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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANCISCO MALDANADO-MOLINA,

APPELLANT

APPELLATE CASE NO. 2023-001995

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA }
2 COUNTY OF SPARTANBURG } IN THE GENERAL SESSIONS COURT

3 The State, }
4 vs. } TRANSCRIPT OF RECORD
5 Francisco Maldonado-Molina, } 2021-GS-42-00695;00696;00697
6 Defendant. } December 18 - 20, 2023
7 } Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

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Motions

1 deliberations. So, no discussions about the case until
2 that time.

3 Also, it's important that you make a decision solely
4 upon what you see and hear during the trial. You're not to
5 be influenced by any outside or extraneous information.

6 So, don't discuss the case with anybody. Don't try to
7 do any research about the case. Don't go to the internet
8 and try to find out something about the case should there
9 be something there. Don't allow yourselves to be exposed
10 to any type of media coverage that relates to the case
11 should there be some.

12 As I say, you've got to avoid all extraneous
13 information. You've got to base a decision under your oath
14 as a juror upon what you see and hear during the trial.
15 So, keep those instructions in minds.

16 Do have a good lunch. Please report to the jury
17 assembly room at 2:30 this afternoon, 2:30 this afternoon.
18 Have a good lunch.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: All right. Motions to address?

22 MR. BRANNON: Your Honor, my first one would be a
23 motion to sequester the witnesses.

24 I understand that the surviving victim can be in the
25 courtroom, and the state's lead investigator, but I would

Motions

1 ask that all other witnesses be required to stay out of the
2 courtroom until called as a witness.

3 THE COURT: What's the state's position?

4 MR. RHODEN: Your Honor, there's very -- there's very
5 little overlap in the testimony of a bunch of police
6 officers, cell phone records.

7 There's the main witness, which is the defendant's
8 exwife, and a few family members, but/and then we have the
9 victim, the surviving victim, who is going to give some
10 testimony, eye witness identification.

11 It's really not the sort of thing where you really get
12 into a lot of -- if they hear this witness, that witness --
13 but certainly I'm not going to belabor the point, Your
14 Honor.

15 THE COURT: Well, are you consenting to it?

16 MR. RHODEN: No, sir.

17 MR. BRANNON: Your Honor, may I be heard on that
18 issue?

19 THE COURT: Of course. Of course I'm going to let you
20 be heard on it, but let me finish.

21 The lay witnesses that are witnesses, do you have
22 written statements taken from them that have been supplied
23 to the defense?

24 MR. RHODEN: There's a written statement from Mary
25 Martin, yes, sir, Your Honor. There's a written --

Motions

1 THE COURT: Mary Martin being who?

2 MR. RHODEN: The defendant's exwife.

3 THE COURT: Okay.

4 MR. RHODEN: There's a written statement from the
5 surviving victim who's been -- that's been supplied --

6 THE COURT: Okay.

7 MR. RHODEN: -- to the defense, Your Honor.

8 THE COURT: Do you have any other fact witnesses?

9 MR. RHODEN: The only other fact -- well, we've got
10 the F.B.I. agent but that's -- that's just cell-phone data.

11 THE COURT: I mean, fact witness as to the event
12 itself.

13 MR. RHODEN: If you classify, we might get into some
14 other family members as to what Mr. Molina was doing that
15 day.

16 They were not at the scene. They didn't witness
17 these, the event, but they might have some relevant
18 information concerning his activities that day.

19 THE COURT: Has that information been provided to Mr.
20 Brannon?

21 MR. RHODEN: They -- they have not given any
22 statements, Your Honor.

23 They -- they are the defendant's family, and they've
24 been -- some of them have been cooperative; some of them
25 have been much less cooperative.

Motions

1 THE COURT: And those are TM and JM and
2 MM?

3 MR. RHODEN: Yes, sir. And also Rodney Martin and
4 Teresa Martin.

5 THE COURT: All right.

6 MR. RHODEN: But other than those -- those are the --
7 those are the lay witnesses.

8 THE COURT: So, you -- but you know what information
9 they have to provide?

10 MR. RHODEN: Well, they were -- TM, JM and
11 MM were with Mr. Molina earlier in the day.

12 THE COURT: Let's do this.

13 why don't you and Mr. Brannon just talk a few minutes,
14 and let them know what they can testify to.

15 MR. RHODEN: Yes, sir.

16 THE COURT: See if it's an issue.

17 (Pause.)

18 MR. RHODEN: Your Honor, I -- just for the sake of
19 brevity and not being an issue, I would agree to sequester
20 the lay witnesses.

21 THE COURT: All right.

22 MR. BRANNON: And that would satisfy my information,
23 Your Honor.

24 THE COURT: With the exception of Cojon-Lopez?

25 MR. RHODEN: Yes, sir. Except for the victim.

Motions

1 THE COURT: All right. So, all the Martins and the
2 Molinas you're agreeing to sequester?

3 MR. RHODEN: Yes, sir.

4 THE COURT: Okay. And, Mr. Brannon, that takes care
5 of the sequestration request?

6 MR. BRANNON: That's correct. Yes, Your Honor.

7 THE COURT: You don't care about the law enforcement?

8 MR. BRANNON: I don't care about law enforcement, no,
9 sir. That's me -- that sounded horrible. I don't care if
10 law enforcement is in the courtroom. I do care about them
11 generally.

12 THE COURT: Well, we understand in the context of my
13 question.

14 MR. BRANNON: Your Honor, my second motion, my next
15 motion, when my client was apprehended in Peoria, Illinois,
16 by federal agents, they seized from a backpack a handgun
17 and a large sum of money. It was actually \$59,775.

18 Your Honor, I don't believe that the handgun nor the
19 amount of cash that he had in his possession at the time of
20 his arrest is relevant in this matter, and I would ask the
21 Court to keep in mind that his arrest was nearly three
22 years after this incident is alleged to have occurred. I
23 would ask that you suppress any mention of a handgun or the
24 money.

25 Your Honor, that handgun that was suppressed is

Motions

1 definitely not the gun that was used to cause the injuries
2 and death in this case. So, it can't be tied to this case
3 in any way. And, so, I would ask that the gun and the
4 money be suppressed, Your Honor -- mention of them be
5 suppressed.

6 MR. RHODEN: May it please the Court.

7 At this particular point in time when Mr. Molina was
8 arrested he had been on the run for four years, been a
9 fugitive from justice.

10 When the U.S. Marshals finally tracked him down near
11 Peoria, Illinois, their -- their operation, I think, was
12 somewhat compromised at one point.

13 They -- they did apprehend him. In the vehicle was a
14 gun, a large sum of money, numerous documents that give
15 rise to certainly indication that he was basically packing
16 up and taking off again. So, that --

17 THE COURT: Like what documents packing up?

18 MR. RHODEN: Counterfeit documents, I.D.s.

19 So, our position is that's evidence of flight, which
20 is evidence of consciousness of guilt, Your Honor, so.

21 THE COURT: These are counterfeit documents of
22 identification of the defendant?

23 MR. RHODEN: Yes, sir.

24 THE COURT: Fake driver's licenses or something?

25 MR. RHODEN: Yes, sir. Now, we don't have the

Motions

1 documents. We don't have the documents, but we've got the
2 officer who saw the documents.

3 MR. BRANNON: They don't have the money and they don't
4 have the gun either. And, you know, not only do I believe
5 it's not relevant --

6 THE COURT: Well, let me ask this.
7 where is all of that stuff?

8 MR. RHODEN: Peoria, Illinois, apparently did not
9 preserve any of that.

10 THE COURT: They didn't preserve \$59,000?

11 MR. RHODEN: That is correct. I'm not exactly sure
12 what happened to that. I have some indication that they
13 gave the money back to his family.

14 THE COURT: Oh, okay.

15 MR. RHODEN: But I'm not sure, but we don't have it.

16 THE COURT: Well, of course there's not really
17 necessarily any reason you'd have it but -- but it's got to
18 be accounted for -- a gun and \$59,000.

19 MR. RHODEN: Yeah. The gun is --

20 THE COURT: And fake documents.

21 MR. RHODEN: Right. The gun --

22 THE COURT: Surely, they're accounted for by somebody.

23 MR. RHODEN: Yeah. The gun was a stolen gun, and they
24 confiscated that, and I think they may have returned that
25 to the original owner.

Motions

1 THE COURT: All right.

2 MR. RHODEN: We certainly don't have it.

3 The information I have leads me to believe that the
4 money was actually returned to his family. Why they had do
5 that, I don't know.

6 MR. BRANNON: Well, Your Honor, that's certainly
7 indicative of money that was lawfully earned and belonged
8 rightfully to him or his family.

9 I just don't believe that \$59,000 three years after a
10 crime takes place has any relevance to that crime having
11 taken place. And certainly a gun is -- I mean, it's not
12 the gun that was used.

13 And, Your Honor, it's -- it's horribly prejudicial
14 over any value of relevance whatsoever, not to mention I
15 learned about this last Thursday.

16 MR. RHODEN: Well --

17 MR. BRANNON: And that's not Bill's --

18 MR. RHODEN: Well, that's not exactly true, because
19 the Peoria, Illinois, police report you've always had. You
20 didn't have the marshal's report because I just got it a
21 couple of weeks ago.

22 MR. BRANNON: Correct.

23 MR. RHODEN: But all of this is mentioned in the
24 Peoria, Illinois, police report.

25 MR. BRANNON: Not -- not a specific dollar amount.

1 MR. RHODEN: Yes. It's \$59,775, I believe.

2 MR. BRANNON: I don't believe either of this -- any of
3 this information is relevant to the crime that my client is
4 charged with having taken place in 2016, Your Honor.

5 THE COURT: Mr. Rhoden, are you going to be able to
6 establish the fact that the defendant was aware that he was
7 being looked for for arrest?

8 MR. RHODEN: I believe so, Your Honor.

9 I mean, the facts are that when the eye witness to the
10 events was at the house calling 9-1-1 Mr. Molina was still
11 there, and when the call connected, he fled. So, he
12 certainly knew at that point in time that the authorities
13 had been notified of his criminal activities.

