 he --- Ms. ---

4 Q Weston?

5 A Weston gets out and ---

6 Q Do you have a gun at that time?

7 A I left the gun inside of the car. The gun that
8 he gave me, I left it inside of the car on the seat.

9 Q But do you get out of the car?

10 A Yes, ma'am.

11 Q And she get out of the car?

12 A Yes, ma'am.

13 Q Does Mr. Wallace get out of the car?

14 A Yes, ma'am.

15 Q And what happens once you all are outside of the
16 car?

17 A Mr. Wallace instructs me to get rid of
18 Ms. Weston.

19 Q To get rid of Ms. Weston?

20 A Yes, ma'am.

21 Q What did you think that meant?

22 A To shoot her.

23 Q Did he tell you to shoot her?

24 A Yes, ma'am, he did.

25 Q What did he tell you would happen if you didn't?

1 A He had this look on his face that if I didn't do
2 what he said, he was going to do me.

3 MS. HINES: Objection. I don't understand if he
4 said that or if the look said that.

5 THE COURT: The look said that.

6 BY MS. SAMPSON:

7 Q Is that what you meant? You can clarify it.

8 A The look said that.

9 Q And you took it to mean what?

10 A That he would cause me harm if I didn't do
11 anything that he had asked me to do.

12 Q So tell the jury what you did.

13 A I took Ms. Weston to a wooded area, a small dirt
14 and wooded area, then I proceeded --- I shot her in
15 the arm. After she dropped, I shot her again.

16 Q And who did you get the gun from?

17 A Mr. Wallace.

18 Q Any doubt in your mind that he gave you that gun?

19 A He gave me the gun.

20 Q What happened after you shot her?

21 A We leave the scene.

22 Q Does he --- is he with you when you shoot her or
23 does he stay at the car?

24 A He stays at the car.

25 Q Can you see the car from where you shot her?

1 A Yes, ma'am.

2 Q So you get back in the car?

3 A Yes, ma'am.

4 Q And what happens --- you get in the passenger,
5 the backseat?

6 A I get in the passenger's seat.

7 Q What happens then?

8 A We leave the Beckham area.

9 Q And where do you go?

10 A We go to his grandmother's house.

11 Q And does Mr. Wallace ask you anything about the
12 girl?

13 A He asked me was she dead. I told him yeah, but I
14 felt in my heart that she wasn't.

15 Q But you didn't ---

16 A I didn't intentionally try to harm her.

17 Q But you did shoot her?

18 A But I did shoot her.

19 Q And you did shoot her in the head?

20 A Yes, ma'am, I did.

21 Q And he asked you was she dead?

22 A Yes, ma'am, he did.

23 Q Did you pass any cars as you're leaving Beckham
24 Swamp getting on to Bluff Road?

25 A Yes, ma'am, two cars.

1 Q What kinds of cars, do you remember?

2 A I think a Jeep and a small car, sedan.

3 Q Okay. And where do you go after you leave
4 Beckham Swamp Road?

5 A We go to Mr. Wallace's grandmother's house.

6 Q Where you've been before?

7 A Yes, ma'am.

8 Q And what do you do when you get there?

9 A He drops off the AK-47.

10 Q Do you see him do that or do you stay in the car?

11 A I stay in the car.

12 Q Does he go in with the gun?

13 A He goes in with it.

14 Q Does he come out with a gun?

15 A No, ma'am.

16 Q Then where do you go?

17 A We leave his grandmother's house and we go to ---
18 we get on the highway, but as we're leaving, we see
19 the patrol cars.

20 Q As you're leaving the grandmother's house?

21 A Yes, ma'am.

22 Q Does anything happen when you see the patrol
23 cars?

24 A Mr. Wallace was driving a little erratic, but I
25 told him to slow down, that we was going to get messed

1 up.

2 Q You thought you got caught?

3 A Yes, ma'am.

4 Q So then where do you go?

5 A We go to his house.

6 Q Which was where? Do you know where?

7 A I didn't know where.

8 Q So it was near Monticello? Was it near --- do
9 you remember where it was near? If you don't, that's
10 okay.

11 A No, I didn't quite, not the area that we went to.
12 I had no --- didn't know where I was at that point in
13 time.

14 Q Was it the house he lived in?

15 A Yes, ma'am.

16 Q Was anybody there?

17 A Yes, ma'am.

18 Q Who was there?

19 A His sister or his cousin.

20 Q A female?

21 A Yes, a female.

22 Q And related to him?

23 A Yes, ma'am.

24 Q So when you get there, where --- is the suitcase
25 still with you guys, the suitcase with the drugs, the

1 money, the gun?

2 A The suitcase was in the car.

3 Q What happens once you get to the house?

4 A Mr. Wallace unloads the car.

5 Q What does he take out when he unloads it?

6 A He takes the suitcase out of the car.

7 Q Where does he take it?

8 A He takes it to a smaller house behind the big
9 house.

10 Q So you say a little house? Not like a regular
11 house, a small house?

12 A A small one like an outhouse.

13 Q Like an outhouse; is that what you just said?

14 A Yes, ma'am.

15 Q So do you both go into that or just Mr. Wallace?

16 A He goes in. He comes out and he goes inside of
17 the big house.

18 Q Okay.

19 A I stayed outside.

20 Q You stayed outside, but you saw him --- did you
21 see him take the suit case in there?

22 A Yes, ma'am, I did.

23 Q Did you guys change your clothes?

24 A T-shirts.

25 Q Just you or both of you?

1 A Both of us did.

2 Q Okay. Did he ever do anything with the money or
3 the drugs in front of you?

4 A No, ma'am, he didn't.

5 Q He didn't separate it or anything like that?

6 A No, ma'am, he didn't.

7 Q Okay. Did he say anything about what was going
8 to happen with the vest?

9 A No, he didn't say what was going to happen to the
10 vest.

11 Q Okay. So what do you do at this point?

12 A I'm kind of paranoid.

13 Q Okay. So what do you want to do at this point?

14 A I went back to work.

15 Q And did you think --- what did you think was
16 going to happen with the drugs and the money?

17 A I thought Mr. Wallace was going to share with me.

18 Q Okay. Did y'all talk about it?

19 A Yes, we --- no, we didn't.

20 Q But you thought he would split it?

21 A I thought he would.

22 Q And that never happened?

23 A That never happened.

24 Q And how did you guys leave?

25 A A female came and picked me and Mr. Wallace up.

1 Q Did you know who that was?

2 A No, ma'am, I didn't.

3 Q You didn't leave in the car you came in?

4 A No, ma'am.

5 Q And where does she take you?

6 A She takes me to my job.

7 Q So you went back to work?

8 A Yes, ma'am.

9 Q You clock back in?

10 A Yes, ma'am.

11 Q You work for the rest of the shift?

12 A Yes, ma'am, I did.

13 Q So after all this has happened, you still go back
14 to work?

15 A Yes, ma'am.

16 Q Why?

17 A I don't know. I just felt that my whole day was
18 wasted.

19 Q Okay. Why didn't you call the police?

20 A I don't know. I mean. I felt like I should
21 have, but then again I was kind of more scared to call
22 the police than anything.

23 Q Okay. So nothing else happens that day. You get
24 off work. Everything is fine?

25 A Yes, ma'am.

1 Q Do you ever receive a call from Mr. Wallace's
2 sister?

3 A No, ma'am, I didn't. I received a call from my
4 sister.

5 Q From your sister, I'm sorry, and what --- that
6 was informing you that someone had been killed?

7 A She informed me that Athell had been killed and
8 that Mr. Wallace was incarcerated --- not incarcerated
9 but Athell.

10 Q Had been arrested?

11 A Had been killed.

12 Q I'm sorry, that Athell had been killed?

13 A Yes.

14 Q I'm sorry. I want to get that clear. And where
15 were you living at the time?

16 A I was from different girl's house to different
17 girl's house.

18 Q So you didn't really have your own place to stay,
19 is that fair to say?

20 A No, ma'am, I didn't.

21 Q At some point the police come to speak with you,
22 correct?

23 A Yes, ma'am, they did.

24 Q And do they speak with you?

25 A Yes, ma'am, I did.

1 Q I want to show you something. I'm going to show
2 you couple of things, okay. This right here, this was
3 done with you with Scott McDonald?

4 A Uh-huh.

5 Q Do you recognize him sitting right here?

6 A Yes, ma'am.

7 Q That's called an Advice of Rights. Did he go
8 over that with you?

9 A Yes, ma'am, he did.

10 Q You agreed to talk to him after that?

11 A Yes, ma'am.

12 Q Even though he told you he didn't have to?

13 A Yes, ma'am, he did.

14 Q He told you it could be used against you?

15 A Yes, ma'am.

16 Q Did you talk to him anyway?

17 A Yes, ma'am, I did.

18 Q Do you recognize that?

19 A It's a statement that I gave.

20 Q And you gave this statement?

21 A Yes, ma'am.

22 Q I'm going to talk about that procedure a little
23 bit. I'm going to leave that up there. When you gave
24 that statement, he was asking you questions?

25 A Yes, ma'am.

1 Q And then you gave him answers?

2 A Yes, ma'am.

3 Q Did he force you to talk to him?

4 A No, ma'am, he didn't.

5 Q Did he keep you from going to the bathroom in
6 order to keep you from talking to him?

7 A No, ma'am.

8 Q Did he do anything negative to you, yell at you,
9 beat you, anything at all?

10 A No, ma'am, he didn't.

11 Q Once --- did you write for him or did --- how did
12 that happen?

13 A They did the writing.

14 Q And then they typed it up?

15 A Yes, ma'am.

16 Q And they printed it?

17 A Yes, ma'am, I believe.

18 Q And did he read it to you or did you read it
19 yourself after you were finished?

20 A I read it.

21 Q Did he allow you to make any changes?

22 A He did.

23 Q And did you make any?

24 A No, ma'am, I didn't.

25 Q Could you have if you wanted to?

1 A Yes, ma'am, I could have.

2 Q Could you have added anything if you wanted to?

3 A Yes, ma'am, I could have.

4 Q He didn't stop you from doing anything?

5 A No.

6 Q Did he force you?

7 A No, ma'am.

8 Q Did you tell him who you did this with? Who you
9 committed these crimes with?

10 Q Yes, ma'am.

11 Q Who did you tell him you did it with?

12 A Mr. Wallace.

13 Q And what's his first name?

14 A William.

15 Q Do you see him in the courtroom?

16 A Yes, ma'am, I do.

17 Q Can you point him out for us?

18 A Yes, ma'am.

19 Q Can you tell us what he has on?

20 A He has an on orange shirt.

21 Q And is there any doubt in your mind that you
22 committed all of this that you just told the jury
23 about with Mr. Wallace?

24 A I committed all this with Mr. Wallace.

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

1 Q Mr. Diggs, did you try to be honest with
2 Lieutenant McDonald when you talked to him?

3 A Yes, ma'am.

4 Q You tried to tell him everything you knew?

5 A Yes, ma'am, I did.

6 Q Is it possible you forgot some things?

7 A I could have.

8 Q Are you telling us the truth today?

9 A Yes, ma'am, I am.

10 MS. SAMPSON: No further questions, Your Honor.

11 THE COURT: Cross?

12 MS. HINES: Thank you, Judge. May it please the
13 Court?

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION:

16 BY MS. HINES:

17 Q How are you doing today, Gottie?

18 A I'm doing okay.

19 Q Good. Now, Ms. Sampson started out talking to
20 you about the charges that you're facing right now,
21 right?

22 A Yes, ma'am.

23 Q You're facing two counts of murder, right?

24 A Yes, ma'am.

25 Q And you've spoken with your lawyer, right?

1 A Yes, ma'am, I have.

2 Q She is sitting right behind the solicitor's table
3 there in the courtroom?

4 A Yes, ma'am, she is.

5 Q And she has told you that murder carries 30
6 years, a mandatory minimum of 30 years, correct?

7 A Yes, ma'am, she did.

8 Q And a maximum sentence of life, correct?

9 A Yes, ma'am, she did.

10 Q And you have two counts of murder, correct?

11 A Yes, ma'am, I do.

12 Q And that 30 years, that's day for day, right?

13 A Yes, ma'am.

14 Q So if you get sentenced to 30 years, you spend 30
15 years in prison, correct?

16 A Yes, ma'am, I do.

17 Q You do not get out early?

18 A No.

19 Q If you get sentenced to life, you spend the rest
20 of your life in prison, correct?

21 A Yes, ma'am, I do.

22 Q You do not get out alive, correct?

23 A Yes, ma'am.

24 Q And you have one count of attempted murder?

25 A Yes, ma'am, I do.

1 Q And Ms. Barbier has told you that attempted
2 murder carries up to 30 years in prison, right?

3 A Yes, ma'am.

4 Q That's zero to 30, correct?

5 A Yes, ma'am.

6 Q And you have three counts of kidnapping?

7 A Yes, ma'am.

8 Q And Ms. Barbier has told you that those three
9 counts of kidnapping carry up to 30 years in prison,
10 right?

11 A Yes, ma'am.

12 Q So that's zero to 30, correct?

13 A Yes, ma'am.

14 Q Times three, correct?

15 A Yes, ma'am.

16 Q And you have a count of armed robbery, correct?

17 A Correct.

18 Q And Ms. Barbier has told you that carries between
19 ten and 30 years?

20 A Yes, ma'am.

21 Q So if you add all of this up, you're looking at
22 two life sentences and 150 years in prison, correct?

23 A Yes, ma'am.

24 Q You don't want that, do you?

25 A No, ma'am, I don't.

1 Q You don't want to spend the rest of your life in
2 prison, do you?

3 A No, ma'am, nobody does.

4 Q And you don't want to spend 150 years in prison,
5 do you?

6 A Nobody would.

7 Q You want to get out one day?

8 A Yes, ma'am.

9 Q And you're 39 years old?

10 A Yes, ma'am, I am.

11 Q And the only way --- you don't want to spend 30
12 years in prison, do you?

13 A I could.

14 Q You don't want to?

15 A But I don't want to.

16 Q No. The only way that you could get out of
17 spending at least 30 years day for day, up to two life
18 sentences plus 150 years in prison is the power of
19 Ms. Sampson, correct?

20 A No, ma'am.

21 Q No?

22 A No, ma'am.

23 Q There's a ---

24 A I mean, I understand where you're going, but no,
25 ma'am. Ms. Sampson didn't promise me, offer me

1 anything. As far as I'm concerned, I'll get the same
2 punishment that Mr. Wallace will get.

3 Q But you know that she has the power to give you a
4 deal later, don't you?

5 A No, ma'am, I don't because she never mentioned
6 anything to me about it.

7 Q Your lawyer hasn't told you that she has the
8 power to reduce those charges?

9 A No, ma'am.

10 Q And your lawyer hasn't told you that she has the
11 power to dismiss those charges?

12 A No, ma'am, she didn't.

13 Q I think you need to speak with your lawyer some
14 more about that. The life, plus life, plus 150 years
15 is what you're facing, right?

16 A Yes, ma'am.

17 Q Now, you've told people at Alvin S. Glenn you're
18 getting 15, haven't you?

19 A No, ma'am, I haven't.

20 Q You haven't told that to any of the officers down
21 at Alvin S. Glenn?

22 A No, ma'am, I haven't.

23 Q Okay. Let's talk what about you did say to this
24 jury. Now, when you said that Mr. Wallace went in
25 armed with the AK-47 to the apartment?

1 A Yes, ma'am.

2 Q How big was that?

3 A (Indicating.) Big.

4 Q This big? (Indicating.)

5 A About that big.

6 Q About this big? (Indicating.)

7 A Yes, ma'am.

8 Q And it's got the clips that come down?

9 A Yes, ma'am.

10 Q So it's about this big? (Indicating.)

11 A Yes, ma'am.

12 Q And you mentioned --- now, you mentioned him
13 handing you a gun?

14 A Yes, ma'am.

15 Q He handed you the gun that he found in the
16 apartment, according to your testimony, correct?

17 A Yes, ma'am.

18 Q Okay. And that was the same gun you used to
19 shoot Raquel Weston?

20 A No, ma'am. It's not.

21 Q You didn't just testify on direct that that was
22 --- that you had put the gun in the car, left the gun
23 in the car?

24 A I left that gun in the car. He gave me another
25 gun, which was the same gun that he shot the victims

1 with, that's the gun he gave me to shoot Raquel Weston
2 with.

3 Q Were you in the apartment when --- according to
4 your testimony, you were not in the apartment?

5 A No, ma'am. I had left out of the apartment.

6 Q That ---

7 A When I left, the victims was alive.

8 Q How do you know what gun he would have used?

9 A Because I had the gun that came out of the
10 apartment.

11 Q So he handed you the AK-47?

12 A No, ma'am.

13 Q How do you know what gun was used to shoot the
14 victims inside the apartment?

15 A Because I had the gun that came out of the
16 apartment on my person. He --- it was two separate
17 handguns, ma'am.

18 Q Uh-huh. How do you know what kind of gun was
19 used to shoot --- what gun was used to shoot the
20 victims in the apartment if you were not in the
21 apartment?