14 THE COURT: All right. I'll permit it once it's
15 established.

16 MR. BRANNON: Thank you. So, I mean -- if I don't in
17 my weak mind believe they properly established, I can re --
18 I can raise that again?

19 THE COURT: Sure, yes.

20 MR. BRANNON: Thank you, Your Honor.

21 THE COURT: All right. Court's --

22 MR. BRANNON: That's all I've got.

23 THE COURT: All right. Court is in recess until 2:30.

24 (Whereupon, a recess was taken.)

25 THE COURT: All right. Are we ready for the jury?

Opening statements

1 would ask that you please give the lawyers your attention
2 now as they give you their opening statements.

3 Mr. Rhoden.

4 MR. RHODEN: May it please the Court.

5 Good afternoon, ladies and gentlemen.

6 I always do this when I get in front of the jury, and
7 sometimes I ask myself, well, why do you do this. And you
8 probably are going to think the same thing. But I'm going
9 to thank you for being here. And the reason I like to do
10 that is because you're sitting there thinking, well, I got
11 this little thing that said a summons and it didn't say I
12 had an option to be here. So, you really didn't, but I
13 thank you for being here.

14 This is how we have an orderly society. When laws are
15 broken we bring a defendant into a courtroom such as this
16 for his day in court and for a trial. And that's why we
17 are here.

18 My name is Bill Rhoden. I represent the state. I'm
19 an assistant solicitor. So, it is my job to bring evidence
20 in front of you today and tomorrow and perhaps Wednesday,
21 depending on how fast things go, to prove to you that
22 Mr. Molina is guilty of the offenses that he is accused of.

23 Once again, the judge has told you that, but let me
24 just repeat. We are here because the state has accused Mr.
25 Molina of being guilty of the crime of murder.

Opening statements

1 We've also accused Mr. Molina of being guilty of the
2 crime of attempted murder. We've also accused Mr. Molina
3 of being guilty of the crime of burglary. And, finally,
4 we've accused him of being guilty of the crime of
5 possession of a weapon during a violent crime. Those are
6 the four charges.

7 The state has the burden of proof. The proof in this
8 case will not come from what I'm telling you right now. It
9 will not come from what Mr. Brannon will tell you in a few
10 minutes. It will not come from our closing statements.

11 The proof in this case will come from the witness
12 stand. We will present to you witnesses in this case to
13 prove Mr. Molina guilty beyond a reasonable doubt.

14 Now, this is a case of the jealous exhusband. That's
15 what this case is about.

16 It happened on June the 18th of 2016. Yes. That's a
17 long time ago. What happened on June the 18th of 2016 is
18 this: Mr. Molina and a lady by the name of Mary Martin
19 were husband and wife. They had three kids together, and
20 they got divorced in 2014. So, it'd been about two years
21 had gone by.

22 And Ms. Martin had decided to move on with her life.
23 Ms. Martin had a boyfriend. She's not married to
24 Mr. Molina any more. She had a boyfriend.

25 Well, Mr. Molina didn't like that. So, on June the

Opening statements

1 18th, actually early, in the early morning hours,
2 Mr. Molina was living in the Atlanta area. He comes to
3 Ms. Martin's home. And, once again, they have three
4 children together. And it's Father's Day weekend.

5 So, he arrives at her home sort of unannounced, and
6 shortly after he gets there things don't go well. So,
7 Ms. Martin decides that she's just going to leave.

8 And she's got three kids. She takes the youngest with
9 her. TM is the child's name. And she goes to Duncan,
10 South Carolina.

11 Now, she lives in Anderson. And, so, in the early
12 morning hours of June the 18th she goes from Anderson to
13 Duncan. The two older children stay there with Mr. Molina.
14 And all during this time there's a lot of telephone calls
15 and text messages between Ms. Martin and Mr. Molina.

16 Well, Ms. Martin goes to her boyfriend's house. He
17 lives at East Main Street in Duncan. He works at the
18 Mexican restaurant right down the street.

19 And this is fairly close to the interstate. It's kind
20 of a little main drag there once you get -- you get off
21 on -- I think it's 292 there on the interstate -- off the
22 interstate. And you head toward Duncan. There's a Mexican
23 restaurant there on the left, and the boyfriend worked
24 there and several other people worked there. And they all
25 lived in this house, which is right down the street.

Opening statements

1 well, Ms. Martin spends the night at the house along
2 with her daughter. And Mr. Molina keeps texting her or
3 calling her.

4 And what happens is he wants to see the daughter and
5 asked to take the daughter fishing, because they're going
6 to go fishing.

7 So, they go. Ms. Martin takes the daughter to the
8 fishing lake -- it's called T & T Fishing Lake, and it's
9 near Belton -- so he can fish with his kids.

10 Okay. At this point in time everything's Okay. And,
11 so, Ms. Martin goes back to her boyfriend's house, and they
12 do a few things, and they get something to eat. They've
13 been washing clothes. And there she's at -- she's at the
14 house.

15 well, during this time Mr. Molina keeps this phone
16 contact going. And there are a couple of conversations
17 during this time.

18 well, what happens is close to 6:30 -- a little bit
19 before 6:30 -- probably around 6:20 or thereabout -- on
20 that Saturday afternoon Ms. Martin is there with her
21 boyfriend, and he's got this little bedroom that actually
22 used to be a laundry room in the house. It's not very big,
23 and they were. And that's where they were.

24 And she hears somebody at the door. well, shortly
25 before that there was this conversation between Ms. Martin

Opening statements

1 and Mr. Molina, which probably was a heated conversation.

2 He told her to go home. He didn't like the fact that
3 she was over there with her boyfriend, and she'll tell
4 y'all about this. She's going to testify.

5 But she hears him at the door and she's -- the way
6 this door swings is that when it swings open it -- it
7 really hides the door of that little laundry room, and
8 that's where Ms. Martin and her boyfriend are.

9 And so he comes in the door, and the next thing she
10 hears is gunshots, and then she tells her boyfriend you got
11 to get out of here, and so he dives out the window and
12 takes off.

13 Well, when she looks out the door she sees her
14 exhusband who's in the house with a gun, and he's already
15 shot two people, and those people had nothing to do with
16 anything between Mr. Molina and his exwife. They were just
17 sitting at the table on a Saturday afternoon. So, he
18 shoots both of them in the head.

19 Ms. Martin sees what is going on. She starts yelling
20 at Mr. Molina. There's some back and forth between the two
21 of them, and then he walks up to one of the men who's
22 already on the ground with a bullet in his head and shoots
23 another one in his head. That was Edilberto. Edilberto
24 was the victim who did not survive.

25 Ms. Martin tries to intercede, what are you doing,

Opening statements

1 what's going on, these people don't have anything to do
2 with anything. And, thankfully, Mr. Molina did not put a
3 second bullet in the head of Mr. Lopez.

4 Mr. Lopez -- Edgar -- he's actually here in the
5 courtroom today. He got a bullet in the head and he
6 survived.

7 So, what you're going to hear from this witness stand
8 is actually fairly simple. This is not a complicated case.
9 This is not one of those who-done-it cases that you may
10 see, you know, six or seven episodes of on some True Crime
11 channel. This is a fairly simple case.

12 You will hear from Ms. Martin who witnessed the event,
13 who called 9-1-1. You'll also hear from Mr. Lopez.
14 Thankfully, he survived, and he will tell you what
15 happened.

16 And then in addition to that the state will bring you
17 evidence from an F.B.I. analyst who analyzed cell phone
18 data between Mr. Molina's phone and Ms. Martin's phone to
19 track his movements, and the F.B.I. agent will clearly show
20 to you where he was and his progression to the house in
21 Duncan and then away.

22 why do you say, well, this is happening 2016 and now
23 it's 2020? well, Mr. Molina took off. He was gone. He
24 was gone for a long time until the long arm of justice
25 finally caught up with him. He was in Peoria, Illinois,

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1 and that's why this case has so much age on it.

2 And, once again, ladies and gentlemen, this is a case
3 of the jealous exhusband just would not leave his exwife
4 alone. He just could not accept the fact that she had
5 moved on.

6 And because of that two men suffered. One of them is
7 dead and the other one, his life is forever changed.

8 So, we have the murder of Edilberto. We have the
9 attempted murder of Mr. Lopez -- Edgar. We have Mr. Molina
10 in possession of the gun, 9mm. Shells were found on the
11 floor. A 9mm handgun was used.

12 And we have the burglary. And burglary simply means
13 that you come into a home, a residence, with the intent of
14 committing a crime therein.

15 You don't have to bash the door down. You don't have
16 to take an ax to it. It's simply coming into somebody's
17 home, uninvited to that home, and committing a crime
18 therein. And that is the burglary that we will prove to
19 you.

20 Ladies and gentlemen, Mr. Molina is a jealous, evil
21 exhusband. I am confident that when you hear all of the
22 testimonies you will agree with me.

23 Now, once again, ladies and gentlemen, the state has
24 the burden. We accept that burden of proof, and we will
25 prove to you the events as I've outlined.

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1 Now, as the judge told you, nothing I have said right
2 here and now is evidence. Mr. Brannon is a great lawyer.
3 I have known him for many years, but nothing he says either
4 is evidence. It comes from that witness stand.

5 So, I direct your attention to the witness stand
6 during this trial to listen closely to the evidence. I
7 think we will probably be finished by wednesday. I think
8 that's -- should work, but you never know. Trials,
9 sometimes they go fast and sometimes they go slow.

10 But, once again, this is not a complicated case. No
11 matter what the defense may want you to believe, it is not
12 a complicated case.

13 Thank you for your attention. I will be back up at
14 the close of the trial to talk to you again. But, once
15 again, thank you for being here and your patience.

16 MR. BRANNON: May it please the Court --

17 THE COURT: Mr. Brannon.

18 MR. BRANNON: -- Mr. Rhoden.

19 Ladies and gentlemen, like Mr. Rhoden said, I thank
20 you for your time and patience today, and your attention.
21 I know you really didn't have a choice of being here, and I
22 can't imagine you wanted to spend your week before
23 Christmas in a murder trial. So, I thank you.

24 Today, I have the privilege to represent Francisco
25 Molina. Mr. Molina has been my client for about three

Opening statements

1 years now.

2 This young lady is Samantha Murphy. She is a
3 third-year law student at a law school in North Carolina.
4 She's a really smart young lady, and it's always better to
5 have more than one set of eyes and more than one mind
6 looking over a set of facts and circumstances. So, she's
7 going to help me through this trial.

8 And I submit to you that this is the trial of or-not.
9 You see, Mr. Rhoden wants you to think that this is a
10 jealous husband or not -- or not.

11 My client lived in Atlanta, Georgia. My client was in
12 the roofing business, and he was good at it.

13 The state wants you to believe that he was jealous and
14 he was upset because Mary had a new boyfriend, but what you
15 will hear through Mary's own mouth is Mr. Molina has other
16 children because he moved on in his life before Mary did.
17 My client had lived in Atlanta for a number of years.

18 What I am hopeful that you will do today is pay
19 attention to what you don't see today, to what you don't
20 hear, to what you don't get.

21 You see, there is a victim sitting in the courtroom,
22 and most everything that he says will be diametrically
23 opposed to that that Mary says.

24 You see, he was sitting at a kitchen table, at a
25 dining table. It wasn't really in the kitchen. It was

Opening statements

1 kinda of in the living room. He was sitting at a dining
2 room table and he said to the police a man walked in the
3 door, I'd never seen that man before, didn't see him again
4 until I saw a picture in the newspaper. That man never
5 said a word, not one word, but he was in the house for a
6 few moments and then shooting erupted.

7 He said that he saw Mary who was his friend's
8 girlfriend go into this room. Never saw her again.

9 what the state would have you believe is that
10 Mr. Molina shot two people, went outside and then came back
11 in and fired another shot.

12 I need you to know that that fellow right there --
13 good looking fellow in the blue coat -- he's a police
14 officer. He's the lead investigator in this case. And
15 when he sought warrants in this case, he got a warrant for
16 murder, for burglary first, for use of a gun during a
17 violent crime, and he got warrants for two -- two counts --
18 of attempted murder, because, you see, Mary, the state's
19 star witness, told him that my client pointed the gun at
20 her, pulled the trigger, but he didn't have any bullets.

21 She told him that he reloaded the gun. A few days
22 later she went back and said, you know, sorry, sir, that's
23 not true. A warrant for attempted murder got dismissed.

24 She told him that she watched a man pick up the
25 casings in the house. I've got pictures of casings in the

Liane Benik
Direct examination by Mr. Rhoden

1 house.

2 She was on 9-1-1 calling the police telling them who
3 this person was, and she gave them the wrong license
4 number.

5 What you're going to hear is that the police officers,
6 when they searched this house, found drug paraphernalia.

7 MR. RHODEN: Objection, Your Honor.

8 THE COURT: Sustained.

9 Let me see y'all just a minute.

10 (Bench conference held off the record in the presence
11 of the jury but out of the hearing of the jury.)

12 MR. BRANNON: Law enforcement took pictures of this
13 evidence. I believe you'll see those pictures.

14 You know, at the end of this case the judge is going
15 to tell you what the law is and he's going to tell you that
16 the state has to prove beyond a reasonable doubt each of
17 the elements of each of these crimes, and they have to
18 prove it to each one of you, because my client is entitled
19 to a verdict from a jury of his peers made up of reasonable
20 persons. And that's why Mr. Rhoden and his associate and
21 myself and Samantha, we took notes. We wanted to make sure
22 that each of you was that reasonable person who was going
23 to sit on my jury.

24 And they have to prove beyond a reasonable doubt to
25 each one of you. All 12 of the jurors has to believe

Liane Benik
Direct examination by Mr. Rhoden

1 beyond a reasonable doubt that my client is guilty. And
2 what you're going to do is you're going to judge the
3 credibility of the witnesses that sit on this testimony.

4 I submit to you if their star witness lied to the
5 police within moments of this instant, this situation,
6 taking place, you can't believe anything she says, not a
7 thing, or not. It's the jealous husband or not.

8 Proverbs 18:17 says in a lawsuit everything seems
9 clear until somebody gets up to cross-examine. Please wait
10 until you've heard all of the evidence. Please wait until
11 all of the cross-examination has happened. Please wait.
12 Remember or not. Thank you.

13 THE COURT: Mr. Rhoden.

14 MR. RHODEN: May it please the Court. The state would
15 call Liane Benik.

16 LIANE BENIK, having been first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. RHODEN

19 Q Once again, give us your name.

20 A Liane Benik.

21 Q Okay. Liane, by whom are you employed?

22 A AT&T.

23 Q All right. And what's your position with AT&T?

24 A I'm a custodian of records for AT&T.

25 Q And being a custodian of records, kind of what do

Liane Benik
Direct examination by Mr. Rhoden

1 you -- what do you mean by that? what do you do?

2 A I'm called to court to authenticate records produced
3 by AT&T.

4 Q Okay. And let me show you -- let me show you this
5 document. Are you familiar with this document?

6 A Yes. I am.

7 Q And is that part of the records of AT&T?

8 A Yes. It is.

9 Q All right. And does AT&T maintain these records in
10 the normal course of business?

11 A Yes. We do.

12 (Pause for juror coughing.)

13 THE COURT: Just a minute.

14 I think we need -- let me ask the jury to please go to
15 your jury room. We'll take a short break and get that
16 sorted out.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Ma'am, you can step down during the break.
20 We'll bring you back shortly.

21 MR. BRANNON: Your Honor, can we approach briefly?

22 THE COURT: Sure.

23 (Bench conference held off the record.)

24 THE COURT: Let's take ten minutes.

25 (Whereupon, a recess was taken.)

Liane Benik
Cross-examination by Mr. Brannon

1 THE COURT: All right. Bring the jury in.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: All right.

5 MR. RHODEN: May it please the Court.

6 BY MR. RHODEN

7 Q Ms. Benik, let me just kind of go back a little bit.

8 You work for AT&T and you're custodian of the records,
9 correct?

10 A Correct.

11 Q All right. And is this a true and correct copy of
12 AT&T records?

13 A Yes. It is.

14 Q And are these records made and produced, the entries
15 made, closer near the time the events happened?

16 A Yes. They are.

17 MR. RHODEN: At this time, Your Honor, I would offer
18 the AT&T records as State's Exhibit 1.

19 MR. BRANNON: That's without objection, Your Honor.

20 THE COURT: They're admitted.

21 (AT&T records marked State's Exhibit No. 1.)

22 MR. RHODEN: And, Your Honor, in addition to those
23 records -- and I think we're in agreement -- I would move
24 to introduce as State's Exhibit 2 a summary sheet that
25 summarizes a portion of those records.

David Justin Martin
Direct examination by Mr. Rhoden

1 MR. BRANNON: Without objection.

2 THE COURT: It's admitted.

3 (AT&T Summary sheet marked State's Exhibit No. 2.)

4 MR. RHODEN: And that is all from this witness, Your
5 Honor.

6 CROSS-EXAMINATION

7 BY MR. BRANNON

8 Q Ms. Benik, thank you for being here.

9 Can you -- if you had those records could you tell me
10 the date ranges for the data gathered?

11 A Sure. If I could --

12 Q Yeah.

13 A I'm just looking for a date range on here.

14 THE COURT: Does it show on the summary?

15 MR. BRANNON: I've handed her both, Your Honor.

16 THE COURT: I'm asking you.

17 Do you know if it's shown on the summary?

18 MR. BRANNON: I believe it is.

19 BY MR. BRANNON

20 A The date range was from June 15th of 2016 through
21 June 19th, 2016.

22 Q No data gathered after June 19, is that correct?

23 A Correct.

24 Q Thank you.

25 MR. BRANNON: No further questions.

David Justin Martin
Direct examination by Mr. Rhoden

1 MR. RHODEN: That's all.

2 THE COURT: Thank you. You may step down.

3 MR. RHODEN: I ask this witness be excused, Your
4 Honor.

5 MR. BRANNON: No objection, Your Honor.

6 THE COURT: She may be. Thank you.

7 (Whereupon, the witness was excused.)

8 MR. RHODEN: State would call Justin Martin.

9 DAVID JUSTIN MARTIN, having
10 been first duly sworn, testified as follows:

11 Q Please give us your full name.

12 A David Justin Martin.

13 Q Mr. Martin, by whom are you employed?

14 A Spartanburg County 9-1-1.

15 Q And what's your position?

16 A I'm the records coordinator for Spartanburg County
17 9-1-1.

18 Q And are you also a custodian of the 9-1-1 records?

19 A Yes, sir.

20 Q And does that include both the audio records and the
21 printed records that we commonly refer to as CAD sheets?

22 A Yes, sir.

23 Q All right. And are these records kept in the normal
24 course of business?

25 A Yes, sir.

David Justin Martin
Direct examination by Mr. Rhoden

1 Q All right. Are the entries made, both audio entries
2 and the written entries on the CAD sheets -- are they made
3 at or -- at or close to the time the events are happening?

4 A Yes, sir.

5 Q All right. And let me show you a disc here. This is
6 an audio disc of a 9-1-1 call. Can you identify that?

7 A Yes, sir. This is the disc I listened to, initialed
8 and dated.

9 Q All right. And we're here today about the -- an event
10 that happened Saturday, June the 18th of 2016. Is that an
11 audio call to 9-1-1 concerning that event?

12 A Yes, sir.

13 Q And is that a true and correct copy of that call?

14 A Yes, sir.

15 Q All right.

16 MR. RHODEN: Your Honor, at this time I would offer
17 the 9-1-1 call.

18 MR. BRANNON: No objection, Your Honor.

19 THE COURT: It's admitted.

20 (D.V.D. of 9-1-1 call marked State's Exhibit No. 3.)