22 A Because I had the other gun on my person.

23 Q How do you know he didn't use the AK-47?

24 A I don't know, because I don't know if he used the
25 AK-47. I'm not sure. I wouldn't think that he would

1 use a AK-47.

2 Q So you don't know?

3 A I'm pretty sure he didn't use the AK-47.

4 Q You're speculating on that?

5 A No, ma'am. I'm not speculating on that.

6 Mr. Wallace had shells in his hand, shells that came
7 from ---

8 Q Have you told anybody that?

9 A Did I tell anybody that? This is what I seen.

10 Q Okay. But prior to today, have you said that?

11 A No, I didn't.

12 Q Okay. So you don't think he would have used the
13 AK-47 in the apartment?

14 A It wouldn't be likely that he would.

15 Q Or you know that he wouldn't use it?

16 A I just know he didn't.

17 Q You just know?

18 A Yes, ma'am.

19 Q That that's not what was used to shoot Mr. Pratt
20 and Mr. Johnson?

21 A Mr. Wallace showed me shells in his hand that
22 came from the handgun.

23 Q Okay. And that's how you know ---

24 A Yes, ma'am.

25 Q --- what was used?

1 A Yes, ma'am.

2 Q Okay.

3 Q Now, you testified earlier that Mr. Pratt,
4 Mr. Johnson, and Ms. Weston were all tied up with
5 trash bags, correct?

6 A Yes, ma'am.

7 Q And when you left the apartment, they were all
8 alive?

9 A Yes, ma'am.

10 Q And they were still tied up?

11 A Yes, ma'am.

12 Q Okay.

13 A Not --- except for Ms. Weston.

14 Q Ms. Weston was not tied up?

15 A No, she wasn't.

16 Q You tied Ms. Weston up, correct?

17 A I did, but I didn't tie her up where she was
18 bounded. I put the trash bag on her hands. When she
19 got up to move, it came off.

20 Q Okay, and you did that because you didn't want to
21 participate in this, right?

22 A Yes, ma'am.

23 Q And when you left the apartment, the only thing
24 that you took with you was the nine millimeter that
25 was found in the apartment, correct?

1 A Yes, ma'am.

2 Q So when you left the apartment the AK-47 was
3 still in the apartment?

4 A No, ma'am.

5 Q No?

6 A No, ma'am.

7 Q Okay. Where was the AK-47?

8 A When Mr. Wallace took the suitcase out he took
9 the AK-47 out.

10 Q Did he have it in the suitcase when he took it
11 out or did he just have it in his hand?

12 A I forgot how he took it out, but he didn't come
13 back in with it.

14 Q Just about the AK-47 you said that when you were
15 waiting in the breezeway, you went up the stairs and
16 you were standing in the breezeway and he has got the
17 AK-47 in his hands?

18 A He has the AK-47 in a trash bag.

19 Q In a trash bag?

20 A Yes, ma'am.

21 Q Okay. What color was the trash bag?

22 A Black.

23 Q Okay. And then when he goes down the stairs, he
24 is armed with the AK-47, correct?

25 A Yes, ma'am.

1 Q So he approaches Pratt armed with an AK-47?

2 A Yes, ma'am.

3 Q Where was the handgun at that point?

4 A On his person.

5 Q You don't know where on his person?

6 A No, ma'am, I don't.

7 Q Okay. All right, so --- and you keep saying ---
8 you keep saying in your, in your direct, that you were
9 trying to cancel yourself out, right?

10 A Yes, ma'am.

11 Q So you're trying to cancel yourself out of what
12 was happening?

13 A Yes, ma'am.

14 Q And that's why you flimsily tied Ms. Weston up,
15 right, because you were trying to cancel yourself out?

16 A Yes, ma'am.

17 Q That's why you went out to the car and moved it
18 because you were trying to cancel yourself out of it?

19 A I moved the car. I didn't think about moving the
20 car. I just moved the car.

21 Q And you got in the backseat with Ms. Weston?

22 A Yes, ma'am.

23 Q And the AK-47 was in the car when you got back in
24 it?

25 A (No response.)

1 Q When you got in the car, where was the AK-47?

2 A The first time?

3 Q When you got in the car after leaving the
4 apartment?

5 A After I got in the car, the AK-47 was inside of
6 the car.

7 Q Where?

8 A The backseat.

9 Q Was it laid across the backseat?

10 A Laid across the backseat.

11 Q Okay. And did it ever get moved until you got to
12 Palmland after that?

13 A It got moved after we got to Palmland.

14 Q So it was laid across the backseat, and it stayed
15 there until Mr. Wallace took it out of the car at
16 Palmland, correct?

17 A Yes, ma'am.

18 Q And you sat in the backseat after you left the
19 apartments, correct?

20 A Yes, ma'am, I did.

21 Q Because you were trying to separate yourself
22 from --- cancel yourself out, right?

23 A I was trying to separate myself as far as
24 possible.

25 Q Okay. And were you behind the driver's seat or

1 behind the passenger's seat?

2 A I was behind the passenger's seat.

3 Q Okay. So Ms. Weston was behind the driver's
4 seat?

5 A Yes, ma'am.

6 Q And so when they came out, Ms. Weston and
7 Mr. Wallace, according to your testimony, came out
8 together?

9 A Yes, ma'am, they did.

10 Q And he was holding her at gunpoint?

11 A Yes, ma'am, he was.

12 Q Which gun?

13 A The handgun.

14 Q Did he have ahold of her?

15 A Yes, ma'am, he did.

16 Q With one hand. Okay. So he had ahold of her
17 with one hand?

18 A Uh-huh.

19 Q Was it --- which hand did he have the handgun in?

20 A Right.

21 Q Okay. So he was holding her with his left hand?

22 A Uh-huh.

23 Q And had the handgun pointed at her with his right
24 hand?

25 A Yes, ma'am.

1 Q And put her --- or she got in the car in the
2 backseat?

3 A Yes, ma'am, she got in the backseat.

4 Q He gets into the driver's seat?

5 A Yes, ma'am.

6 Q Where does he put the gun?

7 A I don't know. I guess, I would assume he placed
8 it up in his lap or something.

9 Q He wasn't holding it and driving at the same
10 time?

11 A No, ma'am.

12 Q Okay. So he is in the front seat driving. You
13 and Ms. Weston are both in the backseat scared, right?

14 A Yes, ma'am.

15 Q And ---

16 A I can't say if Ms. Weston was scared or not.

17 Q But you were scared?

18 A Yes, ma'am.

19 Q Of course. And there was no way for you to get
20 out of situation that you were in at that point,
21 right?

22 A No, ma'am.

23 Q If there would have been, you would have, right?
24 If there had been a way out, you would have taken it,
25 right?

1 A I had an opportunity to leave Mr. Wallace at the
2 apartment building, but I didn't.

3 Q Right. But you did try to separate yourself or
4 cancel yourself out because you didn't really want to
5 do this, did you?

6 A No, ma'am, I really didn't.

7 Q Okay. And when you got to Beckham Swamp, did you
8 go down the dirt road or were you on the paved road?

9 A We went on the paved road.

10 Q So you never drove on the dirt road?

11 A No, ma'am.

12 Q Did you walk down a dirt road?

13 A No, ma'am.

14 Q So there was no dirt road where y'all were?

15 A I didn't --- it was a dirt road, but we wasn't on
16 it.

17 Q And Beckham Swamp is a paved road, right?

18 Beckham Swamp Road is paved, right?

19 A Yes, ma'am.

20 Q All right. And you took Ms. Weston into the
21 woods without Mr. Wallace, right?

22 A It wasn't woods. It was a patch of woods. It
23 was more like --- more dirt than woods.

24 Q More dirt than woods?

25 A Yes. I believe they were doing some type of work

1 back there, and they didn't quite dry all of the green
2 areas out, and it was like a little mirage.

3 Q A mirage?

4 A Of woods. I mean, I'm just trying to ---

5 Q Like a ---

6 A --- give you a good description of it.

7 Q Right. Okay. But you --- this area where you
8 took Ms. Weston to shoot her?

9 A Yes, ma'am.

10 Q Mr. Wallace was in the car, right?

11 A No, he was outside of the car.

12 Q But he stayed at the car?

13 A Yes, ma'am.

14 Q And you took her in the woods or into this area.
15 You shot Ms. Weston?

16 A Yes, ma'am, I did, and I apologize for shooting
17 Ms. Weston.

18 Q You shot her more than once, right?

19 A Yes, ma'am, I did. I shot her twice.

20 Q You shot her twice. Could you have shot her
21 three times?

22 A No.

23 Q But you didn't intentionally try to harm her, did
24 you?

25 A No, I didn't want to.

1 Q You didn't want to?

2 A No, ma'am.

3 Q You just shot her, right, but you weren't trying
4 to harm her?

5 A I harmed her by shooting her.

6 Q But you weren't intentionally trying to harm her
7 when you shot her?

8 A No, ma'am, I didn't.

9 Q Now, when you left there, y'all went back to
10 Palmland, right?

11 A Yes, ma'am.

12 Q You said as you were leaving out of Palmland that
13 you saw patrol cars?

14 A Yes, ma'am.

15 Q They were at the corner of Beckham Swamp and ---

16 A Bluff Road.

17 Q --- Bluff Road, right?

18 A Yes, ma'am.

19 Q And then you went back to his house and you went
20 back to work that day?

21 A Yes, ma'am, I did.

22 Q You thought you were going to get something out
23 of this robbery, didn't you?

24 A I thought, but I didn't.

25 Q You expected to, didn't you?

1 A I expected to, but I didn't.

2 Q Okay. Ms. Sampson asked you --- you didn't call
3 the police that day?

4 A No, ma'am.

5 Q And you said that you were more scared in the
6 beginning to think about calling the police, right?

7 A Yes, ma'am, I did.

8 Q So the reason you didn't call the police is
9 because you were scared?

10 A The reason I didn't call the police is because I
11 didn't want to go to jail, and I was scared.

12 Q Okay. And you didn't talk to the police until
13 several days later, right?

14 A I didn't talk to the police until the police came
15 and apprehended me at my job.

16 Q And that was several days later?

17 A Yes, ma'am.

18 Q Okay. Now, when you first talked to the police,
19 you never told them anything about an AK-47, did you?

20 A No, I don't believe I did.

21 Q Okay. And you never told them about going to
22 William Wallace's grandmother's house and picking up
23 an AK-47 or dropping it off, did you?

24 A I'm not quite sure.

25 Q But you wouldn't disagree that it's not in your

1 written statement, would you?

2 A It's just been so long ago, I cannot remember.

3 Q Okay. When you first talked to the police
4 in 2012, you didn't mention anything at all about a
5 vest, another gun, or a blue suit case, did you?

6 A I'm not quite sure.

7 Q You have your statement up there with you, right?

8 A Yes, ma'am.

9 Q Can you look in there and see if there is
10 anything about a vest, a Tec-9, or a suitcase?

11 A Could you repeat your question?

12 Q Is there anything in your written statement about
13 a vest, a Tec-9, or a blue suitcase?

14 A No, ma'am, not that I see.

15 Q Okay. And there's nothing in there about an AK-
16 47 either, right?

17 A No, ma'am.

18 Q And when --- let me just go back to inside the
19 apartment. I just want to understand how this all
20 played out. When Mr. Wallace, according to your
21 testimony, found the nine millimeter there, he handed
22 it to you, right?

23 A Yes, ma'am.

24 Q And then he tied up Mr. Pratt and Mr. Johnson,
25 Jamal and Athell, right?

1 A Yes, ma'am.

2 Q He moved them to the other rooms, right?

3 A Yes, ma'am.

4 Q When he was tying them up, where was the AK-47?

5 A He laid the gun down.

6 Q Where did he lay it down?

7 A In front of me on the chair.

8 Q In front of you on the chair?

9 A Yes, ma'am.

10 Q Which chair?

11 A The small chair.

12 Q The small chair?

13 A Yes, ma'am.

14 Q Where was the small chair?

15 A In front of the big chair. Not in front of it,
16 but by the big chair. It's in the photo.

17 Q It's in the photo?

18 A Yes, ma'am.

19 Q The small chair is in the photo?

20 A Yes, ma'am.

21 Q This photo?

22 A Yeah. That's the chair, right there. There
23 where your finger is at.

24 Q Right here?

25 A Yes.

1 Q That's the chair?

2 A Yes, ma'am.

3 Q Is that the small chair or the big chair?

4 A That's the small chair.

5 Q That's the small chair, the red --- it looks like
6 a blanket on it?

7 A Yes, ma'am.

8 Q This red blanket right here?

9 A I can't say.

10 Q Does that appear to be the same red blanket here
11 and here? Do you see the small chair in this
12 photograph?

13 A No, ma'am, I don't.

14 Q But it's this right here?

15 A It's there.

16 Q That's --- may I publish these to the jury?

17 THE COURT: What numbers are they?

18 MS. HINES: It is State's 32 and 33.

19 THE COURT: Okay.

20 BY MS. HINES:

21 Q Were you sitting or standing?

22 A Standing.

23 Q So Mr. Wallace put the AK-47 down, tied up Jamal
24 and Athell, put them in the other room, and was
25 managing Ms. Weston?

1 A No, I was managing Ms. Weston.

2 Q You were managing Ms. Weston. Okay. And then
3 eventually you left the apartment?

4 A Yes, ma'am.

5 Q Right. And when you left the apartment
6 Mr. Wallace was there in the apartment with Athell,
7 Jamal and Ms. Weston?

8 A Yes, ma'am.

9 Q Okay. And approximately ten minutes later he
10 comes out with Ms. Weston, right?

11 A I wouldn't say approximately ten minutes later.
12 I don't know what the time frame was.

13 Q Okay. You testified on direct that it was about
14 ten minutes, so it wasn't ---

15 A It could have been ten minutes or ten minutes or
16 longer. I smoked a cigarette. It took me --- after I
17 smoked a cigarette, I stood there and waited.

18 Q Okay. What did you do with the cigarette butt?

19 A I threw it on the ground.

20 Q Okay. And you moved the car up by the gate,
21 right?

22 A Yes, ma'am, I did.

23 Q How close to the gate were you?

24 A Directly in front of it.

25 Q Directly in front of the gate?

1 A Yes, ma'am.

2 Q Is that before or after you smoked a cigarette?

3 A That was after.

4 Q Was the gate open or closed?

5 A It was open.

6 Q And by directly in front of the gate, what
7 approximate distance? Would you say it was one car
8 length away from the gate, within one car length or
9 what?

10 A From here to the back wall where the prosecutor
11 and them sits at.

12 Q You mean this wall?

13 A There.

14 Q There?

15 A There.

16 Q Okay.

17 Q And that would be approximately 30 feet?

18 A I don't know.

19 Q Thirty-five? Once you moved it to the gate, did
20 you get out of the car again?

21 A I got out of the car after I moved it to the
22 gate.

23 Q And stood there?

24 A That's where I stood and smoked a cigarette.

25 Q So you get out of the car. After you moved it to

1 the gate, you got out of the car and stood there and
2 smoked a cigarette?

3 A Yes, ma'am.

4 Q And that's where you dropped the butt?

5 A Yes, ma'am.

6 Q You only smoked one cigarette while you were
7 waiting on them?

8 A Yes, ma'am, I did.

9 Q Okay.

10 MS. HINES: Beg the Court's indulgence just a
11 moment.

12 (Pause.)

13 Thank you, Judge.

14 BY MS. HINES:

15 Q Now, also in your statement, you didn't mention
16 anything about seeing Mr. Pratt come out of the
17 apartment and waiting and then waiting for him to come
18 back, did you?

19 A No, ma'am, I didn't mention that.

20 Q You didn't mention that. You didn't tell it?

21 A I don't believe so. I didn't.

22 Q Okay. You didn't mention finding the nine
23 millimeter in the house, did you?

24 A No, ma'am, I didn't.

25 Q No?

1 A I didn't mention those things because I was still
2 at that point half scared.

3 Q Oh, okay.

4 A Yes, ma'am.

5 Q You didn't mention going to your house, the place
6 where you were staying at on Schoolhouse Road either,
7 did you?

8 A I didn't go there.

9 Q Oh, you didn't go there?

10 A No.

11 Q Okay. But you were staying on Schoolhouse Road
12 at the time with a girl?

13 A Yeah, with one of the girls that I lived with.

14 Q You have talked to some people at the jail about
15 what happened, too, haven't you?

16 A I was approached.

17 Q Do you remember talking to Ronald Martin?

18 A Yes, ma'am, I do.

19 Q And that was in Mike dorm, right?

20 A Yes, ma'am, it was.

21 Q Do you remember telling Ronald Martin that you
22 both had guns?

23 A That we both had guns at one point.

24 Q Do you remember telling Ronald Martin that Jamal
25 struggled going into the other room and that it took

1 both of you?

2 A No, ma'am. That never happened. The only reason
3 I was talking to Ronald Martin is because he had ties
4 with Ms. Weston. I had wrote a letter to Ms. Weston
5 apologizing and asking her to forgive me. He was
6 going to give the letter to Ms. Weston. As far as
7 Mr. Martin's statement, everything Mr. Martin said is
8 a lie.