21 Q Mr. Martin, let me show you this document and see if
22 you can identify that for me, please.

23 A Yes, sir. This is the CAD incident from that
24 incident.

25 Q Okay. And we call it a CAD sheet. You and I are

David Justin Martin
Cross-examination by Mr. Brannon

1 familiar with what that term means, but can you tell the
2 jury what a CAD sheet is?

3 A It's initially a summary of events from the caller to
4 the call taker, and the dispatcher to the responding units
5 that went to a certain incident.

6 Q The entries that are made here on the -- on the call
7 sheet, are they made by the 9-1-1 operator who has taken
8 the call, or how are they made?

9 A Yes, sir. They're made by the operator and the call
10 taker. And then as the call gets passed along from agency
11 to police, the dispatcher would be putting comments in the
12 same CAD call.

13 Q All right. So, the dispatcher is kind of working on
14 the fly. As the call comes in the dispatcher is
15 transferring that information to a written format we call
16 the CAD sheet.

17 A Yes, sir.

18 Q All right. And, once again, is this part of the 9-1-1
19 records?

20 A Yes, sir.

21 Q And are these kept in the normal course of business?

22 A Yes, sir.

23 Q All right. And the entries made at or near the time
24 the events actually occurred?

25 A Yes, sir.

David Justin Martin
Cross-examination by Mr. Brannon

1 Q All right.

2 MR. RHODEN: We would offer the CAD sheet into
3 evidence.

4 MR. BRANNON: No objection, Your Honor.

5 (CAD sheet marked State's Exhibit No. 4.)

6 MR. RHODEN: Your Honor, the state would like to
7 reserve the right to publish that to the jury at a later
8 time. And that's all from this witness.

9 CROSS-EXAMINATION

10 BY MR. BRANNON

11 Q Mr. Martin, do I call you officer or -- I mean, do you
12 carry a badge of any kind?

13 A No, sir.

14 Q Okay. All right. I'm going to ask you. Is this that
15 same CAD sheet that you just identified for Mr. Rhoden?

16 A Yes, sir.

17 Q Okay. All right. Now, you know, this is mine, and
18 I've read it and I've reviewed it and I've highlighted some
19 stuff. Now, can I ask you? Can you identify from that CAD
20 sheet who your caller is?

21 A No, sir. I don't see a name. No name.

22 Q Okay. Is there any way in that document that you can
23 find out who the caller is?

24 A Unless it was just noted by the call taker. In the
25 comments of the call, it would be here but normally it's --

David Justin Martin
Cross-examination by Mr. Brannon

1 Q Okay. All right. Aside -- forgive me for stepping
2 over you. Aside from my highlighting, does it appear that
3 I've changed any of the words on this document?

4 A On this page, no, sir.

5 Q Okay. And the information that is on this document
6 would have been relayed to the call -- to your call taker
7 from either the individual caller or an officer, is that
8 correct?

9 A Yes.

10 Q And all of this information on this CAD sheet would
11 relate to an incident that happened on June 18, 2016, at
12 ■ Main Street -- East Main Street, Duncan, is that
13 correct?

14 A Yes, sir.

15 Q Okay. What does that line right there say?

16 A The highlight?

17 Q Yes.

18 A "Male said he is en route to Anderson to this address
19 to kill the kids."

20 Q Okay. Read that again.

21 A "Male said he is en route to Anderson to this address
22 to kill the kids."

23 Q Okay. Read that line there starting with the un --

24 A Highlighted?

25 Q Yeah.

David Justin Martin
Redirect examination by Mr. Rhoden

1 A "BOLO for a Francisco Molina, Hispanic male, heavy
2 build driving a champagne Toyota Tundra four-door."

3 Q Okay. Read that again.

4 A "BOLO for a Francisco Molina, Hispanic male, heavy
5 build driving a champagne Toyota Tundra four-door."

6 Q Heavy build.

7 A Yes, sir.

8 Q Okay. Down here it says it again, right? "Francisco
9 Molina, Hispanic male, heavy build," right?

10 A Yes, sir.

11 Q And then would you read those highlighted areas right
12 there?

13 A "Plate number changed from L, lima, F, foxtrot, H,
14 hotel, 933 to P, papa, X, x-ray, W, whiskey, 6594. Plate.
15 State changed from South Carolina to Georgia. That tag ran
16 as Georgia comes back to a van."

17 Q Okay. So, they were giving information that had one
18 tag number and one state.

19 A Yes, sir.

20 Q It changed from another tag mother -- nother number to
21 another state, is that right?

22 A Yes, sir.

23 Q And -- and the tag numbers, they weren't just two
24 digits flipped. They were completely different numbers,
25 weren't they?

David Justin Martin
Recross-examination by Mr. Brannon

- 1 A Yes, sir.
- 2 Q Two completely different states, right?
- 3 A Yes, sir.
- 4 Q It's alleged that it's on a champagne colored Toyota
- 5 Tundra, right?
- 6 A Yes, sir.
- 7 Q When they ran the tag, it came back to a van, right?
- 8 A Yes, sir.
- 9 Q Thank you.
- 10 MR. BRANNON: No further questions.
- 11 MR. RHODEN: Just to follow up, a few questions.
- 12 REDIRECT EXAMINATION
- 13 BY MR. RHODEN
- 14 Q Justin --
- 15 A Yes, sir.
- 16 Q -- let me show you the CAD sheet. Mr. Brannon asked
- 17 you for identification. It does have the phone number,
- 18 does it not, for -- for the call?
- 19 A Yes, sir.
- 20 Q All right. And if you flip to the second page of the
- 21 CAD sheet, there is a point where it says that an officer
- 22 has arrived, correct?
- 23 A Yes, sir.
- 24 Q Says first unit arrived.
- 25 A Yes, sir.

David Justin Martin
Recross-examination by Mr. Brannon

1 Q All right. And all of this information after that, if
2 the caller hung up after the police arrived, all of the
3 information after that would have come from various other
4 sources, correct?

5 A Yes, sir.

6 Q Might have been police officers or whoever.

7 A Yes, sir.

8 Q All right. So, the caller who actually initiated the
9 call, that information's only coming from page -- on page
10 one to the very top of page two.

11 A Correct.

12 Q After that it's just police back and forth or
13 whatever.

14 A Yes, sir.

15 Q All right. That's all. Thank you.

16 RECROSS-EXAMINATION

17 BY MR. BRANNON

18 Q Somebody dials 9-1-1. That call takes place before
19 law enforcement is there, isn't that correct?

20 A Correct.

21 Q You or someone with 9-1-1 dispatches law enforcement,
22 correct?

23 A Yes, sir.

24 Q So, law enforcement would not have seen that truck,
25 correct?

Phillip Dodd
Direct examination by Mr. Rhoden

1 A Correct.

2 Q Law enforcement would not have seen that tag, correct?

3 A Correct.

4 Q Law enforcement would not have seen a Hispanic male
5 heavy build, would they?

6 A No, sir.

7 MR. RHODEN: Your Honor, I'm going to object. He
8 doesn't have any way of knowing.

9 MR. BRANNON: He's answering the questions.

10 THE COURT: Yeah. If -- let me remind the witness.

11 Now, if you don't know the answer to a question, don't
12 answer it. If you do know the answer, you may answer it.
13 But you have to answer with the information within your own
14 knowledge.

15 THE WITNESS: Yes, sir.

16 THE COURT: Proceed.

17 BY MR. BRANNON

18 Q Until your CAD says law enforcement arrived, the only
19 person there is the witness, right?

20 A I don't know.

21 Q Is the person calling, making the call, right?

22 A I would assume. I don't know.

23 Q Thank you.

24 MR. BRANNON: Nothing further.

25 MR. RHODEN: That's all.

Phillip Dodd
Direct examination by Mr. Rhoden

1 THE COURT: You may step down.

2 MR. RHODEN: State would call Phillip Dodd.

3 PHILLIP DODD, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. RHODEN

6 Q You are Phillip Dodd.

7 A Yes, sir.

8 Q And by whom are you employed?

9 A I currently work for the Lyman Police Department.

10 Q Okay. Back June of 2016, by whom were you employed?

11 A Duncan Police Department.

12 Q All right. And did you answer a call at [REDACTED] East Main
13 Street, Duncan, South Carolina, back on June the 18th of
14 2016?

15 A Yes.

16 Q Okay. And is that location -- [REDACTED] East Main Street,
17 Duncan, South Carolina -- located within the city limits of
18 Duncan?

19 A It's not actually in the city limits of Duncan. It'd
20 be considered the county.

21 Q Okay. Just outside.

22 A Yes, sir.

23 Q All right. Is that location located in Spartanburg
24 County?

25 A Yes, sir.

Phillip Dodd
Direct examination by Mr. Rhoden

1 Q All right. So, were you close in the vicinity when
2 the call came in?

3 A Because the jurisdiction being so close together,
4 Spartanburg County requested that Duncan officers respond
5 to that location, because I don't think they had a unit
6 directly in the area.

7 Q Okay. All right. And did you respond to [REDACTED] East
8 Main Street?

9 A Yes. I did.

10 Q All right. And that, the structure that's there, what
11 is it?

12 A It's a brick single-story, somewhat of, as, a garage.

13 Q Is that a house?

14 A It's a house, yes, sir.

15 Q It's Not a business.

16 A No, no, sir.

17 Q All right. People live there?

18 A Yes.

19 Q Okay. All right. When you arrived at this house were
20 any other officers on the scene?

21 A No, sir. Just me.

22 Q All right. So you were the very first one there.

23 A Yes.

24 Q All right. So when you pull up to the house, what do
25 you encounter?

Phillip Dodd
Direct examination by Mr. Rhoden

1 A Well, I originally pulled into the house, I remember
2 pulling to the driveway at an angle, and I looked up. And
3 if you look at the house where the garage is, which is an
4 open garage, I seen a white female and Hispanic male
5 standing at the driveway.

6 Once I exit from my vehicle I could tell that she was
7 frantic, screaming, need to get inside, get inside, tell me
8 that two people had been shot.

9 At that time what was going through my head was, well,
10 was anyone still inside the house with a -- with a weapon,
11 was -- was it legitimate two people inside. The way she
12 was acting, I was trying to get her calmed down so I can
13 get information from her.

14 Once I got her to calm down, she was able to give
15 me -- she said my exhusband shot two people inside the
16 house, and she gave me the name of Francisco Molina.

17 In the meanwhile I'm looking around trying to make
18 sure there's no one else that's going to come out from
19 around the back of the house or confirm that there's no one
20 there. I end up going inside the residence and initially
21 to clear the residence by myself when I --

22 Q Okay. Let me -- let me stop you there.

23 So, did this person identify herself as Mary Martin?

24 A At the time I just remember her saying Mary.

25 Q Okay. All right. Did you later find out this was

Phillip Dodd
Direct examination by Mr. Rhoden

- 1 Mary Martin?
- 2 A Yes, sir.
- 3 Q Okay. And did she identify who the perpetrator, the
- 4 person who did the shooting, was?
- 5 A Yes.
- 6 Q And she said who?
- 7 A Francisco Molina.
- 8 Q Okay. And what was her -- was she crying? was she
- 9 upset? How was she acting at that time?
- 10 A She was crying; she was upset; she was screaming at
- 11 me. I said I tried to get her to calm down so I could
- 12 better relay information back to responding units.
- 13 Q Okay. And did you actually go inside the house?
- 14 A Yes.
- 15 Q Okay. At that time did you know if there might be
- 16 somebody else, you know, another gunman or anybody in the
- 17 house?
- 18 A At that time, no.
- 19 Q Okay. So you were going inside to make sure it was
- 20 safe.
- 21 A Correct.
- 22 Q All right. And did you do that?
- 23 A Yes.
- 24 Q All right. And when you walked inside the house, what
- 25 did you find?

Phillip Dodd
Direct examination by Mr. Rhoden

1 A I found two individuals shot in the head laying in the
2 living room floor.

3 Q Were -- were either one of them moving?

4 A The gentleman. I remember the gentleman to the left,
5 he wasn't moving at all. And the gentleman closer toward
6 the doorway, he was -- he was still moving. And I vividly
7 remember him flicking brain matter out of his head with his
8 finger.

9 Q Okay. Did you proceed through the rest of the house?

10 A Yes, sir. I did.

11 Q All right. And was anybody else in the house?

12 A No, sir.

13 Q So, the only people when you were -- when you were
14 going through the house is one person. Well, two people
15 who had obviously been shot.

16 A Correct.

17 Q One of them was not moving and the other one was
18 acting as you said.

19 A Yes.

20 Q Okay. When you -- when you look at this house, what
21 is to -- is there a carport to the right side of the house?

22 A Yes, sir.

23 Q All right. And is there a door that enters the house
24 from the carport?

25 A Correct.

Phillip Dodd
Cross-examination by Mr. Brannon

1 Q All right. And is that the door that you went into?

2 A Yes.

3 Q When you go into -- through that door, is that where
4 you saw the -- the people, or was that a little further
5 into the house?

6 A As soon as I walked inside the door in the living room
7 area right -- right there.

8 Q All right. Were -- did it appear to be -- was there
9 anything like overturned or anything like that?

10 MR. BRANNON: Objection to leading, Your Honor.

11 MR. RHODEN: I'll rephrase.

12 Q What -- what was around the two individuals that were
13 still in the house?

14 A It was a lot of blood, obviously, from the shooting.
15 The house didn't appear to be in any type of disarray as I
16 was clearing the house.

17 Q Okay. All right. So, were there bedrooms in the
18 house?

19 A Yes.

20 Q Did the rooms have beds that clearly looked like
21 somebody slept there?

22 A Yes, sir.

23 Q After you cleared the house and got the information
24 from Ms. Martin who told you who had done it, what was the
25 rest of your involvement in the case?

Phillip Dodd
Cross-examination by Mr. Brannon

1 A For the most part I stood by waiting for E.M.S. to get
2 there, and of course I waited on the Spartanburg County
3 Sheriff's Office to respond.

4 Q Okay. And since this house was in Spartanburg County,
5 did it become their crime scene and not yours?

6 A Yes, sir.

7 Q All right. So, did that basically end your
8 involvement in the case?

9 A For the most part, yes, sir, other than writing a
10 written statement.

11 Q All right. Thank you, Officer Dodd. Answer any
12 questions that Mr. Brannon may have for you.

13 CROSS-EXAMINATION

14 BY MR. BRANNON

15 Q Officer, do you recall where you were in Duncan when
16 you got notice or notification to go to this address?

17 A If I'm not mistaken, I believe I was at my police
18 department.

19 Q Okay. And can you tell the jury how far the Duncan
20 Police Department is from this house?

21 A Approximately. I'll probably say maybe 2 miles, 2 and
22 a half miles.

23 Q And my records indicate that you went -- you went
24 lights and sirens, didn't you?

25 A Correct.

Phillip Dodd
Cross-examination by Mr. Brannon

1 Q Okay. So, how long did it take you to get from P.D.
2 to incident location?

3 A I would probably say maybe 30 seconds.

4 Q Okay.

5 A Of course I didn't -- used the proper lights.

6 Q I understand -- I understand. And it was a long time
7 ago.

8 Now, tell me this. I -- I actually -- I don't know the
9 answer to this question. If you were fleeing that scene and
10 you were trying to get out of Duncan, would you go toward
11 city hall, or away? I mean, assuming the person didn't know
12 where they were and they just wanted to get away.

13 MR. RHODEN: Objection. Calls for speculation.

14 MR. BRANNON: I'll withdraw the question.

15 Q Somebody in haste leaving that residence, the quickest
16 way to 85, would they go near the police department or away
17 from the police department?

18 A Quickest way would be going to -- going towards 85.

19 Q Well, I understand that. So, but tell these jurors.
20 Does that mean away from the police department?

21 A Okay. As far as?

22 Q Okay. You got police department; you got residents.

23 A Right.

24 Q If you're trying to get away, would they be coming --
25 would they be going away from the police department or

Phillip Dodd
Redirect examination by Mr. Rhoden

1 towards the police department?

2 A Away from the police department.

3 Q Okay. All right. And it took you 30 seconds
4 approximately to get from where you were to this house,
5 right?

6 A Give or take, yes, sir.

7 Q Okay. Did you see a champagne colored Toyota Tundra
8 anywhere?

9 A No, sir. I can't say that I did.

10 Q Okay. And the only reason you know anything about
11 Francisco Molina is because some lady named Mary Martin
12 told you, right?

13 A Yes, sir.

14 Q Okay. When you went into that house did you have on
15 your body-worn camera?

16 A Yes, sir. I did.

17 Q Was it activated?

18 A Yes, sir.

19 Q Did you see any signs of drug paraphernalia in that
20 house?

21 MR. RHODEN: Objection.

22 A I -- I can't recall.

23 MR. RHODEN: Objection.

24 THE COURT: Sustained.

25 Q Do you have a body camera? I mean, did you submit it

Phillip Dodd
Redirect examination by Mr. Rhoden

1 to law enforcement?

2 A Yes. That was -- as far as I know, it was downloaded
3 from my department.

4 Q Thank you.

5 MR. BRANNON: Nothing further.

6 MR. RHODEN: Just a couple of followups.

7 REDIRECT EXAMINATION

8 BY MR. RHODEN

9 Q All right. ■ East Main Street is just outside the
10 city limits of Duncan, correct?

11 A Correct.

12 Q All right. The city limits of Duncan do not extend to
13 the interstate, I-85, correct?

14 A We do have part of 85 but the -- we have the roadway,
15 but the residences are out.

16 Q Okay. They're out.

17 Okay. So the police station would be the other
18 direction. If you left ■ East Main Street and wanted to
19 go to the police station, you would be going toward Duncan,
20 correct?

21 A It's Duncan. It's Duncan all the way around, but
22 correct.

23 Q Well, the police station.

24 A Right.

25 Q Okay. So, to get on the interstate you go the other

Chaney Brent Brown
Direct examination by Mr. Rhoden

1 way, away from the police station, right?

2 A Right, correct.

3 Q Okay. All right. And at the time that you're
4 answering this call, you don't know anything about a
5 champagne colored Toyota Tundra, do you?

6 A Not that I recall.

7 Q Was that in the initial call to you, or just the
8 shots?

9 A If I recall, it was just the shots.

10 Q All right. So, you wouldn't have been on the lookout
11 at that point in time for a champagne colored Toyota
12 Tundra, or any color Toyota Tundra, correct?

13 A No, sir. Correct.

14 Q Well, what was your main focus when you got that call?

15 A My main focus was to get there and find out -- confirm
16 whether someone had legitimately been shot and make the
17 scene safe.

18 Q All right. Your -- your focus was not at that point
19 to apprehend somebody that you didn't even know existed at
20 that point in time.

21 A Correct.

22 Q All right. That's all. Thank you.

23 MR. BRANNON: Nothing else.

24 THE COURT: You may step down.

25 MR. RHODEN: We would call Brent Brown, Your Honor.

Chaney Brent Brown
Direct examination by Mr. Rhoden

1 CHANEY BRENT BROWN, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. RHODEN

4 Q All right. Give us your full name, please.

5 A Chaney Brent Brown.

6 Q You go by Brent, correct?

7 A Yes, sir.

8 Q Okay. And, Brent, where are you employed now?

9 A I work at Carpet One in Spartanburg.

10 Q All right. Back on June the 18th of 2016, by whom
11 were you employed?

12 A Spartanburg County Sheriff's Office.

13 Q And what was your position?

14 A I was on uniform patrol.

15 Q All right. And on June the 18th of 2016 did you
16 answer a call at [REDACTED] East Main Street, Duncan, South
17 Carolina?