9 Q Oh, okay. So everything that Ronald Martin has
10 to say is a lie?

11 A Yes, ma'am.

12 Q And everything that you're telling the jury here
13 today is the truth?

14 A Yes, ma'am.

15 Q You've been as honest with them as anyone could
16 be, right?

17 A I've been as honest with them as I possibly can.

18 Q As you possibly can.

19 A Yes, ma'am.

20 Q You said that you got nothing out of this?

21 A No, ma'am. I feel like I'm not going to get
22 anything out of it anyway.

23 Q Do you remember telling Ms. Sampson that ---
24 withdraw that question, but you don't think you're
25 going to get any kind of offer in this case?

1 A No, ma'am, I don't.

2 Q You're not here testifying trying to get rid of
3 this life, plus life, plus 150 years?

4 A No, ma'am I'm not.

5 Q That's not why you're here today?

6 A No, ma'am, I'm not. I'm here because I'm doing
7 the right thing.

8 Q Okay. Because that's what --- you're here to do
9 the right thing?

10 A Yes, ma'am.

11 Q Okay.

12 A I'm trying to correct as much --- do as much
13 right as I possibly can, trying to correct a wrong
14 that I have done.

15 Q So your testimony has nothing to do with the fact
16 that the State, Ms. Sampson, has the power to --- or
17 the discretion to reduce your charges or dismiss some
18 of them or recommend a lesser sentence for you?

19 A No, ma'am, that's not why I'm here today.

20 Q Okay. And you now know that she does have that
21 power, right?

22 A I understand from what you're telling me that she
23 does.

24 Q Just so I understand your testimony, from the
25 time that you walked out of this apartment, you were

1 trying to get separation between yourself and what was
2 going on, right?

3 A Yes, ma'am, I was.

4 Q You were. Even when you were in the apartment
5 when you were tying up Ms. Weston and you tied her
6 real flimsy so she could possibly have a chance of
7 getting away, right?

8 A Yes, ma'am.

9 Q And that was your intention of making those ties
10 as loose as you could and as flimsy as possible so
11 that she would have a chance --- that she could get
12 away if the opportunity arose, right?

13 A Yes, ma'am.

14 Q And then when you got in the car and you got in
15 the backseat with her, and ---

16 A Uh-huh.

17 Q --- and the AK-47 and the nine millimeter, you
18 were still trying to separate yourself from this
19 situation?

20 A As much as possible.

21 Q As much as possible. If you could have helped
22 her get away at that point, you would have, right?

23 A Yes, ma'am, I would have.

24 Q Uh-huh. And when you got to Beckham Swamp Road
25 and you walked out into this mirage clearing wooded

1 area with an armed gun, with an armed weapon, if you
2 could have helped her get away at that point, you
3 would have, too, right?

4 A Because I didn't want to shoot her.

5 Q Because you didn't want to shoot her. You would
6 have helped her get away if you could have?

7 A If I could have.

8 Q But you had no choice but to shoot her twice,
9 right?

10 A Yes, ma'am.

11 Q And that's the truth, right?

12 A Yes, ma'am.

13 MS. HINES: No further questions.

14 THE COURT: Redirect?

15 MS. SAMPSON: I do.

16 THE COURT: How long do you think it will be?

17 MS. SAMPSON: Fifteen?

18 THE COURT: Seriously?

19 MS. SAMPSON: I hope not, but I don't know.

20 THE COURT: All right. Go ahead.

21 REDIRECT EXAMINATION:

22 BY MS. SAMPSON:

23 Q All right. Mr. Diggs, Ms. Hines asked you a
24 whole lot about what you didn't say. Do you still
25 have your statement up there?

1 A Yes, ma'am.

2 THE COURT: Actually let's just go ahead and take
3 a break. Ladies and gentlemen, if you'll retire to
4 your jury room. Do not discuss the case. Keep an
5 open mind. We'll be back with you in about ten, 15
6 minutes. Thank you very much.

7 Everyone remain seated while the jury is
8 dismissed.

9 (WHEREUPON, the jury left the courtroom at 4:23
10 P.M.)

11 THE COURT: All right. Mr. Diggs, can you hear
12 me?

13 THE WITNESS: Yes, sir.

14 THE COURT: You're not allowed to discuss your
15 testimony with anyone including your own lawyer in any
16 way, shape, or form until you're released from the
17 witness stand. Do you understand that?

18 THE WITNESS: Yes, sir.

19 THE COURT: So during this break, you are allowed
20 to use the facilities. The deputies can take you
21 whatever they need to in order to accomplish whatever
22 you need to do, but you're not allowed to discuss your
23 testimony in any way, shape, or form with anyone. Do
24 you understand that?

25 THE WITNESS: Yes, sir, I do.

1 THE COURT: Do you have any questions about that?

2 THE WITNESS: No, sir I don't.

3 THE COURT: Thank you very much. Ten minutes.

4 (WHEREUPON, a short break was taken.)

5 THE COURT: All right. Go ahead and bring them
6 in, Mr. Addison.

7 THE BAILIFF: Yes, sir.

8 (WHEREUPON, the jury entered the courtroom at
9 4:39 P.M.)

10 THE BAILIFF: The jury is seated.

11 THE COURT: Thank you very much.

12 I apologize for interrupting you on your
13 redirect. Let's go ahead.

14 MS. SAMPSON: Thank you.

15 BY MS. SAMPSON:

16 Q Mr. Diggs, in cross she talked to you about some
17 things you didn't say. Let's talk to you about some
18 things you did say. Do you still have your statement
19 up there?

20 A Yes, ma'am, I do.

21 Q Now, did you tell them that you went to work at
22 Columbia Farms?

23 A Yes, ma'am, I did.

24 Q And did you tell them that Athell --- that
25 Mr. Wallace called you?

1 A Yes, ma'am, I did.

2 Q Did you tell him that you left?

3 A Yes, ma'am, I did.

4 Q Did you tell them that you went to the apartment?

5 A Yes, ma'am.

6 MS. HINES: Objection, leading.

7 THE COURT: Overruled.

8 BY MS. SAMPSON:

9 Q Did you tell them that you were with Mr. Wallace?

10 A Yes, ma'am, I did.

11 Q Did you tell them that he --- that people got
12 tied up?

13 A Yes, ma'am, I did.

14 Q Did you tell them that Ms. Weston came over?

15 A Yes, ma'am, I did.

16 Q Did you tell them that you had guns when
17 Ms. Weston came over?

18 A Yes, ma'am, I did.

19 Q Did you tell them about Athell getting dragged
20 from one place to another?

21 A Yes, ma'am.

22 Q Did you tell hem about smoking a cigarette?

23 A Yes, ma'am.

24 Q In fact, when you were back in the car, did you
25 tell them about feeling trapped?

1 A Yes, ma'am.

2 Q Okay. You talked about having a gun?

3 A Yes, ma'am.

4 Q And back then, this was done on what day? What
5 date does it say at the bottom?

6 A Twenty-nine ---

7 Q At the very bottom.

8 A July 3rd.

9 Q I'm sorry, can you speak up?

10 A July 3rd.

11 Q July 3rd of what year?

12 A 2012.

13 Q So roughly four or five days after this happened?

14 A Six days.

15 Q Six days and you told them back then that you
16 were involved?

17 A Yes, ma'am.

18 Q And you told them back then --- who did you tell
19 them was with you when you did all this?

20 A Mr. Wallace.

21 Q And back then in 2012, did you tell them that you
22 shot Ms. Weston?

23 A Yes, ma'am, I did.

24 Q Did you tell them that Mr. Wallace was with you
25 when you shot Ms. Weston?

1 A Yes, ma'am, I did.

2 Q Did you tell him that you guys both went into the
3 apartment?

4 A Yes, ma'am.

5 Q She also asked you --- and let me just talk a
6 little bit --- this statement is what, about five
7 pages, I think?

8 A I think so.

9 Q You can look at it. I know it's hard to tell.

10 A Five.

11 Q Okay. Was it like we're doing now where they're
12 asking you questions and you are answering and getting
13 interrupted or is it just a question at a time?

14 A It's a question at a time.

15 Q Okay. Did you sit and review it and think did
16 you tell them everything?

17 A No, ma'am, I didn't.

18 Q Did you lie to them?

19 A I did at one point.

20 Q And why?

21 A Because --- I don't know. I mean, I told them
22 that the clothes that they took from me, I told them
23 that I had wore them, but I didn't wear them.

24 Q And that was what you lied about?

25 A Yes, ma'am.

1 Q And today there are some things you told us. For
2 example, she asked you about how did you know he used
3 the smaller gun, and you said because he had shells in
4 his hand?

5 A Yes, ma'am.

6 Q Is that true?

7 A Yes, ma'am.

8 Q You didn't tell them that back then?

9 A No, ma'am, I didn't.

10 Q If they had asked you that, would you have told
11 them?

12 A Yes, ma'am, I would have.

13 Q Did they ask you how many guns you had?

14 A No, ma'am, they didn't.

15 Q Did they ask you how many types of guns you guys
16 had?

17 A No, ma'am.

18 Q If they had asked you, would you have told them?

19 A Yes, ma'am, I would have.

20 MS. SAMPSON: Beg the Court's indulgence.

21 (Pause.)

22 BY MS. SAMPSON:

23 Q Okay. I just want to clarify some things. She
24 talked to you about the AK-47. Let's clear that up.
25 Who put AK-47 in the car?

1 A Mr. Wallace.

2 Q And that's not in your statement, correct?

3 A No, it's not.

4 Q Did that happen?

5 A Yes, ma'am, it did.

6 Q Where was it when you got back in the car and you
7 guys left the apartments?

8 A It was in the backseat.

9 Q Were you sitting on it or where was it?

10 A It was on top of the suitcase.

11 Q And where is the suitcase?

12 A In the backseat. It was in between me and
13 Ms. Weston.

14 Q Okay. So it's just laying there on top between
15 you and Ms. Weston?

16 A Yes, ma'am.

17 Q She talked about some other things. Did you tell
18 --- in your statement, did you tell the investigators
19 about receiving cell phone calls from family members
20 of Mr. Wallace after you were ---

21 A Yes, ma'am.

22 Q Or after he was arrested?

23 A Yes, ma'am.

24 MS. HINES: Judge, outside the scope of cross.

25 MS. SAMPSON: I'm asking what about in his

1 statement and she went all over his statement.

2 THE COURT: Overruled.

3 BY MS. SAMPSON:

4 Q In your statement, did you tell them about
5 speaking with family members of Mr. Wallace?

6 A Yes, ma'am, I did.

7 Q And who would --- you told them that you spoke
8 with Mr. Wallace's brother?

9 A Yes, ma'am.

10 Q And you told them that he want you to do what?

11 A He wanted me to go to the hospital to finish
12 Ms. Weston.

13 Q That's what they wanted you to --- that's what
14 you were told by Mr. Wallace's brother?

15 A Yes, ma'am.

16 MS. HINES: Objection. That's not in his
17 statement.

18 MR. HAWKS: It's hearsay.

19 MS. SAMPSON: I can go over the statement
20 specifically, if she likes.

21 MS. HINES: And it's hearsay.

22 THE COURT: Let me see it.

23 (Pause.)

24 BY MS. SAMPSON:

25 Q All right. Mr. Diggs, I'm going to have you read

1 --- can you find page three on your statement?

2 A Yes, ma'am.

3 Q Okay. And see the question, "When did you learn
4 that and Bubby --- is that what you called
5 Mr. Wallace?

6 A Yes, ma'am.

7 Q Where Bubby had been arrested. Do you see that
8 question, right here?

9 A Okay.

10 Q Do you see that?

11 A Okay.

12 Q And is it okay if I read to you what it says?

13 A Okay.

14 Q "I didn't know he was arrested until his brother
15 Pooh called me. Pooh told me that his brother told me
16 to handle my end. I told him I didn't know what he
17 meant."

18 A Yes, ma'am.

19 Q Is that what you told the police back in 2012?

20 A Yes, ma'am.

21 Q Is that what happened?

22 A Yes, ma'am.

23 Q Mr. Diggs, when Ms. Hines was asking you about
24 how did you know which gun was used by Mr. Wallace
25 inside of the apartment, how did you know?

1 A Because he had --- he showed me the shells. He
2 had them inside his hand.

3 Q When did he do that?

4 A When he was inside of the car.

5 Q And that's not in your statement?

6 A No, ma'am.

7 Q Is that the truth?

8 A Yes, ma'am. It's the truth.

9 MS. SAMPSON: Nothing further, Your Honor.

10 THE COURT: Recross?

11 MS. HINES: Briefly.

12 REXCROSS-EXAMINATION:

13 BY MS. HINES:

14 Q Which hand were the shells in?

15 A I can't recall. I believe it was his right.

16 Q So he had the shells in his right hand?

17 A Yes, ma'am.

18 Q How many shells?

19 A I don't know.

20 Q So when he was walking out of the apartment ---
21 put together what you testified to earlier and what
22 you're testifying to now, he was holding Ms. Weston
23 with his left hand?

24 A Uh-huh.

25 Q Holding a gun on her with his right hand?

1 A Uh-huh.

2 Q And had an unknown number of shells in his right
3 hand?

4 A He didn't show me the shells until after he was
5 inside of the car.

6 Q And they were in his right hand when he showed
7 them to you?

8 A Yes, ma'am.

9 Q And when you talked to law enforcement on the 3rd
10 of July 2012, you told them the truth?

11 A Yes, ma'am.

12 Q Just like you've told the truth to this jury
13 right here about everything you've said today?

14 A Yes, ma'am.

15 MS. HINES: No further questions.

16 THE COURT: All right. Thank you, Mr. Diggs.
17 You may step down.

18 All right. Call your next witness.

19 MR. EATON: Tashonda Toatley.

20 TASHONDA TOATLEY,
21 after being duly sworn, testified as follows:

22 THE CLERK: Have a seat in the witness stand.
23 State your full name for the record.

24 THE WITNESS: Tashonda Toatley.

25 DIRECT EXAMINATION:

1 BY MR. EATON:

2 Q Ms. Toatley, how do you know William Wallace?

3 A I was his schoolmate, high school, middle school.
4 We went to school together.

5 Q And in 2012, what was your relationship with him
6 then?

7 A Friend.

8 Q And where did you live in 2012?

9 A 1432 Aralia Drive.

10 Q Where is that, more or less?

11 A South Beltline, Rosewood area.

12 Q Off of Rosewood?

13 A Uh-huh.

14 Q Is that a house or apartment?

15 A Apartment R-2.

16 Q Okay. Did you see --- how do you know him as ---
17 what name do you call him?

18 A Bubby.

19 Q Did you see Bubby on June 28th?

20 A Yeah.

21 Q And when did you see him?

22 A He had a key to my home, and we had a
23 disagreement, so I left my home. He was there.

24 Q Okay. What disagreement? You mean that day or
25 some previous day?

1 A Previously.

2 Q Previously?

3 A He said he lost my key, but he came to my home.

4 Q On the 28th?

5 A Uh-huh.

6 Q Do you remember about what time that was?

7 A About 12, one o'clock.

8 Q And you were at home?

9 A Yeah.

10 Q And what happened?

11 A I was leaving and he stayed, so I didn't see him
12 until no time after that.

13 Q So he knocked on the door?

14 A He had a key to my home. He unlocked the door.

15 Q He walked in?

16 A He walked in.

17 Q Did you all talk?

18 A No, we didn't say any words, because I was on my
19 way out the door anyway.

20 Q Did you see him go anywhere in the house?

21 A No, I immediately left the house once he came.

22 Q Later, did you get any calls from his family
23 members?

24 A Yes.

25 Q Who was calling you?

1 A I didn't get a call. I didn't answer the phones,
2 but I received calls from his sister.

3 Q Uh-huh and what was she saying?

4 A I didn't answer the phone.

5 Q No voice mails?

6 A Voice mails --- I don't recall what it was
7 saying, something regarding him.

8 Q And did you call law enforcement later on?

9 A Yes. Once I returned to my home, because I hade
10 seen on the news, had caught the news, so I was in
11 fear to go back home. I didn't return to my home
12 until the next following week.

13 Q Then when you returned home?

14 A I returned home, sat on my bed and a gun was
15 found.

16 Q What do you mean a gun was found?

17 A A gun was under my bed.

18 Q You felt it?

19 A Uh-huh.

20 Q And what did you do? You looked under the
21 mattress?

22 A Once I sat down, yeah, I looked under the
23 mattress. I never owned a gun.

24 Q What did you see when you pulled the mattress up?

25 A A gun.

1 Q How was it?

2 A There's a gun.

3 Q Okay. Was it just --- was it by itself?

4 A Yeah.

5 Q Was there anything else there?

6 A No.

7 Q Was there a magazine?

8 A No.

9 Q Do you know what a magazine is?

10 A No.

11 Q And so you called law enforcement?

12 A Uh-huh.

13 Q Did they come over?

14 A Yes.

15 Q Did you show them the gun?

16 A Yes.

17 Q Did they take it?

18 A Yes.

19 MR. EATON: I beg the Court's indulgence, Your
20 Honor.

21 (Pause.)