18 A Yes, sir. I did.

19 Q And is that in Spartanburg County?

20 A Yes, sir. It is.

21 Q When you arrived at that address what did you -- what
22 did you encounter?

23 A A white female and a Hispanic male in the front yard
24 near the carport-garage area very hysterical, upset. And a
25 Duncan officer was already on the scene.

Chaney Brent Brown
Direct examination by Mr. Rhoden

- 1 Q All right. And would that have been Officer Dodd that
2 was just in here?
- 3 A Yes, sir. It was.
- 4 Q Okay. And did you have a body-worn -- we call it
5 body-worn camera at that time?
- 6 A Yes, sir. I did.
- 7 Q All right. And did you activate the camera?
- 8 A Yes. Once I was on the scene, I activated my camera.
- 9 Q And would that have recorded the events as they
10 occurred when you arrived and went into the house?
- 11 A Yes, sir.
- 12 Q Okay. And did you actually go into the house?
- 13 A Yes. I did.
- 14 Q And did your body-worn camera record all of that
15 event?
- 16 A Yes. It did.
- 17 Q All right. And after you -- what was the purpose of
18 you going into the house?
- 19 A Just to make sure the shooter was still not on scene,
20 that he wasn't inside the house or no one else was inside
21 the house. Basically, to clear the residence.
- 22 Q All right. And then after you had cleared -- did
23 Officer Dodd help you clear the residence?
- 24 A Yes. He did.
- 25 Q And after you cleared the residence, did you go back

Chaney Brent Brown
Direct examination by Mr. Rhoden

1 outside of the house?

2 A Yes, sir. I did.

3 Q And did you talk to a lady by the name of Mary Martin?

4 A Yes. I did.

5 Q All right. And did -- did she give a statement to you
6 as to what happened?

7 A She gave a statement. She told me of the events that
8 had just transpired, yes.

9 Q All right. Did she identify who this shooter was that
10 had shot the people inside the house?

11 A She told me a name of Francisco Molina.

12 Q All right. And let me -- let me show you this disc.
13 And is that -- does that disc contain the recording that
14 was made by your body-worn camera on June 18th of 2016?

15 A Yes, sir. It does.

16 Q And you've looked at this. And does that have your
17 initials on the disc?

18 A Yes. It does. And yes. Those are my initials.

19 Q Is that a true and accurate copy?

20 A It is. Yes, sir.

21 MR. RHODEN: We, the state, would introduce the body
22 camera.

23 MR. BRANNON: No objection, Your Honor.

24 THE COURT: It's admitted.

25 (D.V.D. of body worn camera of Brent Brown marked

Chaney Brent Brown
Direct examination by Mr. Rhoden

1 State's Exhibit No. 5.)

2 MR. RHODEN: Your Honor, at this time I would like to
3 publish this to the jury.

4 THE COURT: You may.

5 (Whereupon, State's Exhibit No. 5 was played for the
6 jury.)

7 Q Thank you.

8 All right. Officer -- well, you're not an officer now,
9 but, Mr. Brown, is that what you encountered that day at [REDACTED]
10 East Main Street?

11 A Yes, sir.

12 Q Did you have any further involvement in the
13 investigation of the case, or is that pretty much your --
14 your involvement?

15 A That was pretty much it other than writing the initial
16 report.

17 Q All right. So you turned it over to the detectives
18 after that since you were a patrol officer?

19 A Yes, sir.

20 Q All right. Thank you.

21 MR. RHODEN: That's all I have.

22 MR. BRANNON: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. BRANNON

25 Q Mr. Brown, you were the second law enforcement officer

Chaney Brent Brown
Direct examination by Mr. Rhoden

1 on the scene, is that correct?

2 A Yes, sir.

3 Q Okay. If I show you this CAD 9-1-1 thing -- it's
4 already in evidence -- would you agree with me that the
5 9-1-1 call came in on June 16, 2018, at 8:29 p.m.? would
6 you agree with that?

7 A It's -- the date's transposed.

8 Q It is. It's -- but it's -- it's the year, the month
9 and the day. Okay.

10 A So June the 18th of 2016.

11 Q of '16. That's correct. Okay. And it says main
12 event. Would you agree with that?

13 A Main opens, yes.

14 Q Main open. All right. And 1829. Is that -- do you
15 agree with the time?

16 A Yes.

17 Q Okay. What time is 1829?

18 A 6:29 p.m.

19 Q Okay. Second car on scene. Do you have any idea how
20 long after 6:29 it was when you arrived?

21 A I'm not sure.

22 Q Was it five minutes?

23 A Or less.

24 Q Five minutes or less. How long into your recording?

25 Let me rephrase that. How long before you turned your

Chaney Brent Brown
Direct examination by Mr. Rhoden

- 1 camera on after you got there?
- 2 A Not long at all.
- 3 Q And about seven minutes into your recording Mary
- 4 said -- she's talking to her son and the subject is there
- 5 now. Do you recall that?
- 6 A I believe so.
- 7 Q That's in Anderson, right?
- 8 A Yes.
- 9 Q He's already in Anderson. Duncan is in Spartanburg
- 10 County, correct?
- 11 A Yes, sir.
- 12 Q To get to Anderson from Spartanburg County you've got
- 13 to drive through Greenville County, right?
- 14 A Yes, sir.
- 15 Q How many miles across on Interstate 85 is Greenville
- 16 County from the Spartanburg line to the Anderson line? How
- 17 many is it?
- 18 A I'm not sure.
- 19 Q Is it more than ten?
- 20 A Probably.
- 21 Q Is it more than 20?
- 22 A Maybe.
- 23 Q Is it more than 30?
- 24 A I'm not sure.
- 25 Q Okay. And then let's go back to what she said. Mary

Chaney Brent Brown
Redirect examination by Mr. Rhoden
Recross-examination by Mr. Brannon

1 said, "He pointed the gun at my head. I told him I was
2 dialing 9-1-1. When 9-1-1 answered, he left." She said
3 that, didn't she?

4 A I'm not sure.

5 Q Well, now, you just watched up -- you just watched it,
6 didn't you?

7 A Yes.

8 Q Okay. And if it's on that tape, she said it, right?

9 A Yes, sir.

10 Q So, we know that at 6:29 p.m., according to Mary, my
11 client's standing in Duncan, South Carolina, at [REDACTED] West
12 Main Street, right? East Main Street. Whatever street,
13 right?

14 A Yes.

15 Q And according to your math you were there in less than
16 five minutes, and very shortly after you turned your body
17 camera on. A few minutes into that she says he's there.
18 Any idea how fast he would have had to have gone to leave
19 at 6:29 p.m. and be in Anderson County?

20 A Pretty fast.

21 Q Pretty fast.

22 MR. BRANNON: Nothing further.

23 MR. RHODEN: A little followup.

24

25

1 REDIRECT EXAMINATION

2 BY MR. RHODEN

3 Q Mr. Brown, of your own knowledge do you know whether
4 or not Mr. Molina was in Anderson or not?

5 A No, sir.

6 Q That's all.

7 RECROSS-EXAMINATION

8 BY MR. BRANNON

9 Q Of your own knowledge do you know if anything Mary
10 said to you was true?

11 MR. RHODEN: Objection, Your Honor. I don't think
12 that's --

13 THE COURT: I'll let you come back up.

14 Q Do you know of anything that she said was true?

15 A I don't know that for sure, no, sir.

16 Q Thank you.

17 MR. RHODEN: That's all from this witness.

18 THE COURT: You may step down.

19 MR. RHODEN: I ask for this witness be excused.

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 THE COURT: We'll recess for the afternoon. Keep in
23 mind my caution previously given. No discussions about the
24 case with anybody -- family, friends or even your fellow
25 jurors. No research, no investigation, no media exposure.

1 Have a good evening.

2 Report to your jury room in the morning at 9:30 --

3 9:30 in the morning. Have a good evening.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Court is in recess.

7 END OF PROCEEDINGS DECEMBER 18, 2023

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1 (Proceedings December 19, 2023)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Have the record reflect that I've had a
5 conversation with counsel in chambers regarding a message
6 received from a juror indicating that the juror has
7 developed a medical condition overnight. And I've relayed
8 that information to counsel. And the juror has not
9 appeared this morning because of that condition.

10 Counsel in chambers agreed to have her released and to
11 have the first alternate juror substituted as the twelfth
12 juror.

13 Do counsel, either of you, request additional
14 information about the juror's condition?

15 MR. RHODEN: No, sir, Your Honor.

16 MR. BRANNON: No, Your Honor.

17 THE COURT: All right. And each of you are in
18 agreement that the substituted juror will be the first
19 alternate chosen? That's Juror 85.

20 MR. RHODEN: The state agrees, Your Honor.

21 MR. BRANNON: As does defense, Your Honor.

22 THE COURT: Okay. Thank you.

23 All right. Any matters to address before the jury is
24 brought in?

25 MR. BRANNON: Your Honor, additionally we talked about

1 photographs in chambers. You indicated that certain of the
2 photographs that I intended to attempt to introduce, you
3 would likely exclude.

4 Your Honor, at some point I would like to proffer
5 testimony from the state's witness regarding those pictures
6 and have them marked in case I can introduce them later in
7 the trial.

8 THE COURT: well, if you can introduce them later in
9 the trial, you just introduce them later in the trial.

10 MR. BRANNON: I was hoping that I could, while the
11 witness is here, have him identify those photographs and
12 then save the Court some time later on recalling a witness
13 just for the purpose of identifying photos.

14 THE COURT: well, you won't have to call -- I don't
15 think the solicitor is going to object to the authenticity
16 of the photos. The solicitor's objecting to the relevance
17 of the photos.

18 MR. BRANNON: I understand that. But if the state
19 isn't going to object to the authenticity, then I don't
20 need to proffer the evidence.

21 THE COURT: well, you're not objecting to the
22 authenticity, are you?

23 MR. RHODEN: No, sir.

24 THE COURT: You know who took them.

25 MR. RHODEN: Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 THE COURT: In fact, I guess you provided them to the
2 defense.

3 MR. BRANNON: Correct.

4 MR. RHODEN: Yes, sir.

5 THE COURT: So, you can introduce them so long as
6 they're relevant.

7 MR. BRANNON: Thank you, Your Honor. That's all.

8 THE COURT: Do you need the witness to testify to
9 anything other than that?

10 MR. BRANNON: Well, I can get anything other than that
11 on cross-examination, but I don't want -- I don't want to
12 create an objection trying to just identify those photos
13 either. I don't want to -- I don't want to screw up
14 continuity. Okay.

15 THE COURT: Well, as I understand it, authenticity
16 will not be an issue if that's what you're concerned with.

17 MR. BRANNON: Okay. Thank you, Your Honor.
18 Nothing else from the defense.

19 THE COURT: All right. Thank you.

20 All right. Bring the jury in, please.

21 (The following takes place in the presence of the
22 jury.)

23 THE COURT: Good morning, ladies and gentlemen.

24 During the overnight recess one of your fellow jurors
25 contacted the clerk's office and indicated that they were

Michael Sean Nix
Direct examination by Mr. Rhoden

1 suffering a medical condition that was going to prevent
2 them from continuing with the trial.

3 And so that means we're going to have Ms. Lancaster,
4 Juror 85, to substitute for that juror.

5 And, so, you're now the twelfth juror and you'll
6 participate throughout the trial, including jury
7 deliberations at the trial's conclusion.

8 As you know, when we recessed yesterday the state had
9 begun with their presentation of evidence. So, we're going
10 to continue with that presentation this morning.

11 Mr. Rhoden.

12 MR. RHODEN: May it please the Court. The state would
13 call Sean Nix.

14 MICHAEL SEAN NIX, having been
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. RHODEN

17 Q Will you please state your full name?

18 A Michael Sean Nix, Spartanburg County Sheriff's
19 Department.

20 Q And, Officer Nix, what is your position with the
21 sheriff's department?

22 A Currently, I am the supervisor of the forensics unit.

23 Q And, Officer Nix, were you so employed with the
24 sheriff's department back on June the 18th of 2016?

25 A Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q And what was your position at that time?

2 A I was just a regular crime scene unit officer at that
3 time.

4 Q All right. Did you go to the scene at [REDACTED] East Main
5 Street, Duncan, South Carolina, on June the 18th of 2016?

6 A Yes, sir.

7 Q And is that in Spartanburg County?

8 A It is. Correct, sir.

9 Q And what was your purpose of going to the crime scene
10 on that day?

11 A To process the crime scene in order to document and
12 collect evidence.

13 Q All right. Do you have other people that would help
14 you do that?

15 A Yes, sir.

16 Q And you did some of that hands-on yourself also?

17 A Yes, sir.

18 Q All right. Let me show you this document and ask if
19 you can identify what that is.

20 A That is a sketch of the scene that I made for this.

21 Q All right. And it says not to scale.

22 A That is correct.

23 Q All right. So, that is just merely a sketch. You
24 didn't take measurements and that sort of thing where the
25 walls were and that sort of thing.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 A Well, we took measurements and stuff, but the sketch
2 is not to scale because the CAD program that does it
3 doesn't have that capability at that time.

4 Q All right.

5 MR. RHODEN: Your Honor, the state would move this
6 document into evidence.

7 MR. BRANNON: No objection, Your Honor.

8 THE COURT: Admitted.

9 (Diagram marked State's Exhibit No. 6.)

10 Q Officer Nix, I'm going to ask you some questions about
11 that document. My colleague is going to pull that up on
12 the screen so everybody can see it.

13 If you are looking at that, that document, to the far
14 right side of the document is kind of a blank area that is
15 not labeled. What is that?

16 A That would be the carport area.

17 Q And then if you go to that, that blank area, again, it
18 looks like we have some -- some marks that indicate perhaps
19 doors.

20 A Yes, sir. Those would be door symbols.

21 Q All right. Can you get from the carport into the
22 actual house through one of those doors?

23 A Yes, sir.

24 Q And when you walk in through the door, the carport
25 door, what -- what area are you in in the house when you

Michael Sean Nix
Direct examination by Mr. Rhoden

1 walk in?

2 A As soon as you come to the -- through the carport
3 door -- I characterize it as a living-room area, something
4 like that as best I could describe it to you.

5 Q All right. It's a big room. It's not a bedroom.

6 A Yes, sir. It's a big L-shaped room.

7 Q Okay. All right. Off to the immediate right as you
8 walk in -- off to the immediate right as you walk in, what
9 is that?

10 A As soon as you walk in, on the immediate right, I have
11 it written down in my report as a converted washer-dryer
12 room that is serving as a bedroom.

13 Q All right. And is that a relatively small room?

14 A Yes, sir, it would be a small room.

15 Q All right. And was there a bed in there at the time
16 you went into the room on June the 18th?

17 A If I remember correctly, there was.

18 Q Does that room also have a separate door to it?

19 A It does, sir.

20 Q All right. Let me show you a photograph or another
21 photograph.

22 MR. RHODEN: And this will be 113.

23 Q And ask if you can identify that photograph.

24 A This is a photograph taken from the side of the L-room
25 that is opposite of the door from the carport. In the

Michael Sean Nix
Direct examination by Mr. Rhoden

1 photograph you can see the door that leads out the carport,
2 as well as the door that leads to that little converted
3 small bedroom. And if you notice, you can see somebody
4 peeking in through the door.

5 Q Okay. All right. So, if you look on this -- looked
6 on the diagram that we just saw, which is now -- not on the
7 screen -- that this is a picture of that area that we
8 discussed.

9 A Yes, sir.

10 Q All right.

11 MR. RHODEN: The state would move this photograph into
12 evidence.

13 MR. BRANNON: No objection.

14 THE COURT: It's admitted.

15 (Photograph marked State's Exhibit No. 7.)

16 Q So, as you astutely mentioned a minute ago, did it
17 appear that somebody is kind of peeping through a door?

18 A Yes, sir.

19 Q Is that the door that leads from the carport into the
20 house?

21 A Yes, sir.

22 Q All right. And you can clearly, or you can, see
23 somebody peeping -- peeping through the door.

24 A Yes, sir.

25 Q All right. Now, is there -- is there a door behind

1 that door?

2 A The carport door, yeah. There's that door that leads
3 into that converted wash room.

4 Q Okay. So, that door in this photograph is closed.

5 A Yes, sir.

6 Q Okay. And I believe on your diagram you would -- you
7 show that door opening inside.

8 A Yes, sir. It would open -- it would open into the
9 inside of the room.

10 Q Okay. All right. So, if that door is closed, as it
11 is in this photograph, you cannot -- there's no other way
12 to see into that converted washroom.

13 A Not from inside the house.

14 Q All right.

15 MR. RHODEN: Go back to the diagram on the elmo,
16 please.

17 Q Okay. Now, looking at that diagram again, in that
18 small area to the right that you just identified as a
19 converted washroom, is there a window in that room?

20 A Yes, sir.

21 Q You do not denote that on your diagram, is that
22 correct?

23 A No. I don't denote windows on the diagrams usually.

24 Q Okay. But there is a window.

25 A There is a window there, yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

- 1 Q All right.
- 2 MR. RHODEN: This will be 411.
- 3 Q Let me show you this photograph. Can you identify
- 4 what that is?
- 5 A That is a photo of the side of the residence, and this
- 6 would be the side the carport is on. And in it is a -- the
- 7 window of the washroom.
- 8 Q Looking at the screen is that --
- 9 A Yes, sir.
- 10 Q -- the same photograph you just described?
- 11 A Yes, sir.
- 12 MR. RHODEN: The state would move this photograph into
- 13 evidence, Your Honor.
- 14 MR. BRANNON: No objection.
- 15 THE COURT: It's admitted.
- 16 (Photograph marked State's Exhibit No. 8.)
- 17 Q All right. Officer Nix, showing you what's been now
- 18 marked as State's Exhibit No. 8. That window as we see it
- 19 in that photograph, on the other side of the window inside
- 20 the house is that washroom.
- 21 A Yes, sir.
- 22 Q Okay. All right. Let me show you. This is going to
- 23 be 128, another photograph. Can you identify that
- 24 photograph?
- 25 A Yes, sir, it is a photograph of, again, the L-shaped

Michael Sean Nix
Direct examination by Mr. Rhoden

1 room from a slightly different perspective. In it you can
2 see the -- the door that leads into the -- or leads outside
3 to the carport.

4 This -- you can also see the L-shaped room going back
5 toward the kitchen. And there is some overturned -- there
6 is an overturned chair and also a table present, as well as
7 some clothing items and what appears to be blood on the
8 checkered pad of some sort.

9 Q All right.

10 MR. RHODEN: State would move this photograph into
11 evidence.

12 MR. BRANNON: No objection, Your Honor.

13 THE COURT: It's admitted.

14 (Photograph marked State's Exhibit No. 9.)

15 Q All right. Once again, just for clarity, the -- the
16 door that we see in that photograph, where does that go to?

17 A Out to the carport.

18 Q All right. So, if you're coming from the carport,
19 that's the door to enter the house?

20 A From the carport, yes, sir.

21 Q All right. Let me show you three photographs and ask
22 if you can identify those photographs.

23 A Yes, sir.

24 Q Were those taken at the scene of the crime?

25 A Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q Okay. Let's talk about -- first will be -- well, let
2 me go ahead and move those into evidence.

3 MR. BRANNON: Let me just see which ones they are. No
4 problem. No objection, Your Honor.

5 (Photographs marked State's Exhibits Nos. 10, 11 and
6 12.)