22 BY MR. EATON:

23 Q Now, did you give a statement to Investigator
24 McDonald?

25 A Yes.

1 MR. EATON: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes.

4 BY MR. EATON:

5 Q Could you take a look at this ---

6 MR. HAWKS: Objection.

7 THE COURT: Yes. You haven't laid the proper
8 foundation.

9 BY MR. EATON:

10 Q Do you remember everything that you told
11 Investigator McDonald?

12 A No.

13 Q Would looking at your statement help you remember
14 what you said to him?

15 A Yeah, if I can see that.

16 MR. HAWKS: Objection, Your Honor. He has to ask
17 a question.

18 THE COURT: That's correct.

19 BY MR. EATON:

20 Q Did you tell Investigator McDonald what Latoya
21 told you over the phone when she called you?

22 A I may have.

23 Q Do you remember what?

24 A It's been a while, so I don't recall.

25 Q That's fine. Do you remember what you told him

1 that she said?

2 MR. HAWKS: Objection, Your Honor. That would be
3 hearsay.

4 THE COURT: Sustained.

5 BY MR. EATON:

6 Q Do you remember if the gun was in a plastic bag?

7 A I don't recall. It may have been.

8 Q Thank you.

9 MR. EATON: No further questions.

10 THE COURT: Cross?

11 MR. HAWKS: May it please the Court?

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION:

14 BY MR. HAWKS:

15 Q Good afternoon, Ms. Toatley.

16 A Good afternoon.

17 Q So Mr. Wallace just appeared in your apartment?
18 He didn't knock on the door?

19 A No.

20 Q You didn't think that was odd?

21 A Yeah, I did. Due to the fact we had an argument
22 recently and I had asked for my key. He said he had
23 lost the key, so due to the disagreement we had, we
24 were already on bad terms, so I just automatically
25 left my house because I didn't want any confrontation.

1 Q So you thought it was odd, but you didn't ask him
2 any questions?

3 A No.

4 Q You didn't talk at all?

5 A No.

6 Q Did he have anything in his hands?

7 A Not that I recall. Like I said, I was on my way
8 out anyway.

9 Q So he had nothing in his hands and you didn't
10 exchange any words?

11 A No.

12 Q And you didn't inquire as to that visit
13 afterwards at all? You didn't call him or anything?

14 A No.

15 Q And all you found was a gun?

16 A Yes.

17 Q So you --- that day when you left, you didn't
18 come back to your apartment for approximately how many
19 days?

20 A Until the next following week.

21 Q Okay. Where did you stay?

22 A At my grandma's house.

23 Q And that was because you were afraid?

24 A Not necessarily afraid. I just didn't, you know,
25 want the --- once I found out --- like I said, through

1 the news, yeah. I didn't want to return to my home,
2 and he was there ---

3 Q The news didn't say that he was arrested?

4 A I just seen that it was --- something was done.
5 I didn't know whether he had --- even though he may
6 have been arrested or whatever, I didn't know. I just
7 didn't want to get myself into any of it.

8 MR. HAWKS: Beg the Court's indulgence.

9 (Pause.)

10 I have nothing further, Judge

11 THE COURT: Redirect?

12 REDIRECT EXAMINATION:

13 BY MR. EATON:

14 Q Ms. Toatley, you're sure that gun didn't belong
15 to you?

16 A No, sir, I never owned a gun in my life.

17 Q Thank you.

18 MR. EATON: No further questions.

19 THE COURT: Anything further?

20 MR. HAWKS: Nothing, Judge.

21 THE COURT: Have a nice day, ma'am.

22 THE WITNESS: Thank you.

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

24 MR. EATON: Thank you. The State calls

25 Investigator Isenhoward.

1 KEVIN ISENHOWARD,
2 after being duly sworn, testified as follows:

3 THE CLERK: Please have a seat. State your full
4 name.

5 THE WITNESS: Kevin Isenhoward.

6 DIRECT EXAMINATION:

7 BY MR. EATON:

8 Q Is it Sergeant Isenhoward?

9 A It is.

10 Q Sergeant Isenhoward, where do you work?

11 A I work for the Richland County Sheriff's
12 Department, Major Crimes Unit.

13 Q And what are your duties there?

14 A I supervise the Major Crimes Unit. My unit is
15 responsible primarily for robberies and homicide.

16 Q What was your involvement with this case?

17 A I responded to an area to assist on Bluff Road
18 where one of the victims had waved down a passerby.
19 She had been transported, and I initially met with the
20 person who had located her and spoke with him, I then
21 responded to the hospital a few times.

22 Q And when you responded to the hospital, what did
23 you do there?

24 A The first time was immediately after I had
25 responded to Bluff Road as she had been transported.

1 I went to the hospital to see, you know, if she was in
2 a condition --- what kind of condition she was in, was
3 she able to talk. Investigator Boland had also been
4 there.

5 When I arrived, she was being treated, so there
6 was not --- an extended conversation was not going to
7 happen. While there, I learned the identity of the
8 offender that she had provided.

9 Q Did you do a lineup?

10 A We did. Again, she was being treated that day
11 for some substantial injuries. We responded the next
12 day to the hospital, met with her and her mother, I
13 believe, and showed her a lineup.

14 Q And who did she identify in that lineup?

15 A She identified William Wallace.

16 Q At this point, was she able to write?

17 A She was having difficulty writing, and she was
18 able to --- as I recall, identify him for us basically
19 by pointing.

20 Q Did she hesitate?

21 A No, not at all.

22 Q Was she lucid?

23 A She was. She was clear headed. We had a
24 conversation about the event, and what had happened.
25 There were no problems, in fact, given what she had

1 been through that she was able to communicate as well
2 as she had.

3 Q So she was coherent?

4 A Absolutely.

5 Q Confident in what she was saying?

6 A Absolutely. I got the feeling that this was a
7 known person that she had interaction with.

8 MR. HAWKS: Objection, Your Honor. Speculation.

9 THE COURT: Overruled.

10 BY MR. EATON:

11 Q And what else did you do in the course of this
12 investigation?

13 A Not a lot. I did respond to --- after that, I
14 responded back to the sheriff's office where an
15 interview had been conducted with other detectives,
16 and I had brief interaction with Mr. Wallace after he
17 was located.

18 Q Did you participate in that interview?

19 A Briefly. I challenged him on some of the ---
20 some of the --- his statement he provided to the other
21 investigators, primarily Major Smith, based on my
22 conversation with Raquel, basically chopping up his
23 statement, and what I found to be hard to believe.

24 Q And how did that challenge go?

25 A He initially --- he provided a statement that he

1 was, I believe --- driving down Rosewood drive, seen
2 some people he knew, flagged them down or they flagged
3 him down and he --- they wanted to go to Athell's
4 house, and he went out there with them and sat in the
5 car and obviously after speaking with Raquel, I knew
6 that wasn't the truth.

7 You know, I just challenged him on that. I said
8 his statement was a lie.

9 Q How did he react?

10 A He did not change his statement. He sort of shut
11 down shortly thereafter.

12 Q Okay. Do you remember doing anything else of
13 significance in this investigation?

14 A The majority of my experience or involvement in
15 the investigation was that response to the hospital
16 and to assist as far as transporting some other people
17 --- looking at some people not involved in it.

18 MR. EATON: Thank you, Sergeant all --- Sergeant
19 Isenhoward, excuse me.

20 THE COURT: Cross?

21 MR. HAWKS: May it please the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION:

24 BY MR. HAWKS:

25 Q How many times did you go see Ms. Weston?

1 A Twice.

2 Q And the first time was right after the incident?

3 A Yes.

4 Q And then the following day with her mother there?

5 A Yes, McDonald and I went there.

6 Q And were you alone the first time?

7 A Investigator Boland was there.

8 Q Do you know if she had received any anesthesia?

9 A Which time?

10 Q The first time.

11 A I can just tell you that the second trip when I
12 had the extended conversation with her, she was
13 absolutely coherent and described the event in great
14 detail and, based on my experience, was providing her
15 knowledge of the event clearly, concisely, and
16 accurately.

17 Q But you don't know if she had been anesthetized
18 at that point?

19 A I don't know.

20 MR. HAWKS: Beg the Court's indulgence.

21 (Pause.)

22 Nothing further.

23 THE COURT: Redirect?

24 MR. EATON: Nothing further, Your Honor.

25 THE COURT: All right. Have a good day.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you, Sergeant.

3 All right. Any other witnesses tonight?

4 MS. SAMPSON: Do we need to approach?

5 THE COURT: Sure.

6 MS. SAMPSON: We sent...

7 (WHEREUPON, a bench conference was held in the
8 presence, but not within the hearing of the
9 jury.)

10 THE COURT: Okay. Ladies and gentlemen, we're
11 going to go ahead and break for the evening. We've
12 been through a number of witnesses today. You've done
13 a good job of staying with us and staying awake and
14 paying attention, and the court certainly appreciates
15 that as I know all the parties do throughout this
16 case.

17 Now, let me remind you, you will recall that I
18 previously told you in great detail about how you must
19 decide this case solely on what happens in this
20 courtroom, the evidence presented in the courtroom,
21 and the law that I will give you at the end of the
22 case.

23 Because we are about to break for the evening, I
24 want to remind you again that you are not to engage in
25 any form of social media or internet or research or

1 the newspaper or Facebook or Twitter or any type of
2 electronic device to get or send any type of
3 information about this case. You are not allowed to
4 discuss this case with anyone, including friends or
5 family members or even each other.

6 At the beginning of this case you made that
7 commitment not only to each other, but to the parties
8 and the Court. The Court expects you to maintain that
9 admonition that I provided you from the very beginning
10 of this case. Do not discuss the case this evening
11 with anyone in any way, shape, or form. Do not watch
12 any news accounts about the case in any way, shape, or
13 form, and we will see you back here tomorrow morning
14 with an open mind and ready to go, and we'll start at
15 9:30, and thank you very much for your service.

16 Remember tomorrow I'm going to order in lunch.

17 There's only three places to pick from, one of
18 which most of the courthouse staff doesn't like, so we
19 really narrow it down to two, but we are going to get
20 you lunch tomorrow for your hard service this week, so
21 just for your planning purposes you can plan on that.
22 Thank you very much. Have a good night.

23 (WHEREUPON, the jury left the courtroom at 5:07
24 P.M.)

25 THE COURT: All right. Anything substantive

1 before we break?

2 MS. SAMPSON: Nothing from the State.

3 MR. KRZYSTON: Nothing from the defense, Your
4 Honor.

5 (WHEREUPON, Court was adjourned for the day.)

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7 (WHEREUPON, Court's Exhibit Numbers 6 and 7 were
8 marked for identification only.)

9 THE COURT: Did you get to shave?

10 THE DEFENDANT: (Nods in the affirmative.)

11 THE COURT: Did they let you shave?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. I did what I could last
14 night to try make sure that happened, but if something
15 happens again, you let your lawyers know, and I'll
16 deal with that with the jail.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. We're back on the record.
19 I have two juror notes this morning. One is Court's
20 Exhibit Number 6. They are looking for an estimated
21 time that we'll get finished tomorrow, and one that
22 says she has to --- I don't know if it's male or
23 female, the second note asks if they could be done by
24 5:30 tonight. That's all they are. Those are Court's
25 Exhibits Number 6 and 7 that I received this morning.

1 Ms. Sampson?

2 MS. SAMPSON: Just briefly, Your Honor, I believe
3 I placed up there two charges.

4 THE COURT: I saw them.

5 MS. SAMPSON: And I e-mailed them to Your Honor,
6 as well.

7 THE COURT: Okay.

8 MS. SAMPSON: And I gave a copy to the defense.
9 It's just a hand of one charge and an expert witness
10 charge.

11 THE COURT: Do you know what email you e-mailed
12 them to?

13 MS. SAMPSON: Robert Hood at that ---

14 THE COURT: Oh, it's rhoodj.

15 MS. SAMPSON: It might not have gone. I'll get
16 it done at the next break. I didn't ask for anything
17 else, but in the email, I did say whatever your
18 standard direct and circumstantial and reasonable
19 doubt and the law. That was it, but I'll make sure I
20 send it again. I'm sorry about that.

21 THE COURT: All right. What else?

22 MS. SAMPSON: That's it from the State.

23 THE COURT: Mr. Krzyston?

24 MR. KRZYSTON: Nothing from the defense, Your
25 Honor.

1 THE COURT: All right. Very good. To the
2 audience members, the bailiffs are still having issues
3 with you still using your phones, getting messages,
4 and leaving and coming and going. That's extremely
5 distracting, so I need --- if you're going to be in
6 here, you need to be in here and you don't need to be
7 on your phone. If you want to be outside, where you
8 can use your phone that's fine, but the going in and
9 out, going in and out, going in and out needs to slow
10 down. It's distracting even to me, so I'm sure it's
11 distracting to the jurors. Okay. Bring them in.

12 (There was no response.)

13 THE COURT: Mr. Hollis?

14 THE BAILIFF: Yes, sir.

15 THE COURT: Can you bring in the jury?

16 (WHEREUPON, the jury entered the courtroom at
17 9:51 A.M.)

18 THE BAILIFF: The jurors are all present, Your
19 Honor.

20 THE COURT: All right. Welcome back. Thank you
21 for being on time. I didn't know about the third
22 option for lunch. They change things on me all the
23 time. I'm glad you got a third option.

24 All right. Call your next witness.

25 (WHEREUPON, State's Exhibit Numbers 127 and 128

1 were marked for identification only.)

2 MR. EATON: The State calls Michael Beeler.

3 THE COURT: All right.

4 MICHAEL BEELER,

5 after being duly sworn, testified as follows:

6 THE WITNESS: Investigator Michael Beeler.

7 DIRECT EXAMINATION:

8 BY MR. EATON:

9 Q Investigator Beeler, where do you work?

10 A I work for the Richland County Sheriff's
11 Department in the crime scene unit.

12 Q And what are your duties there?

13 A The general duties include responding to all
14 types of crimes in Richland County, documenting,
15 taking photographs, collecting, processing and
16 submitting evidence items to our evidence division to
17 our evidence division to be forwarded to other various
18 divisions to be processed.

19 Q What's your involvement in this case?

20 A In this case, I responded to the Richland County
21 morgue and attend the autopsy of two gentlemen down
22 there.

23 Q What did you do there?

24 A This would have been on July 30th of 2012.

25 Q Thank you. What were you doing?

1 MS. HINES: Judge, I think that he's reading. I
2 don't think a foundation has been established for
3 that.

4 THE COURT: It hasn't.

5 BY MR. EATON:

6 Q Do you remember what you did there?

7 A I would need to look at my notes. I go to many,
8 many crime scenes in Richland County and take lots of
9 notes.

10 Q Understood.

11 A That's the purpose of that.

12 Q Would your notes help refresh your memory about
13 this?

14 A Yes, they would.

15 THE COURT: All right. Keep going.

16 BY MR. EATON:

17 Q What did you do when you got there?

18 A I made contact with Dr. Marcus, the assistant
19 pathologist there, Devenish, and Deputy Coroner Boone
20 at the morgue.

21 I began taking photographs, taking notes and at
22 the end of it collecting several items through the
23 chain of custody from Dr. Marcus.

24 Q And what items did you collect there?

25 A There were two different autopsies from F(A)(1)

1 2-142, Mr. Pratt, and I collected a projectile and
2 from ---

3 Q Where was that projectile?

4 A The projectile was recovered by Dr. Marcus in the
5 right side of the head, the temporal cerebrum, and
6 these are the terms that I got from Dr. Marcus with
7 his certification, not mine.

8 Q What else did you collect?

9 A For autopsy F(A)(1) 2-143, Mr. Johnson, I
10 collected a --- the projectile lead and the projectile
11 jacket through the chain of custody on both of these
12 from Dr. Marcus.

13 Q If I may approach. I'm handing you what --- for
14 the record, just so we're clear a bag that was marked
15 for identification as State's Exhibit 85, which was
16 never admitted into evidence, inside that are what's
17 marked for identification as State's Exhibits 127 and
18 128.

19 Q Would you look at all that please and tell the
20 jury what it is?

21 A This is --- at one point it was a sealed
22 envelope, enveloped by me, label filled out, ballistic
23 containing projectile from Pratt, projectile lead from
24 Johnson and a jacket from Johnson, and it has two
25 sealed envelopes inside.

1 Q And what are those?

2 A One of them is labeled "projectile right side
3 temporal cerebrum from Pratt" and then the other one
4 inside the envelope is two more listed "projectile
5 from Johnson, the lead from the left frontal lobe and
6 jacket from --- projectile jacket from Johnson and
7 jacket from the right occipital area."

8 Q And you submitted those to evidence?

9 A Yes, sir, I did.

10 Q Where did you submit them?

11 A I submitted them on the same day, the 30th, at
12 1:50.

13 Q To whom?

14 A This would have been most likely through our drop
15 box at our headquarters.

16 Q Okay. And are --- is the evidence the same as
17 when you collected it from Dr. Marcus and submitted it
18 to the --- sealed it and submitted it?

19 A The packages have been opened and, of course,
20 have y'all's labels on them and other writings that I
21 can only guess came from ---

22 MS. HINES: Objection, speculation.

23 THE COURT: Sustained.

24 BY MR. EATON:

25 Q That's fine. The fragments themselves, the

1 projectiles themselves, can you take a look at those?

2 A No, sir, I can't. These were inside people, and
3 I don't have biohazard gloves to handle them at this
4 moment.

5 Q Would this suffice?

6 A Yes, sir.

7 (Pause.)

8 The envelope labeled Pratt contains a projectile.
9 If I'm allowed to look back at my notes, I will --- it
10 would appear to be the same projectile that was
11 photographed in my notes.

12 Q Do you have more gloves, sir?

13 MR. EATON: Beg the Court's indulgence. This box
14 is out.

15 BY MR. EATON:

16 Q Yes, sir.

17 A We are very concerned about cross contamination.

18 Q I understand. While we're waiting on that,
19 Investigator Beeler, could you tell the jury, and they
20 heard this more than once in this trial about the
21 procedure for collecting that, sealing it and putting
22 it into evidence, please?

23 A As you can tell, we value cross contamination.
24 We take that very seriously, so that everything would
25 be handled with separate gloves to prevent any kind of

1 --- my DNA, the DNA from the two separate cases,
2 getting mixed together. Everything would be
3 packaged --- typically in this case, it would be
4 repackaged from a smaller envelope into a larger
5 envelope, sealed with evidence tape that we will
6 initial and date. Evidence labels were to go on the
7 particular evidence labels, and then they're submitted
8 to our evidence division, either in person or through
9 drop box in lockers that only the evidence people,
10 personnel, have keys to, then I'm sure the evidence
11 technicians or whoever else they have, will go further
12 into how items are checked out through bar codes and
13 stuff like that.

14 Q Did you follow these procedures with this
15 evidence?

16 A Yes.

17 Q Thank you.

18 Here you go, Investigator.

19 A Thank you, sir.

20 (Pause.)

21 The label marked "Projectile Johnson" appears to
22 be lead, and the package labeled "Johnson Jacket"
23 appears to be a projectile jacket, a bullet projectile
24 jacket.

25 Q And they're the same ones that you collected and

1 put into evidence?

2 A Yes, sir.

3 MR. EATON: Your Honor, I'd offer these as
4 State's Exhibit 127 and 128.

5 THE COURT: What about 85?

6 MR. EATON: Eighty-five was previously marked.
7 It was just the external folder.

8 THE COURT: All right. 127 and 128?

9 MS. HINES: I would object to the full chain of
10 custody being established. I would argue that
11 projectiles and jacket are not fungible.

12 THE COURT: Was there testing done on those?

13 MS. HINES: Yes.

14 THE COURT: Okay. So is the chain of custody
15 complete? Has somebody else ---

16 MR. EATON: Investigator Beeler submitted that
17 into evidence and the commander of the evidence room
18 testified yesterday.

19 THE COURT: Right.

20 MR. EATON: The only other person is the expert
21 who will testify today.

22 THE COURT: Then, we'll need to wait until he
23 testifies today.

24 MR. EATON: That's fine.

25 Thank you, Investigator Beeler.

1 THE COURT: Cross?

2 CROSS-EXAMINATION:

3 BY MS. HINES:

4 Q In addition to taking those projectiles, you also
5 did fingernail scrapings?

6 A Yes, ma'am, I did.

7 Q And you submitted that for DNA?

8 A Yes, ma'am.

9 They would be in a different envelope because
10 it's different testing.

11 MS. HINES: Okay. No further questions.

12 THE COURT: Okay. Have a nice day, sir.

13 THE WITNESS: Yes, sir.

14 THE COURT: Call your next witness.

15 MR. COBLE: The State calls Investigator Don
16 Robinson.

17 THE COURT: All right.

18 (WHEREUPON, State's Exhibit Number 129 was marked
19 for identification only.)

20 THE BAILIFF: Place your left hand on the Bible,
21 raise your right, face the judge for me.

22 DONALD ROBINSON,

23 after being duly sworn, testified as follows:

24 THE COURT: Thank you. Have a seat in the
25 witness stand. State your full name for the record.

1 THE BAILIFF: Watch your step for me, please, and
2 speak into the microphone.

3 THE WITNESS: My name is Donald Robinson.

4 DIRECT EXAMINATION:

5 BY MR. COBLE:

6 Q Investigator Robinson, where do you currently
7 work?

8 A Richland County Sheriff's Department.

9 Q How long have you been employed there?

10 A Twenty-two years.

11 Q What's your current capacity there?

12 A Current capacity is I have a rank of sergeant. I
13 am a supervisor over our burglary unit in the criminal
14 investigations division.

15 Q What were you doing in June of 2012 at the
16 Richland County Sheriff's Department?

17 A That day I was kind of on patrol out in the lower
18 Richland area. I was over there at the Richland I
19 substation on a follow-up that we were working on with
20 a separate issue. I heard on the radio that Deputy
21 Taylor and other deputies had gotten involved in a
22 situation in an apartment where they believed another
23 crime scene was, so myself and another investigator,
24 another deputy, took off and went over to Deer Meadow
25 Apartments right away and went straight to the

1 apartment.

2 Q This is the apartment, the incident location
3 apartment?

4 A That's correct.

5 Q How many people, by the time you arrived, how
6 many people were there, or were there already
7 responding deputies there?

8 A They were responding deputies. We are all open.
9 I mean, it was --- by the time I got to the door, I
10 believe there are two marked deputies and another
11 investigator. We all generally arrived roughly about
12 the same time, so I mean, around three or four.

13 Q What did you do then?

14 A At that time, we knew that we needed to get into
15 the apartment. We already had --- another deputy had
16 already gone to the office manager to acquire a key to
17 get into the apartment. I had mentioned at the door
18 that we needed to have a camera available. One of our
19 deputies was at the door, had a cell phone and camera
20 in his hand as we went in there. We unlocked the door
21 and then went into the scene.

22 Q Let me pause you right there. Why did you want a
23 camera?

24 A Because we knew through prior experiences that
25 once you get to a scene where you have someone's life

1 is in peril, the EMTs are going to come in. They're
2 going to want to render aid as quick as possible,
3 probably remove the guy, so you want to be able to
4 document what you see right there on the spot, just to
5 document as much as possible because when you get in
6 there, it's so chaotic and so erratic, that you want
7 to take as much advantage as you can to try to get
8 that picture.

9 Q And you entered the apartment then?

10 A We did.

11 Q What did you do from there?

12 A When we walked into the apartment, the first
13 thing we did was clear the first area, which was the
14 den and the kitchen. We didn't see anyone there. We
15 got past that and went to the hallway. The first
16 bedroom on the left is where we saw one of the first
17 victims there laying --- he was laying on --- not
18 really on the floor, but kind of falling off the bed
19 on his side onto the floor.

20 Q Okay. Let me stop you right there. What did ---
21 when you first saw that, what was your reaction to
22 that?

23 A The first thing I saw was --- you can hear, you
24 can tell his life was in extreme peril. You could
25 tell that he was --- it looked like he was dying on

1 the spot. You could hear the death rattle, you could
2 hear he was choking on his own fluids.

3 MR. KRZYSTON: Objection Judge, speculation.

4 THE COURT: Overruled.

5 THE WITNESS: It was rough.

6 BY MR. COBLE:

7 Q Was there any trauma to this victim?

8 A Yeah, he was in pain very bad. He was in very
9 bad condition.

10 MR. KRZYSTON: Objection. Speculation. He
11 doesn't know whether he's in pain or not.

12 THE COURT: He's a police officer with 22 years
13 experience. Overruled.

14 BY MR. COBLE:

15 Q Thank you.

16 A And then we had EMTs coming in right there with
17 us. That's the first place they went, straight to
18 that guy. Then when you look at the rest of the
19 apartment and on to the next room, there wasn't
20 anything there. Inside the bathroom next to that was
21 the second suspect --- or rather the second victim was
22 actually laying in the bathtub there, and he was in
23 just as bad condition.

24 Q As the other victim you found? You didn't find
25 him first though, right, you ---

1 A No. I went to the bedroom first. I believe that
2 was --- I think that was Athell that was in the
3 bedroom and Jamal was the one that was in the bathtub,
4 if I have the names correct.

5 Q Now, after the EMTs left with the victims, what
6 did you do from there?

7 A At that point, we just maintained the remainder
8 of --- we did a sweep of the apartment, just looked
9 around. You could see there was a wheelchair in the
10 front corner of the den, make sure there were no other
11 victims in the house or in the apartment, tried to
12 secure everything, look for any evidence immediately.
13 Really all we did was get them out of there and secure
14 everything.

15 Q Did you do anything outside of the apartment?

16 A We tried to canvass. The first thing we did is
17 we went to the management to try to determine who was
18 the lessee of the apartment and any documentation on
19 the --- from the apartment's angle, if they had any
20 complaints there, any kind of information we could try
21 to learn about the apartment.

22 Of course, we went straight from the beginning.
23 Then we went looking around, knocking on doors,
24 canvassing other apartments, see if anyone heard
25 anything, see if anyone seen anything, try to look

1 around for cars, try to find out what cars are in the
2 parking lot.

3 Q What did you find?

4 A During the day time, there wasn't that many
5 people there. Most of the residents were out working
6 and whatnot. We just wanted to get results from
7 anyone there that heard anything. We didn't get many
8 people to come to the door. The cars that were there,
9 and everything that we could find, we ran the tags and
10 as far as other tenants, they didn't see any cars that
11 were there out of place.

12 Q After you left this incident location, what did
13 you do from there?

14 A Then I went back to --- once we secured
15 everything, we were there for a couple of hours, I
16 guess, making sure everything was under control. At
17 that point, once everything was determined there, we
18 got the lab there to start their process. Then we
19 went back to the office, tried to do a little research
20 and then went for the follow-up on the rest of the
21 case.

22 Q Did you speak with Captain McDonald about this
23 case?

24 A I did. He was the case officer who became the
25 lead on the case, so we just came into a support

1 capacity at that point.

2 Q When was your --- when did you come in contact
3 with the defendant first?

4 A The first time with the defendant was, I believe
5 that Captain McDonald received a phone call, the task
6 force ---

7 Q Let me pause you right there. Could you describe
8 in relation to the time when you left the incident
9 location to when you came in contact with either
10 Captain McDonald or the defendant?

11 A Specifically what time, I couldn't tell you.

12 Q Not specifically, just a range?

13 A It was just a few hours later.

14 Q Where did you go from there?

15 A We received a phone call from the --- the
16 defendant was detained, so we got his car, took off,
17 left from headquarters, went down to, I believe, Bush
18 River and I-20, in that general area at a business
19 there. We rolled up. As we rolled up, the team that
20 had apprehended the defendant was there, and brought
21 him over to the car that we were in, which was Captain
22 McDonald's vehicle.

23 Q Okay.

24 A I was in the backseat and ---

25 Q I'm just going to pause you right there. When

1 you come up on the scene, could you describe how many
2 officers were there?

3 A How many?

4 Q Just approximately.

5 A There were a few. Maybe several. I don't know
6 exactly. I didn't know all the people there, so some
7 of the officers were in plain clothes, so I'm not sure
8 exactly who was an officer and who was --- because it
9 was in a business area. There may have been someone
10 watching us. I didn't know all the people there
11 but...

12 Q When you first saw the defendant was he in
13 custody?

14 A He was, yes. He was in custody. He was brought
15 over to the car. He was placed in the front
16 passenger's seat of Captain McDonald's car, and I sat
17 in the back seat.

18 Q What kind of car was this?

19 A Chevy Tahoe, I believe.

20 Q Was it marked?

21 A No. It was unmarked.

22 Q What happened when the three of you were inside
23 this vehicle?

24 A When we got him in there, we did introductions.
25 Captain McDonald introduced himself and I introduced

1 myself. Captain McDonald was driving in the driver's
2 seat. The defendant was in the front passenger's
3 seat. I was in the rear seat, kind of sitting in the
4 hump in that middle area, just sitting there observing
5 everything.

6 So I leaned in, introduced myself, told him who I
7 was. He acknowledged who we were.

8 Q Would it be correct if that's where you were
9 sitting, Captain McDonald would be here? (indicating.)

10 A Yeah, and I was pretty much at this angle here.

11 Q And the defendant would be here?

12 A Yes, that's correct.

13 Q I'm sorry, you can continue.

14 A At that point, that's when McDonald, after the
15 introductions, he gave him his Miranda warning. He
16 read the Miranda warning verbally.

17 Q Now, without going into specifics of what he
18 said, you've been an officer of 22 years. Was this
19 the Miranda you've always used and heard?

20 A Absolutely it is. It is repetitive. I've
21 probably said it a thousand times.

22 Q What's what Captain McDonald spoke to the
23 defendant?

24 A Yes.

25 Q What was the defendant's demeanor at this point?

1 A His demeanor? I think he was nervous, curious.

2 Q And by curious, what makes you say that?

3 A Well, he was wanting to know why we had him and
4 why we were there.

5 Q So there was a conversation going on between
6 Captain McDonald and the defendant?

7 A A little bit. You know, it wasn't really a whole
8 lot. There was a little bit of conversation of what
9 happened earlier and transpired earlier during the
10 day, and the defendant was giving some story about how
11 he had, I think, his mother's car and he was using it
12 to get some brake parts or it needed brake parts or
13 something to that effect.

14 MR. KRZYSTON: Objection, Judge, just to the
15 extent that we have raised this issue already.

16 THE COURT: All right. Overruled.

17 BY MR. COBLE:

18 Q Now, during this --- when the defendant is
19 talking to Captain McDonald about this, was the
20 captain forcing him to speak?

21 A No, it was a very open conversation.

22 Q Was the defendant responsive to Captain
23 McDonald's questions?

24 A He was. You could tell he was a little bit
25 inquisitive about it, but he was very responsive.

1 Q And about how long was this --- were you all in
2 the Tahoe together?

3 A Before leaving?

4 Q Before leaving, yes.

5 A It wasn't --- maybe five minutes, maybe not even
6 that. We just really went there to get him, get him
7 secured. We really wanted to get him back to
8 headquarters.

9 Q Now, as you were sitting in this vehicle are ---
10 and you said you came from the scene. Where was the
11 scene, in reference to the Tahoe, where was the arrest
12 location scene?

13 A I really don't know.

14 Q Approximately how far?

15 A I wasn't present, so I really don't know.

16 Q When you first came upon the scene and the
17 defendant was there, approximately how far did you
18 walk to the Tahoe?

19 A 10 feet, maybe.

20 Q Were there officers ---

21 A All I know is when I appeared. We were in the
22 car the whole time, never got out. There was another
23 car --- we kind of parked near that car, and I'm
24 deducting that that's the car that the defendant came
25 out of. That's all I really know.

1 Q Where did you go after you left this scene?

2 A We went to our headquarters.

3 Q Okay.

4 A Which was located on Two Notch Road. It's ---
5 5623 Two Notch Road is our address, just on the
6 northeast side of town, maybe a ten minute ride
7 approximately.

8 Q It was the three of y'all?

9 A It was three of us. Before we left, Sergeant
10 Isenhoward came over to the car and was in the apex of
11 the passenger's side door.

12 While I was present, you know, we were talking to
13 him for that brief moment, brief exchange, I remember
14 he just said something like he needed to tell the
15 truth and get his head right or something like that.
16 It was when he was present right there in the apex of
17 the door.

18 Q I need to apologize. What do you mean by the
19 apex of the door?

20 A The apex of the door would be the --- this right
21 here would be the door and you're sitting in your
22 seats. The apex is when you are open the door, that
23 general area. You could stand right there.

24 Q Reaching distance?

25 A Absolutely, touching distance, very close.

1 Q So you all went back to headquarters?

2 A Absolutely.

3 Q What do you do from there?

4 A When we get back to headquarters, we sit him
5 down, brought him in and actually sat him down in
6 Captain McDonald's office. I went with them because I
7 was in the support capacity at that point. So at that
8 point, that's when we sat him down, Captain McDonald
9 started going through the interview process and
10 started asking him questions, a little bit more
11 detailed questioning about what had happened earlier
12 during the day.

13 Q So it's just the three of y'all during --- that's
14 Captain McDonald's actual office?

15 A Yes, it's his office, maybe about the size of ---
16 half the size of the jury panel, maybe a third of the
17 size of the jury panel.

18 Q Was the defendant still in handcuffs?

19 A He was.

20 Q And when just the three of y'all were in there at
21 first, what did the defendant tell Captain Scott
22 McDonald, if you recall?

23 A Well, I mean, it was more --- the acknowledgment
24 that I heard was that, "I don't know what you're
25 talking about, I wasn't around. I wasn't present."

1 It was just denial, denial, denial.

2 Q And then what did you do from there? Did you
3 stay in there?

4 A No. I walked out and left. At that point, Major
5 Smith came in.

6 Q Who is Major Smith, just ---

7 A Major Smith is our major crimes supervisor. He
8 is our second in charge of the investigations
9 division. He is our leader.

10 Q Is he ranked above Captain McDonald?

11 A Yes, sir, he is.

12 Q And so you left?

13 A I left because the defendant wanted to speak with
14 him alone.

15 Q Speak with who alone?

16 A Major Smith, so at that point I stepped out, went
17 back to my office, which is nearby. We're right
18 beside each other, so you can hear everything,
19 roughly, going back and forth, outside of my office
20 just kind of listening and getting an update, see if
21 anything was happening and moving on the case.

22 Q And then approximately how long was it before you
23 went back to the interview --- the office?

24 A Fifteen minutes maybe. Well, I don't think it
25 was that long.

1 Q Okay. And when you went back in, who was in the
2 room at this point when you went back?

3 A Major Smith was in there when I went back in.

4 Q Just he and the defendant?

5 A Well, when he wanted to speak with Major Smith,
6 all of us left.

7 Q Okay.

8 A So apparently once Major Smith talked to him and
9 said, "Y'all come back in, I need you witness this,"
10 then everybody went back in. So myself and Captain
11 McDonald went back in. And then Major Smith walked
12 out. That's when he wanted to go through documenting
13 and getting the statement, et cetera.

14 Q And what happened then?

15 A That's when I whipped out the Miranda form and I
16 presented the Miranda form and I provided him written
17 Miranda. This is when we went through the Miranda
18 process.

19 MR. COBLE: Your Honor, beg the Court's
20 indulgence.

21 (Pause.)

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

24 THE COURT: Yes, sir.

25 BY MR. COBLE:

1 Q Investigator Robinson, I'm going to show you
2 what's been marked as State's 129. Could you look
3 over this without presenting it to the jury right now?

4 A Yes.

5 Q Without ---

6 A Sorry.

7 Q That's fine.

8 A What this is, this is our departmental policy, a
9 copy of our form of what's called a Miranda warning
10 with a waiver attached to it.

11 Q And what is a waiver?

12 A The waiver --- there are two sections of this.
13 The first section is what's called the Advice of
14 Rights, typically what you may have seen on TV. If
15 you want, I can recite it. It's kind of a little
16 checklist. We go down this list. After we introduce
17 ourselves, "At this point, I'm going to read you your
18 rights. Before we ask you any questions you must
19 understand your rights."

20 THE COURT: Whoa, whoa, whoa. Slow down.

21 BY MR. COBLE:

22 Q Does that form right there fairly and accurately
23 represent the same form that you presented to the
24 defendant on June 28, 2012?

25 A That is correct. It's a copy of it.

1 MR. COBLE: Your Honor, I would now move State's
2 Exhibit 129 into evidence.

3 MR. KRZYSTON: Without objection, Your Honor.

4 THE COURT: Without objection.

5 (WHEREUPON, State's Exhibit Number 129 was
6 admitted into evidence.)

7 MR. COBLE: May I publish, Your Honor

8 THE COURT: Yes, just read it slow. She's got to
9 write it all down.

10 BY MR. COBLE:

11 Q If you could start under where it says, "Your
12 Rights." Could you start there, slowly, please?

13 A Sorry. I speak fast sometimes.

14 "Before we ask you any questions, you must
15 understand your rights. You have the right to
16 remain silent. Anything you say can --- anything
17 you say can be used against you in court. You
18 have the right to talk to a lawyer for advice
19 before answering any questions and to have a
20 lawyer with you during questioning. If you
21 cannot offered a with lawyer, one will be
22 appointed to you before any questioning if you
23 wish. If you decide to answer any questions now
24 without a lawyer present, you still have the
25 right to stop answering at any time. You also

1 have the right to stop answering at any time to
2 talk to a lawyer."

3 Here at that point is where he can sign there as
4 being advised of his rights. Also, at that point he
5 was advised --- we also have --- I sign as a witness,
6 and also whoever is there present with me will sign as
7 a witness. In this form here, at that point, he
8 signed there. I signed as a witness and Captain
9 McDonald signed as the other witness.

10 Q So who are the three --- who are the two
11 witnesses of this?

12 A Myself and Scott McDonald.

13 Q Captain McDonald?

14 A Yes.

15 Q And then when you go further down there, are
16 those your signatures again?

17 A Right.

18 Q What are the other signatures on there?

19 A The signatures on the bottom section?

20 Q Where it says Waiver of Rights.

21 A The Waiver of Rights --- do you want me to read
22 the waiver also?

23 Q Please, slowly.

24 A After this --- after we do the Miranda advisement
25 of rights, then next we do the Waiver of Rights. The

1 Waiver of Rights says:

2 "I have read this statement of my rights and I
3 understand what my rights are. I am willing to
4 talk and answer questions. I understand and know
5 what I am doing. No promises have been made to
6 me and no pressure or coercion of any kind has
7 been used against me."

8 I have one specific thing that I do every time I
9 do the Miranda myself. I always underscore twice
10 "coercion" here. I specifically, each time, go over
11 the definition of coercion to make sure it's clear
12 that they understand what coercion is, and after I
13 underscore it twice, I initial again right there
14 acknowledging that I went through that and discussed
15 what coercion is.

16 Q What is your definition of coercion?

17 A What I do is I try to go through --- I guess, the
18 dictionary definition is --- I explain that coercion
19 is to force or to compel someone to do something
20 without them understanding what's going on. I would
21 provide an example of, you're not here in the office
22 and we're not holding you down, not holding a gun to
23 your head making you say something that you don't want
24 to voluntarily say or explain. So I go through that.
25 We're not forcing you, but what you're here to tell us

1 is of your own free will.

2 As I explain that, then I'll sign here, myself
3 again as a witness, and then Scott McDonald signed
4 down here acknowledging. Here, the section on the
5 sides where he would typically sign, he didn't want to
6 sign, so I just put on there and underscored the word
7 declined. I made my note there that he declined to
8 sign.

9 Q So you explained these rights to him, though?

10 A I did, very clearly.

11 Q Now, we were talking about earlier when you and
12 Captain McDonald were in the car together. Are these
13 the same Miranda warnings that Captain McDonald went
14 over with the defendant?

15 A Same warnings, not exactly word for word, but
16 it's the same warnings.

17 Q And you --- let me see that, please. Where it
18 says declined?

19 A Yes.

20 Q Who wrote that?

21 A I did.

22 Q Why did you write that?

23 A Because he declined. He didn't want to sign it.

24 Q And then after he declined, what did you do from
25 there?

1 A After I did that, I listened because they were
2 still talking, very briefly, you know, and while
3 talking to him --- because the plan was to get the
4 statement that he told Major Smith is to get it
5 reduced to writing and get it in written form. That
6 was the plan, and then while I was there, that's when
7 Sergeant Isenhoward actually came into the office.

8 Sergeant Isenhoward knew more about the specifics
9 of the details because I think he had been
10 interviewing Raquel.

11 Q Were you still in the room when Sergeant
12 Isenhoward came in?

13 A I was.

14 Q Were you still there when he spoke along side
15 with the defendant?

16 A I was there for about maybe another two, two
17 minutes. I wasn't there much longer after he came in.

18 Q Now, if you recall, how did the defendant's story
19 change when Isenhoward confronted him?

20 A Well, I don't know the details. I know that he
21 started to ---

22 MR. KRZYSTON: Objection, personal knowledge,
23 Judge. He just indicated.

24 MR. COBLE: Your Honor, he was in the room.

25 THE COURT: I got confused when he said, "I don't

1 know the details."

2 MR. COBLE: Your Honor, we asked ---

3 THE COURT: Go ahead.

4 MR. COBLE: We asked him the difference between
5 the story that he first heard and then how the story
6 changed when Sergeant Isenhoward came in the room.
7 Just trying to explain the difference between the
8 stories, which he was present in the room for.

9 THE COURT: Okay.

10 MR. KRZYSTON: And judge, I believe --- I mean, I
11 understand what Mr. Coble is trying to do, but I
12 believe Sergeant Robinson just indicated that he
13 doesn't remember the details.

14 THE COURT: He can only testify to what he heard
15 Mr. Wallace say in his presence.

16 MR. COBLE: We'll move on.

17 BY MR. COBLE:

18 Q Approximately how long did you stay before
19 Sergeant Isenhoward left, before you left?

20 A I mean, I wasn't in there maybe a minute or two
21 after that.

22 Q Okay.

23 A Because I knew once he comes in with better
24 details ---

25 MR. KRZYSTON: Ob --- withdrawn.

1 THE COURT: Keep going.

2 THE WITNESS: I knew that once another
3 investigator comes in with better details --- there's
4 no need to have too many in there, so I left. If
5 there's no reason for me to be there --- if you have
6 another case officer who comes in with better details.
7 So at that point, I left.

8 Q Did the defendant's story change when Isenhoward
9 came in and confronted him?

10 MR. KRZYSTON: Objection, Judge.

11 MR. COBLE: Your Honor, this is how I rephrase
12 this and not getting into the details. He is
13 explaining it. He heard two stories. He was there
14 when Isenhoward was there.

15 MR. KRZYSTON: If he doesn't remember the
16 details, then he was ---

17 THE COURT: Overruled.

18 BY MR. COBLE:

19 Q Go ahead.

20 A His --- the details were a little different in
21 the fact that he, I think, he started out telling us
22 that he was in the general area, but not anything
23 specific about that incident. That's when I left. In
24 other words, I knew they needed to challenge him more
25 without my presence.

1 Q When you left, was the defendant still speaking
2 Sergeant Isenhoward with Captain McDonald?

3 A He was.

4 Q Is that all that happened with you that day?

5 A Yes.

6 MR. COBLE: Thank you. Nothing further.

7 THE COURT: Cross?

8 MR. KRZYSTON: Thank you, Judge. May it please
9 the Court.

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION:

12 BY MR. KRZYSTON:

13 Q Good morning, Mr. Robinson, how are you today?

14 A Pretty good.

15 Q Looking forward to getting out of here, I'm sure.

16 A I've been up all night for the last couple of
17 nights.

18 Q I won't keep you long, okay?

19 A Thank you.

20 Q I'm kind of going to take you a little bit
21 backwards. When you arrived at Bush River Road, which
22 is the arrest location, you kind of came onto a scene,
23 law enforcement, Ms. Conway was out there, Mr. Wallace
24 was out there?

25 A Ms. Conway?

1 Q Yeah, the lady that Mr. Wallace was riding with.

2 A I have no idea.

3 Q So you didn't see her in handcuffs out there?

4 A No, I have no idea.

5 Q But you got there and Mr. Wallace was already in
6 the Tahoe, correct, or he was being brought over?

7 A He was brought over to the Tahoe.

8 Q You handcuffed him to the Tahoe --- or he was
9 handcuffed to the dash of the Tahoe?

10 A He was handcuffed to the dash?

11 Q Well, he was secured in the Tahoe --- that you
12 testified to at pretrial?

13 A He was handcuffed in the Tahoe. I don't know
14 about handcuffed to the Tahoe.

15 Q Okay. You all went through his Miranda warnings?

16 A Yes.

17 Q The right to remain silent?

18 A Yes.

19 Q The right to have a lawyer present?

20 A Yes.

21 Q The right to say nothing to you all?

22 A Yes.

23 Q But you didn't go over the waiver part, did you?

24 A It was verbally stated to him. We did go through
25 the waiver.

1 Q So again the warning, the right to remain silent
2 and all that?

3 A Yes.

4 Q And then you took him right back to McDonald's
5 office, right?

6 A Yes.

7 Q And that's just kind of --- to give the jury an
8 idea, kind of a smaller office, isn't it?

9 A Is it a small office?

10 Q Yes, as far as offices go. I mean, if you, me
11 and McDonald were in the office, we would be feeling
12 pretty cramped. I don't think we could eat lunch in
13 there together, you know.

14 A Well, to give you, I guess, an estimate about the
15 size of his office, it's --- the area of that table
16 back to the back chair, that's probably about the
17 general square shape of the office. If you take that
18 table and just go to that little barricade or whatever
19 it is over there.

20 Q Okay.

21 A That's about the size.

22 Q It was you?

23 A Yes.

24 Q McDonald?

25 A Yes.

1 Q William?

2 A Yes.

3 Q And Isenhoward?

4 A Later on, yes.

5 Q And who else?

6 A Initially, it was just the three of us.

7 Q Okay.

8 A It was just myself and McDonald ---

9 Q Okay.

10 A --- and Wallace were in there.

11 Q And obviously that office is in Richland County
12 headquarters?

13 A Yes, it is.

14 Q And y'all control the whole building?

15 A Yes.

16 Q And you control what goes on there?

17 A Within reason, yes.

18 Q And you control if there's video equipment in the
19 room?

20 A There is no video equipment.

21 Q Right, but you have the ability to control that
22 or the police have the ability to control that?

23 A It's not even installed.

24 Q Right. But that's their decision, right?

25 A That would be the policy of the department.

1 Q Right. I understand.

2 A Well, without our control. I have no control
3 over that.

4 Q But that's your territory, that's what I'm
5 getting at.

6 A I'm sorry? Territory?

7 Q Yeah. Your building?

8 A I mean, it's just the lay out, the construction,
9 yes.

10 Q And you kind of jumped ahead on me, but there is
11 no video there, no video recording equipment?

12 A The only video there is, I think, at the door
13 ringing someone in.

14 Q But it's not in McDonald's' office.

15 A No, absolutely. That's another 50 feet away.

16 Q Right. And there's no audio recording equipment
17 there?

18 A That is correct.

19 Q And you guys didn't take any handwritten notes of
20 your conversation between you guys and William, right?

21 A I did not. I don't have any. I don't know about
22 other people.

23 Q Right. Now, you said that William asked to speak
24 to Major Smith, and you and McDonald left, right?

25 A That's correct.

1 Q And you don't know what went on in there?

2 A I do not.

3 Q Okay. The only people that definitively know
4 every word that was spoken in there are McDonald (sic)
5 and William?

6 A Yes.

7 Q And let's go back to the crime scene a little
8 bit, the 8100 Garners Ferry.

9 A Okay.

10 Q You stated that --- now were you in the column of
11 officers that entered initially or were you there
12 shortly thereafter?

13 A No, when I went there I was one of the first ones
14 in.

15 Q So you were in the column?

16 A Yes.

17 Q And you said that right behind you someone had a
18 camera, correct?

19 A Yes.

20 Q That was so that as you were going in you could
21 snap pictures?

22 A Not as we were walking in, mainly to focus on the
23 bodies.

24 Q But prior to EMS's arrival, you want to document
25 the scene, right?

1 A Well, as much as you can.

2 Q Right.

3 A You're trying to go in there to ---

4 Q Find out what's going on, right?

5 A You don't have the time to take all these
6 pictures of an open kitchen and open --- you want to
7 get that secured. That's the first objective.

8 Q But that was a still shot camera, right? That
9 wasn't a video camera recorders, right?

10 A No, that wasn't anything that --- in other words,
11 we had to deal with what was present.

12 Q Right. And you used the cell phone, I think you
13 said? One of the officers did?

14 A I don't know whether it was a cell phone.

15 Q Okay.

16 A It might have been a digital camera. It was one
17 of the uniform deputies that had it. I think it was
18 Deputy Metz, so we had provided those deputies with
19 small digital cameras at that time. This was a couple
20 of years ago. We provided them to use when they go on
21 CDV calls and stuff like that.

22 Q But either way, those devices do have video
23 recording capabilities?

24 A That specific camera, I'm not quite sure. It's
25 been awhile ago. It's not sure.

1 Q 2012. That's pretty recent. Now, after you got
2 in there and realized what was going on with the
3 scene, you guys took pictures, right, before EMS
4 arrived?

5 A This is the way it happened: we went in there,
6 he had the camera. I said make sure you get a picture
7 of those bodies real quick. We wanted to see the
8 bodies. He went in and did that. Then we had EMS.
9 Everything is happening in probably 15 seconds.

10 Q But you didn't take pictures of the rest of the
11 apartment?

12 A That was for the forensics people when they came
13 and documented ---

14 Q So it wasn't important to document that scene
15 before the EMTs arrived?

16 A We got the bodies out. Everything was secured.
17 Nothing else happens. The lab will come in. They
18 will do all their photographing of the scene and all
19 that. In other words, the bodies are out, it's
20 undisturbed.

21 Q Right.

22 A There's nothing else happening ---

23 Q Apart from your presence?

24 A Pardon?

25 Q Apart from you and the column of officers?

1 A Once we go in, and they get the bodies ---

2 Q Okay.

3 A --- we're out when we've secured it, and we don't
4 touch it again.

5 Q Okay.

6 A The lab comes in. They control the processing.

7 Q Correct.

8 A There it's photographed, there it's documented
9 before anything else happens to the actual scene.

10 Q Right, but the purpose of that camera is to
11 document the scene before EMS arrives and before you
12 guys ---

13 A The purpose of that camera at that moment, and
14 you have to understand this is a very rare occurrence,
15 is to get a picture of that body ---

16 Q So it's just to take pictures of ---

17 A --- and try to get the pictures ---

18 Q --- the bodies ---

19 THE COURT: I need you to stop talking over him,
20 Mr. Krzyston. He is allowed to answer his question
21 completely and fully before you ask another question.
22 The court reporter can't take down two people at the
23 same time. The same goes for you, Sergeant Robinson.
24 Mr. Krzyston needs to be allowed to finish his
25 question before you answer it, please.

1 THE WITNESS: Sorry, Judge.

2 THE COURT: Thank you.

3 BY MR. KRZYSTON:

4 Q Go ahead.

5 A The purpose of taking that picture is to document
6 the position of that body as it lays at that moment,
7 to try to preserve that position of the body in that
8 quick condition. That's not a --- you're making it
9 out to be like it's the actual photographing of the
10 crime scene and ---

11 Q Okay. No, no, I'm not trying to say that. I'm
12 just seeing if that was the --- if the purpose of that
13 was to document the scene?

14 A Okay.

15 Q Which you told us already.

16 A Okay.

17 Q Now, you had 22 years as a law enforcement
18 officer, right?

19 A Right.

20 Q And you said you've read those Miranda warnings
21 thousands of times, right?

22 A Right.

23 Q And you said you've arrested hundreds of
24 suspects, right?

25 A Yes.

1 Q You didn't write a report on the scene, did you?

2 A Did I write a report on the scene?

3 Q At 8100?

4 A On the scene, no. The report that I wrote right
5 here is my follow-up report.

6 Q Uh-huh.

7 A This is the one here.

8 Q Right.

9 A And it was ---

10 Q But that wasn't on the scene, right?

11 A No, no, no. That's a follow-up after we go back
12 and get back into the office. The deputies that were
13 there, I don't know who wrote the incident report on
14 the scene.

15 Q You didn't take any hand written notes, right?

16 A No, anything I wrote to acknowledge what I had
17 learned went back straight to this follow-up.

18 Q And McDonald actually wrote this, not you?

19 A McDonald? No, this is something I typed up.

20 Q I'm sorry. I thought you were referencing
21 McDonald's follow-up, not yours?

22 A No, I'm referencing my follow-up.

23 Q That's fine.

24 MR. KRZYSTON: Beg the Court's indulgence, Your
25 Honor.

1 THE COURT: Yes, sir.

2 (Pause.)

3 MR. KRZYSTON: Permission to approach the
4 witness, Your Honor?

5 THE COURT: Yes, sir.

6 BY MR. KRZYSTON:

7 Q Can I see your report?

8 (Complies.)

9 (Pause.)

10 MR. KRZYSTON: I'm sorry, Your Honor. Just a
11 brief moment.

12 (Pause.)

13 MR. KRZYSTON: Judge, we've got a matter of law.

14 THE COURT: All right. Ladies and gentlemen, if
15 you'll step back to your jury room. Do not discuss
16 the case. Keep an open mind. We'll be back with you
17 in a few moments.

18 THE BAILIFF: Everyone remain seated.

19 (WHEREUPON, the jury left the courtroom at 10:40
20 A.M.)

21 THE COURT: He can stay there.

22 MR. KRZYSTON: Judge, this is the first time
23 we've ever seen this report.

24 THE COURT: Okay.

25 MS. SAMPSON: I don't know what they're talking

1 about. I haven't seen what they're talking about. Is
2 this what you're talking about?

3 MR. KRZYSTON: The entire thing.

4 MS. SAMPSON: That front sheet you have. It's
5 just another sheet, and this is --- it's the same one
6 you have. We gave it to you.

7 MR. KRZYSTON: I understand you, but we don't.

8 MS. SAMPSON: I gave that to you. I can show you
9 the marks. Do you have the list that we gave him?

10 (Pause.)

11 MS. HINES: Judge, we haven't seen this. This is
12 another discovery violation. We have not seen this.

13 MS. SAMPSON: Your Honor, it was given to them
14 without his name on it. We had a meeting, and I had
15 all the discovery. I can show them exactly what I
16 gave them. We showed him a copy without his name on
17 it. I had them write Robinson on the top of it.

18 MS. HINES: Judge, when we had the meeting, we
19 were shown a box that had a stack of papers about this
20 thick. There were items in the box that had --- there
21 were items that we had that were not in the box. We
22 asked to see their notebook. We were told that we
23 couldn't see their notebook. In other cases I've had
24 with the Fifth Circuit Solicitor's Office and with
25 other solicitor's offices, I have been allowed to look

1 at their notebook. We were not allowed to look at
2 their notebook. This is something that we haven't
3 seen. It hasn't been turned over to us. This is yet
4 another discovery violation.

5 MS. SAMPSON: Your Honor, we've gone to get the
6 checklist. It's on the original checklist that we
7 gave them. It's on everything we gave them. The only
8 difference is I did not know whose it was initially.
9 It didn't have his name on the top. It was not typed.
10 We went and asked them which one it was. When they
11 came and looked at the box, it was in the box.
12 Everything was in the box. Then they said we don't
13 have this, we don't have this, and we gave it to them.

14 MS. HINES: This was not in the box when we
15 looked at the box.

16 THE COURT: Define for me ---

17 MS. HINES: We have ---

18 THE COURT: --- the exculpatory information in
19 there. Define for me the impeachment material
20 information in there. Show me something that has
21 something to do with exculpatory evidence or
22 impeachment.

23 MS. HINES: Well, Judge, this says --- let me
24 just read it quickly.

25 THE COURT: Is somebody going to get the

1 discovery checklist?

2 MS. SAMPSON: Yes, I'll have a copy here ---

3 MS. HINES: I have a copy of the discovery
4 checklist, Your Honor.

5 THE COURT: Okay. Give it to Ms. Sampson.

6 MS. HINES: "When we entered the apartment, there
7 was a strong odor of marijuana and two persons in
8 serious need of medical aid. The deadbolt was not
9 locked." We've had testimony already that the
10 deadbolt was locked.

11 THE COURT: I'm looking for exculpatory
12 information.

13 MS. HINES: That would be impeachment.

14 THE COURT: Impeachment of this witness? He
15 hadn't testified contrary to that. No one has asked
16 him.

17 MS. SAMPSON: And, Your Honor, for the record
18 what she handed me is not the last checklist. This is
19 the very first one. It doesn't even have all the DVDs
20 and CDs that they have admitted they have, so this is
21 not the checklist.

22 THE COURT: Has somebody gone to go get that?

23 MS. HINES: Okay. Lieutenant McDonald's report,
24 through statements provided by the female victim, says
25 that she witnessed William Wallace murder both of the

1 victims and tried to kill her. That is different from
2 what we've been told. We've been told in statements
3 from Raquel Weston that she did not witness the
4 shootings of Pratt and Johnson and that Diggs tried to
5 kill her, not our client, so that would be information
6 that would be potentially exculpatory or used
7 potentially for cross-examination, impeachment.

8 THE COURT: Is that in McDonald's report?

9 MS. SAMPSON: Yes, sir.

10 THE COURT: Okay. Then it's not ---

11 MR. HAWKS: Judge ---

12 MS. HINES: I don't believe it's worded that way
13 in McDonald's report.

14 MS. SAMPSON: And for the record, Your Honor, he
15 testified at the pretrial hearing and used the exact
16 same report when he testified at the pretrial hearing.

17 MS. HINES: In McDonald's report it says Weston
18 states after this Wallace went and shot Pratt and
19 Athell, not that she witnessed it, but he went into a
20 separate room that she wasn't in. In Robinson's
21 report it says that she witnessed it.

22 Also, in McDonald's report, it says Weston states
23 that Darryl, who she is calling Diggs Darryl, would
24 grab the gun out of a black cloth Tweety bag that
25 belonged to her. Darryl then began to walk her down

1 the dirt path. Wallace would holler to Darryl to
2 throw the gun in the water. She could see Darryl lift
3 the gun up and shoot her.

4 MS. SAMPSON: That's in McDonald's report.

5 MS. HINES: That is in McDonald's report. It is
6 different from what is in Robinson's report.

7 Robinson's report says she witnessed William Wallace
8 murder both of the victims and tried to kill her.

9 In McDonald's report, it says that Diggs ---

10 THE COURT: Okay. So tell me how you've been
11 prejudiced since she hasn't testified.

12 MS. HINES: We've been --- Judge, we've been
13 preparing the case based on the information that we
14 have. We've been putting in effort. We've been
15 poring over the information that we've been given to
16 prepare our defense, to prepare our case. Now, in mid
17 trial, we're handed an investigator's report that we
18 didn't have.

19 THE COURT: But they say you have it, but ---

20 MS. HINES: Preparation ---

21 THE COURT: --- let's move past that. How have
22 you been prejudiced specifically in the
23 cross-examination of Raquel Weston by the information
24 that you have allegedly just now received?

25 MS. HINES: Judge, I mean, we have this

1 information now, but I think we should have been given
2 the information before.

3 THE COURT: Well, they say they did give it to
4 you before. The question is, now, how have you been
5 prejudiced at this moment? Raquel Weston has not
6 testified, so how have you been prejudiced? How has
7 Mr. Wallace been prejudiced?

8 MS. HINES: We were not prepared for the
9 cross-examination of this witness based on this ---
10 his notes and his testimony.

11 THE COURT: And your cross-examination of this
12 witness isn't over, so... So the answer is that you
13 haven't; is that correct?

14 MS. HINES: Judge, I believe that --- I believe
15 that when we add this to the other discovery
16 violations that we've had, we've had other motions for
17 discovery, I believe that it is prejudicial to the
18 defense, and I move for a mistrial based on ---

19 THE COURT: You can't just say it's prejudicial,
20 Ms. Hines. You have to state the reason why it's
21 prejudicial. Everything in this case that the State
22 intends on introducing against Mr. Wallace is
23 prejudicial. You have to state how it's prejudicial.
24 How is it prejudicial to the defense, since Ms. Weston
25 has not testified.

1 MS. HINES: Because we are --- we have prepared
2 based on the information we were given and we're being
3 thrown more notes, more things mid trial. It affects
4 our ability to defend this case properly and make an
5 informed decision about how to proceed.

6 THE COURT: Okay. Where is the discovery
7 checklist?

8 MS. SAMPSON: Your Honor, I sent them to print it
9 off of Spartan. If you can give us two minutes, they
10 will print it. It will show when we sent it, as well,
11 as --- there's been more than one because we've had
12 this issue so many times. Last time they said they
13 didn't have everything, we got the changes and showed
14 you that it had been sent, so I just need to print the
15 final list.

16 Your Honor, here are copies of the final
17 checklist that we gave them, and I would point Your
18 Honor to number 23 on the final checklist. It says D.
19 Robinson follow-up. This would be D Robinson, that
20 would be his follow-up and that's the same checklist
21 that we showed you prior to where he said about that
22 he knew of 12 things that he said we didn't have and
23 hadn't given them, and this is the final checklist.
24 It's also got the CDs that we sent them. It also has
25 the cell phone sites we sent them. It's longer than

1 the original one because it's the second one we sent.
2 It's got detailed pages of how many things for each
3 page. That's what we started to do because we were
4 having this problem.

5 MS. HINES: I would ask when this was sent.

6 THE COURT: That was my question.

7 MS. SAMPSON: It's been sent twice. I don't have
8 my computer. If you want me to go get it, I will go
9 get it.

10 THE COURT: Go get it.

11 MR. KRZYSTON: I guess I lied. I'm sorry. I'm
12 keeping you a little longer.

13 THE WITNESS: Thank you. I've been short on
14 sleep the last couple of days. Why not a little bit
15 more.

16 (Pause.)

17 MS. SAMPSON: For the record, Your Honor, I went
18 and printed off the email where I sent it on July 2,
19 2014.

20 THE COURT: Thank you, ma'am.

21 MS. SAMPSON: Here is a copy of the attached
22 checklist along with on the email it shows that there
23 was a document attached. It's got a PDF. The PDF is
24 the last checklist that went with it. That's the
25 checklist that went with it. Everything in there is

1 there. That's number 23.

2 MS. HINES: Judge, we would have to look at the
3 PDF to see if it's actually in there.

4 THE COURT: Well, that's your problem. I mean,
5 it was sent to you on July 2nd of 2014. Your
6 inability to go through it, review it, look at it and
7 make sure that every single thing they say is in there
8 is there is no one's fault but your own.

9 I mean, we have now spent north of twenty minutes
10 outside the presence of the jury on day four of a
11 trial over a document that the State has just proved
12 that they provided to the defense.

13 MS. HINES: Okay. Judge.

14 THE COURT: Your motion for a mistrial is denied.
15 Your motion --- whatever the discovery motion is --- I
16 don't even understand what it is, but whatever it is
17 it's denied.

18 Bring the jury back in.

19 (WHEREUPON, the jury entered the courtroom at
20 11:03 A.M.)

21 THE COURT: Take them right back out, Mr. Hollis.
22 They don't need to go back in their room; they can
23 stay in the hallway. This is just going to take one
24 second.

25 (WHEREUPON, a bench conference was held in the

1 presence, but not within the hearing of the
2 jury.)

3 THE COURT: Who is it?

4 MR. KRZYSTON: Lucinda Nelson --- or Lucinda
5 Diggs.

6 THE COURT: Where is Ms. Nelson? Where is Ms.
7 Nelson?

8 THE WITNESS: I'm here.

9 THE COURT: Lucinda Nelson, Lucinda Diggs?
10 You're not allowed in this courtroom. You're a
11 witness on the witness list. Witnesses are
12 sequestered. You will stay out of this courtroom
13 unless you're brought in by a court official or until
14 you testify.

15 Thank you for letting me know. It was the right
16 thing to do. Mr. Dye, if you have a problem ---

17 THE BAILIFF: Not yet.

18 THE COURT: --- you just let me know.

19 All right. Bring them in.

20 (WHEREUPON, the jury entered the courtroom at
21 11:05 A.M.)

22 THE BAILIFF: The jury is all present, Your
23 Honor.

24 THE COURT: All right. Thank you very much. I
25 forgot to answer your question this morning, ladies

1 and gentlemen. We will be out of here way before
2 5:30. Probably close to 5:00 or earlier than that
3 today. As to tomorrow, I can't answer that question
4 just yet until I see how far we make it today. Don't
5 worry about tonight. Whoever has events tonight, we
6 will be out of here in plenty of time for you to make
7 those events.

8 I apologize for that interruption, Mr. Krzyston.
9 You may continue.

10 MR. KRZYSTON: Not at all, Judge. Sorry about
11 that.

12 BY MR. KRZYSTON:

13 Q Now, with the column of officers that you were
14 with prior to entering the apartment, Corporal
15 Moreland was one of them?

16 A There's some of the deputies I don't know.

17 Q Okay.

18 A I'm not sure on Moreland.

19 Q Okay.

20 A I'm not sure.

21 Q But you checked the door first, to see if it was
22 open?

23 A The door was locked.

24 Q Okay. The door was locked.

25 A Not a deadbolt, but the door was locked.

1 Q The door knob was locked, but the deadbolt was
2 not?

3 A Yes.

4 Q You're sure about that?

5 A Yeah.

6 MR. KRZYSTON: Beg the Court's indulgence.

7 (Pause.)

8 No further questions, Your Honor.

9 THE COURT: Redirect?

10 MR. COBLE: Nothing further.

11 THE COURT: Call your next witness.

12 MS. SAMPSON: The State calls Major Stan Smith.

13 THE COURT: All right.

14 STAN SMITH,

15 after being duly sworn, testified as follows:

16 THE WITNESS: James Stanley Smith.

17 DIRECT EXAMINATION:

18 BY MS. SAMPSON:

19 Q Major Smith, you're a major now, right?

20 A I am.

21 Q How long have you been with Richland County?

22 A I started in June of 1984 and with the exception
23 of a couple of years in the private sector in the late
24 '90s, I've been here about 30 years.

25 Q You've gone through the ranks?

1 A I have.

2 Q Now, you're a major?

3 A I am.

4 Q Back in 2012, were you a major?

5 A I believe I was, yes.

6 Q And what are your responsibilities as a major?

7 A Under the criminal investigative division at the
8 sheriff's department, I actually answer to a deputy
9 chief who is directly under the sheriff. I'm
10 responsible for the general administration of cases,
11 supervisors, lieutenant, captains. Sometimes I still
12 get involved in homicides occasionally, as I did in
13 this case.

14 Q I'm going to ask you some policy questions
15 because that's come up today. What is the policy for
16 recording interviews?

17 A We don't tape record or videotape the interviews
18 at the Richland County Sheriff's Department.

19 Q What about audio tape?

20 A No.

21 Q Is that a policy?

22 A It is.

23 Q When you interview witnesses, is there an
24 interview room or where are they normally interviewed?

25 A We don't have the luxury of having formal

1 interview rooms. Generally, it's in an office or
2 cubicle.

3 Q So it's not out of the ordinary to do it in an
4 office where everyone can hear what's going on?

5 A We have enclosed offices for some of the
6 supervisors. The interview in this case took place in
7 one of those offices, but a lot of our detectives do
8 the interviews in cubicles.

9 Q Now, I want to get you back to this date, back to
10 June 28th, 2012. How did you become involved?

11 A I was informed by some of my supervisors that we
12 had a shooting incident, and that a ---

13 MR. KRZYSTON: Objection, foundation.

14 THE COURT: Overruled.

15 THE WITNESS: --- a survivor from this incident
16 had emerged from a wooded area. Based on some reports
17 from her, we returned to a location where in the
18 apartment complex was found two victims who were
19 mortally wounded with gunshot wounds.

20 Q And you were provided with William Wallace as a
21 suspect at that time?

22 A Yes, the survivor was able to relate that full
23 name and, I believe, a nickname, as well.

24 Q And, I believe --- was a search warrant prepared
25 for the apartment complex?

1 A Right. I actually prepared the search warrant.
2 At that time, we weren't sure who all the players were
3 and who may or may not have an expectation of privacy
4 in that apartment complex. So out of an abundance of
5 caution, I prepared a search warrant for the crime
6 scene.

7 Q And you were granted it?

8 A Yes.

9 Q You also prepared a search warrant for a Mercury
10 Marquis, for Ms. Conway's vehicle?

11 A Yes, that was the vehicle that we understood that
12 Mr. Wallace, I understand at the time was in, and that
13 he was actually located in after this incident.

14 Q So you got that?

15 A Yes.

16 Q So at some point you go back to headquarters?

17 A I did both of those at headquarters. Other
18 individuals actually swore to the affidavits in front
19 of the magistrate.

20 Q And I'm going to speed up because the jury has
21 heard a lot of this. At some point, Mr. Wallace is
22 brought to headquarters?

23 A Yes.

24 Q How did you become involved in speaking to him?

25 A It was about 5:30 that afternoon and McDonald and

1 Robinson were interviewing him. As I sometimes do, I
2 was sort of monitoring what was going on. It was a
3 double homicide case. It's big case.

4 Q I'm going to stop you for a second. Was his door
5 opened or closed?

6 A It was closed at the time. I believe I tapped on
7 it or opened it and inquired how it was going and
8 introduced myself.

9 Q Just sort of stuck your head in?

10 A Yes.

11 Q And then what happened?

12 A I think I introduced myself by rank. Then, as
13 sometimes is the case in these situations, Mr. Wallace
14 wanted to speak to me without Robinson and McDonald
15 being there.

16 Q Is that out of the ordinary?

17 A No. It happens a lot. Obviously, there were
18 some problems with the story he was providing at the
19 time and denying total involvement, so he wanted to
20 take it to another individual hoping they would go
21 along with his story.

22 Q Did you know if he had been Mirandized at that
23 point?

24 A I was aware that he had been verbally Mirandized
25 by Captain McDonald, then Lieutenant McDonald.

1 Q And then did he --- do you ask him if he wanted
2 to speak to you or does he ask you?

3 A No, he indicated to me he wanted to talk to me
4 alone.

5 Q Did you allow him to do so?

6 A Yes, I asked those two individuals got the cue
7 and left the office.

8 Q Did you force him to talk to you in any way?

9 A No.

10 Q So what happens once you're alone?

11 A I knew that one of the things that they had been
12 discussing with him was the fact that his cell phone
13 was hitting a tower in close proximity to the crime
14 scene, and that he had been making some statements
15 about being nowhere near there. I think he was
16 indicating he was in the northeast or northern part of
17 Columbia that morning and had not been in that area.
18 We began talking about how his cell phone could have
19 possibly been hitting a tower on Cheval Street, which
20 is off Leesburg Road.

21 MR. KRZYSTON: Objection Judge, pretrial
22 argument.

23 THE COURT: Overruled.

24 BY MR. COBLE:

25 Q So you asked him, "Are you guys talking about the

1 cell phone?"

2 A Yes.

3 Q And what's the conversation?

4 A Yes.

5 Q Before you say anything, you're looking at
6 something. Does having your records help refresh your
7 memory of what took place?

8 A Yes, those are my actual notes, my typed follow-
9 up notes.

10 Q You type those notes on follow-up?

11 A Yes, yes, ma'am.

12 Q So, go ahead?

13 A Basically he denied it a couple more times to me.
14 At some point in time, he did render an account
15 wherein he placed himself at the scene.

16 Q Okay. And what --- how did he place himself at
17 the scene?

18 A He basically said that he had been at his car and
19 saw another vehicle with three individuals in it, and
20 he recognized the driver as Charlie G.

21 Q Okay.

22 A He said that they were in a silver Buick Park
23 Avenue and he wound up explaining to me who Charlie G
24 was. Charlie G was allegedly sort of an adversary of
25 Athell Johnson.

1 Q Athell Johnson, the victim?

2 A Yes.

3 Q Okay.

4 A He went on to explain to me how they were
5 adversaries and he knew about a conflict between the
6 two of them.

7 Q And that's between Athell and Charlie G?

8 A That's correct.

9 Q Okay.

10 A He said he pulled over and got out to talk to
11 these three guys.

12 Q He being William Wallace got out?

13 A Yes, William Wallace. And he actually indicated
14 that the location he pulled over was Cheval Street,
15 which again is the location of the tower, but I don't
16 think he understood that at the time.

17 Q So --- continue.

18 A He said that at some point during the
19 conversation with one of the guys that he didn't know,
20 that he had pulled out a gun and ordered him in the
21 car to basically kidnap him. Then they ordered --- he
22 was ordered to take them to Athell's apartment.

23 Q Okay.

24 A Because apparently he was saying they didn't know
25 exactly where the apartment was. He then went on to

1 explain --- he told me how we could find out who
2 Charlie G was by contacting Athell's attorney.

3 Q Okay.

4 A He identified this guy as Jason Holme and I later
5 learned that to be Jason Hall. He said we could get
6 it --- he actually used the word "discovery." Said
7 that we could get Charlie G's information from
8 Athell's discovery.

9 Q Okay.

10 A He said that after they pulled up to the
11 apartment complex, they spotted Raquel, who again is
12 the survivor in this case, pulling up ahead of them.

13 Q And did he know the relationship? Was he able to
14 explain the relation to you between Raquel and
15 Mr. Johnson?

16 A Yeah, he knew that Raquel was the girlfriend. He
17 said that he pointed out to this crew that had
18 kidnapped him that that was Athell's girlfriend. As
19 he saw Raquel, she saw him and they waved at each
20 other, basically. He said they entered the complex
21 behind her, actually, behind her through a gate. When
22 they got to Athell's building, Charlie G. got out and
23 held Raquel at gunpoint. Charlie G. and the second
24 gunman used her as a way to get into the apartment
25 while the third gunman stayed in the car with him

1 holding the gun on him.

2 He said that at one point he saw the door to
3 Athell's apartment open and nobody exited. Then he
4 heard the shots, is what he said.

5 Q He told you he heard shots?

6 A He said he heard shots.

7 Q Did he tell you he was in the parking lot or
8 where?

9 A Yes, he said he was in the parking lot, in the
10 backseat, I think he said, of the car with this third
11 gunman. As soon as they heard the shots, he said this
12 unidentified third gunman drove him back to his car on
13 Cheval Street where he was released, you know, without
14 further incident. He told me at the time he intended
15 to explain how he was involved in this to Athell later
16 on as if he was explaining that he didn't know Athell
17 was mortally wounded, but he was going to use his
18 brother as a go-between to sort of relay this
19 information. Again, he said that he didn't know that
20 Athell and Pratt had been shot until we told him at
21 the point of his arrest.

22 Q So this version of events, he told you all of
23 this?

24 A Yes.

25 Q Based on him telling you this, what did you

1 decide to do?

2 A I wanted him to repeat that version to these
3 detectives who had just been interviewing him.

4 Q Why?

5 A So they could witness what he was saying as well.

6 Q Is that normal procedure?

7 A Yes, he now --- he's gone from denying total
8 involvement to being at the scene. It's pretty
9 significant, so I asked McDonald and Robinson to enter
10 the office. By this time Sergeant Isenhoward was back
11 at headquarters. I believe he had been involved in
12 the interview with Raquel, so he came in the office as
13 well.

14 Q So at this point in the office that --- it was
15 Lieutenant McDonald's office, correct?

16 A Yes.

17 Q In the office it's you, Mr. Wallace, Lieutenant
18 McDonald, Sergeant Isenhoward and was Sergeant
19 Robinson there, too?

20 A He is still there, too.

21 Q Okay.

22 A At least initially, yes.

23 Q Okay.

24 A So I asked Wallace to repeat the story for these
25 other detectives.

1 Q Okay.

2 A And he did. We went through the story explaining
3 what he had just explained to me. Isenhoward at that
4 point started questioning him about the truthfulness
5 of his story having just interviewed the survivor,
6 Raquel Weston.

7 Q Do you remember what the issue was of the
8 difference between what he just --- what Mr. Wallace
9 had just told you and what Isenhoward was asking?

10 A Well, the difference was that she had identified
11 him as the main one involved and not any of the other
12 three individuals, Charlie G. and all that.

13 Q Did he give a response to that?

14 A Yes, he ultimately --- he continued with his
15 story at that point. At some point in time I left to
16 let them --- my understanding was they were going to
17 go ahead and put this down on paper.

18 Q Did that ever get done?

19 A It never got done, no.

20 Q Okay. Now, I want to talk to you about you
21 speaking with him. It's just you two, correct?

22 A Yes.

23 Q You didn't tell him what to say, did you?

24 A No.

25 Q Did you in any way make him say that?

1 A No, I didn't know who Charlie G. was.

2 Q At any point did you force him to talk to you at
3 all?

4 A No.

5 Q You've been with law enforcement since 1984, so
6 30 years?

7 A Thirty years this summer, I think.

8 Q So you --- do you have any reason to implicate
9 him in this if he didn't do it himself?

10 A No, ma'am, and again he didn't implicate himself
11 in the actual double homicide. He had a story which
12 explained why his phone was hitting in that area.

13 Q Any reason for you to make up this version of
14 events that he gave you?

15 A No, ma'am.

16 Q Okay. So once you leave the room and let
17 McDonald continue to do what he supposed to do; is
18 that correct?

19 A That's correct.

20 Q Did you tell Mr. Wallace to do anything as you
21 left the room?

22 A No, at a later point in time, when I learned that
23 he did not want to put it on paper, I did --- I think
24 I reentered the office and I told him that ought to
25 want to have his story in writing if it was the truth.

1 Q Why did you do that?

2 A Because I was --- I mean, if it's he's telling
3 the truth ---

4 MR. KRZYSTON: Objection. He's already ---
5 approach, Judge, I'm sorry.

6 (WHEREUPON, a bench conference was held in the
7 presence, but not within the hearing of the
8 jury.)

9 MS. SAMPSON: Thank you, Your Honor.

10 BY MS. SAMPSON:

11 Q Why did you ask him to do that?

12 A Well, the point I was trying to make was, if the
13 story was the truth after having previously denied
14 being in the area and he now saying this is really why
15 the phone was in the area, then that's why you want to
16 have it down on paper. At that point in time, he
17 said ---

18 THE COURT: Whoa, whoa, whoa, stop. Is this
19 after he has declined to sign the Advice of Rights?

20 THE WITNESS: I just have in my notes that he
21 refused to give a written statement. He may ---

22 MS. SAMPSON: That's fine.

23 THE COURT: I don't want any information that he
24 says after that.

25 MS. SAMPSON: I was just asking why you were

1 speaking to him.

2 THE WITNESS: Yes, that's the reason why.

3 BY MS. SAMPSON:

4 Q Without going into details, were you ever able to
5 confirm that a Charlie Mack existed?

6 A Yes, I did some research with the solicitor's
7 office and found out that Charlie G ---

8 Q Sorry, Charlie G ---

9 A --- is the name that he gave me. That indeed was
10 a real individual and he was indeed involved in a
11 previous conflict with Athell and Athell's brother.

12 Q Was he involved in any way with this incident?

13 A No, ma'am.

14 Q So you all did look into that?

15 A Yes.

16 Q And I think --- did you get a search warrant for
17 the Buick that he had been in earlier that day?

18 A I actually participated in the search warrant on
19 Denny Road.

20 Q I'm sorry. I skipped that.

21 A And bear with me one...I don't think I actually
22 prepared that search warrant.

23 Q Okay. I skipped it, but --- you said you went to
24 Denny Road. You were part of the search of that?

25 A Yes.

1 Q I believe you guys found a burn pile. Were you
2 there for that?

3 A I was. I also located a traffic ticket there
4 that wound up being significant.

5 Q Did you see the burn pile?

6 A I did.

7 MR. KRZYSTON: I have an objection, Your Honor,
8 based on relevance. If you wish to approach, we
9 could.

10 (WHEREUPON, a bench conference was held in the
11 presence, but not within the hearing of the
12 jury.)

13 THE COURT: Overruled.

14 BY MS. SAMPSON:

15 Q So there was a burn pile?

16 A Yes.

17 Q And there were some --- let me ask you this
18 question: Did you find evidence that Mr. --- you all
19 found evidence that that is where Mr. Wallace resided
20 at the time?

21 A That was our understanding, yes.

22 Q And I'll get back to the burn pile in a minute.
23 So did you ever --- I want to go specifically to some
24 of your other involvement --- you spoke with --- you
25 went with Sergeant McDonald to look for Ms. Toatley,

1 correct?

2 A I did.

3 Q What did you all do in terms of that?

4 A We tried several times to make contact with her
5 at her residence. I believe we left a business card.

6 Q This happened on, I believe, a Thursday or
7 Friday?

8 A I believe so, yes.

9 Q So was this over the weekend?

10 A It was before the weekend, I believe, that we
11 actually went and, I believe, over the course of the
12 weekend is when she made contact there at her
13 apartment.

14 Q So the times that you all went, she was not
15 there?

16 A That's correct.

17 Q At some point, you all speak with the defendant's
18 brother Charlie Wallace; is that correct?

19 A We spoke to Charles Wallace several times.

20 Q Were you part of those interviews?

21 A I believe I was part of all of them, yes, ma'am.

22 (WHEREUPON, State's Exhibit Numbers 130 and 131
23 were marked for identification only.)

24 BY MS. SAMPSON:

25 Q Major Smith, I'm going to show you what's being

1 marked as State's Exhibit 130 and 131 and ask if you
2 recognize those?

3 A Yes, ma'am. That's the rear of that Denny Road
4 house. That's the pile that I'm talking about.

5 Q Do those photographs accurately reflect the way
6 they looked back in June of 2012?

7 A They do.

8 MS. SAMPSON: At this time, Your Honor, I'd ask
9 to introduce State's Exhibit Numbers 130 and 131 into
10 evidence.

11 MR. KRZYSTON: We would object to any extent
12 already stated.

13 THE COURT: Overruled.

14 (WHEREUPON, State's Exhibit Number 130 and 131
15 were admitted into evidence.)

16 BY MS. SAMPSON:

17 Q All right. I'm going to show these to the jury.
18 Can you tell them what's in this photograph?

19 A It's the back door of the house and the burn pile
20 is to the left of it. It has some blue jeans and some
21 other things that you can't really tell what's in
22 there.

23 Q And what does 131 show?

24 A It's the same burn pile. It's close-up version
25 of it. You see some sticks, some debris that I think

1 was used as accelerants.

2 Q Is that blue jeans in there?

3 A It is.

4 Q Could you tell by looking at it if anything had
5 actually been burned?

6 A It appeared to be that it had been burned.

7 Q Is that why you all called it a burn pile?

8 A It is.

9 Q All right. So let's go back to speaking to
10 Mr. Wallace's brother. I'm going to lead you a little
11 bit. Had you all had information that he had been
12 talking to Mr. Wallace after Mr. Wallace's arrest?

13 A We did.

14 Q Is that why you were interviewing him?

15 A It was.

16 Q Were you able to confirm that they actually did
17 have these phone calls?

18 A We did.

19 Q He didn't deny it?

20 A He did not.

21 Q Were you able to take a written statement from
22 Mr. Wallace, Charles Wallace?

23 A I believe we took a couple.

24 Q Did you make him talk to you?

25 A No.

1 Q Did you force him to say whatever he said?

2 A No, ma'am.

3 Q Did you allow him to make any changes to his
4 statement that he wanted to make if he wanted to make
5 it?

6 A Yes.

7 Q In fact, when you did one of the interview,
8 didn't he have his lawyer with him?

9 A No, I believe the final interview --- I had
10 gotten a call from his attorney indicating that he had
11 additional information.

12 Q Okay.

13 A So he came there with us.

14 MR. KRZYSTON: Objection, hearsay.

15 THE COURT: Overruled.

16 BY MS. SAMPSON:

17 Q Go ahead.

18 A He came in with a member of that attorney's
19 staff, who actually sat there.

20 Q Okay. And the first time you met with him, you
21 listened to the phone call with him?

22 A I believe, so yes.

23 Q And I'm just going to ask you, there is a mention
24 in the phone call of Grinches. What are Grinches?

25 A I didn't know what Grinches were, other than the

1 cartoon character, but I later learned it's a slang
2 name for marijuana.

3 Q Did he confirm with you that Mr. Wallace wanted
4 him to relay some information --- that William Wallace
5 wanted Charles Wallace to relay some information?

6 MR. KRZYSTON: Objection, hearsay.

7 THE COURT: I don't understand the question at
8 all. I'm so confused.

9 MS. SAMPSON: Did he confirm with you ---

10 THE COURT: Did who confirm with who?

11 MS. SAMPSON: Did Charles Wallace confirm with
12 you that William Wallace wanted him to relay some
13 information?

14 THE WITNESS: Yes.

15 THE COURT: Objection overruled. You can't say
16 what he said.

17 BY MS. SAMPSON:

18 Q And he --- I'm sorry, you said yes, he did?

19 A Yes, yes.

20 Q And you also participated in the interview of
21 Ms. Toatley once she came to headquarters, correct?

22 A Yes. On the 3rd, and I believe that would have
23 been a Monday. She came forward that Sunday night and
24 we interviewed her that Monday.

25 Q To be clear, she is the woman that found the