7 Q Let's start with -- this will be 610. Start with this
8 photograph that's been marked as State's Exhibit No. 10.

9 What -- what are you trying to show in that photograph?

10 A I'm trying to show the fired cartridge case that is on
11 the floor underneath the toppled chair.

12 Q All right. And you've got this big yellow number
13 there, No. 13. What's the significance of that number?

14 A It's an evidence placard just simply to assign a
15 number to a piece of evidence we collected.

16 Q All right. And that shell casing, do you know what
17 caliber that casing is?

18 A If I may refer quickly, real quick.

19 Q Sure.

20 A I believe it's a 9mm, sir.

21 Q All right. A 9mm? Is that what you said?

22 A Yes, sir.

23 Q I stumbled over that word.

24 Is that a common caliber for a handgun?

25 A Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q All right. And whereabouts in the house was that
2 found?

3 A If you're looking at the L-shaped room after you come
4 in and you turn left, immediately facing you there's a
5 closet and a fireplace. Just past the fireplace there's a
6 turned-over table. Next to that turned-over table is a
7 turned-over green chair. And that cartridge case was
8 underneath that green -- turned-over green chair.

9 MR. RHODEN: Matt, can we pull up the diagram again on
10 the elmo?

11 Q All right. We've got the diagram back up there. We
12 have some items denoted on that diagram that would be
13 State's Exhibit No. 6. Is the chair -- and you have, it
14 looks like, a body.

15 A Yes, sir.

16 Q Is that what you're denoting there?

17 A Yes, sir.

18 Q Was that shell casing by that particular chair that
19 we're looking at in the diagram?

20 A Yes, sir.

21 Q So, very close to the body itself.

22 A That is correct, sir.

23 Q Now, let me show you actually both of these exhibits,
24 Nos. 11 and 12. What are you showing in those photographs?

25 A On Exhibit 11 is a photograph back toward the

Michael Sean Nix
Direct examination by Mr. Rhoden

1 kitchen-counter area. You can see an evidence placard
2 marker with a No. 15 on it.

3 And Exhibit 12 is a closer-up photo of Evidence
4 Placard 15 with a fired cartridge casing next to it.

5 Q All right.

6 MR. RHODEN: Matt, if you would, pull up 555.

7 Q All right. In this photograph, which is State's
8 Exhibit No. 11, we -- we see the yellow placard with a 15.
9 Is the shell casing close to that placard?

10 A Yes, sir.

11 Q Once again -- well, let me -- let me do this. What
12 area of the house are we looking at now?

13 A This will be the kitchen area. But for the purposes
14 of talking earlier, referring to that being a long L-shaped
15 room, it would be at the end of that L-shaped-room area.

16 Q Okay. It looks like there's a sink and a microwave.

17 A Yes, sir.

18 Q All right.

19 MR. RHODEN: Matt, pull back up the diagram on the
20 elmo, please.

21 Q Now, looking at State's Exhibit No. 6, we -- you
22 denote on that diagram, looks like, the sink and a stove.

23 A Correct.

24 Q Was the shell casing found in that area?

25 A Yes, sir, for that area.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q Let me show you what's been marked as State's Exhibit
2 No. 12 -- 622. Is that a closeup of the same thing we
3 basically have been looking at in State's Exhibit No. 11?

4 A Yes, sir.

5 Q All right. And is that a shell casing?

6 A That's a fired cartridge case, yes, sir.

7 Q And what caliber was that item?

8 A 9mm.

9 Q So, both of the shell casings that we talked about so
10 far have been 9mm?

11 A Correct, sir.

12 Q Once again, is that a common-handgun cartridge?

13 A It is, sir.

14 Q Were any other shell casings found in the residence?

15 A No, sir.

16 Q So, just two.

17 A Just two, sir.

18 Q Okay. Let me show you this picture. See if you can
19 identify -- actually, let me just show you all three of
20 these pictures and ask if you can identify those pictures.

21 A Yes, sir.

22 MR. RHODEN: State would move these three photographs
23 into evidence, Your Honor.

24 MR. BRANNON: No objection, Your Honor.

25 THE COURT: They're admitted.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 (Photographs marked State's Exhibits Nos. 13 through
2 15.)

3 Q Let me show you State's Exhibit No. 13.

4 MR. RHODEN: Matt, that would be 628.

5 Q What are you trying to show in that photograph?

6 A The photograph is of a hole that we believe was made
7 by a projectile striking the wall.

8 Q All right. So, the photograph is now up on the
9 screen. There's some white, looks like, measurements.

10 A It's scale tape, yes, sir.

11 Q All right. And were those placed on the wall by you
12 or a member of your team?

13 A Yes, sir.

14 Q Wasn't there when you got to the scene.

15 A No, sir, no, sir.

16 Q And that is a hole in the wall?

17 A Yes, sir.

18 Q If we go back to the diagram, whereabouts would that
19 hole be?

20 MR. RHODEN: And for this particular purpose with the
21 Court's permission, I ask the witness to step over to the
22 elmo and point out where it would be.

23 Q You can take your notes if you need to refer to it.

24 A No. I know where it's at.

25 (Whereupon, the witness left the stand.)

Michael Sean Nix
Direct examination by Mr. Rhoden

1 A It would be along this wall here where you see.

2 Q Speak up. Can you speak up a little bit?

3 A I'm sorry. It'd be along this wall here where you see
4 the icon of a chair that's not over and another chair
5 that's still standing up.

6 Q Okay. All right.

7 (Whereupon, the witness returned to the stand.)

8 Q Now, let me show you State's No. 14.

9 MR. RHODEN: That would be 636.

10 Q What -- what are you trying to show in that
11 photograph?

12 A So, the photograph is a shot, a long shot, of the wall
13 where this hole that you were referring to, you referred to
14 earlier. Sticking outta the hole is a dowel rod. And all
15 we're really trying to show is a possible direction that a
16 projectile may have come from.

17 Q It's very difficult to see but --

18 A They usually are, yes, sir.

19 Q But there is a -- when you say a dowel was that --
20 what's a dowel?

21 A It's just a long rod. It's just the name we call
22 them, yeah.

23 Q Okay. All right. At that point in your investigation
24 did you suspect that a bullet had gone through the wall?

25 A Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q Let me show you State's Exhibit No. 15.

2 MR. RHODEN: That would be 662.

3 Q All right. State's Exhibit 15. What are you trying
4 to show in that photograph?

5 A This is a photograph of a bullet fragment or -- yeah.
6 Fired bullet fragment.

7 Q And did either you or a member of your team,
8 basically, dig that fragment of a bullet out of that wall
9 that we just saw?

10 A We did remove sections of the wall until we located
11 that, yes, sir.

12 Q Okay. So, at this point we have two shell casings and
13 one bullet fragment, is that correct?

14 A Correct.

15 Q Any way to tell what caliber that fragment was?

16 A I couldn't tell you sir, no.

17 Q Is it in pretty bad shape?

18 A It's pretty messed up, yes, sir.

19 Q When -- when you actually tore the -- tore up the wall
20 was there -- behind the sheetrock, what was it?

21 A So, the wall is made out of wood paneling. And then
22 if my memory serves me correct, after the wood paneling was
23 some insulation, and then that after that some pressboard.
24 And then after that there was a brick wall of the
25 residence.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 Q All right. Let me show you five photographs. Can you
2 identify those photographs?

3 A Yes, sir.

4 Q Would that be the house, the exterior of the house; at
5 ■ East Main Street, Duncan, South Carolina?

6 A Yes, sir.

7 MR. RHODEN: State would move these five photographs
8 into evidence.

9 MR. BRANNON: No objection, Your Honor.

10 THE COURT: They're admitted.

11 (Photographs marked State's Exhibits Nos. 16 through
12 20.)

13 Q Officer Nix, let me show you.

14 MR. RHODEN: And this would be 677.

15 Q All right. Is that the house at ■ East Main Street,
16 Duncan, South Carolina?

17 A Yes, sir.

18 Q And is that the front of the house?

19 A Yes, sir.

20 MR. RHODEN: 684.

21 Q And this will be State's Exhibit 17. Does that show
22 the house also?

23 A Yes, sir.

24 Q And would that be the carport-side area?

25 A That is correct, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

- 1 MR. RHODEN: 690.
- 2 Q All right. I'm showing you State's Exhibit 18. would
3 that also be a picture of the house?
- 4 A Yes, sir.
- 5 Q would that be the rear part of the house?
- 6 A That is correct, sir.
- 7 Q Showing you Exhibit 19, State's Exhibit 19.
- 8 MR. RHODEN: 692, Matt.
- 9 Q And is that photograph also a photograph of the back
10 side of the house?
- 11 A Yes, sir. It's a different perspective.
- 12 Q And finally let me show you State's Exhibit No. 20.
- 13 MR. RHODEN: 693.
- 14 Q And is that also a photograph of the house at [REDACTED] East
15 Main Street?
- 16 A That is correct, sir.
- 17 Q And does that show you the other side away from the
18 carport?
- 19 A Yes, sir.
- 20 Q All right. was there an attempt to get fingerprints
21 off of the carport door?
- 22 A Yes, sir.
- 23 Q Let me show you these two photographs and ask if you
24 can identify those.
- 25 A Yes, sir.

Michael Sean Nix
Direct examination by Mr. Rhoden

1 MR. RHODEN: The state would move these two
2 photographs into evidence, Your Honor.

3 MR. BRANNON: Without objection.

4 THE COURT: They're admitted.

5 (Photographs marked State's Exhibits Nos. 21 and 22.)

6 Q All right. Let me show you State's Exhibit No. 21.

7 MR. RHODEN: 672.

8 Q State's Exhibit 21. What does that show?

9 A The picture shows the exterior-facing side of the
10 carport door. The door is black because of fingerprint
11 powder on it, and there is a gellift attached to the door
12 that's marked as A.

13 Q A gellift is attached to the door?

14 A Yes, sir.

15 Q And that -- where would that be on that photograph?

16 A On that photograph, it would be just right beside the
17 deadlock.

18 Q Okay. And it has an A on there?

19 A Yes, sir.

20 Q Okay. What is a gellift?

21 A A gellift is basically like a little rubber lifting
22 device that we use on fingerprints. It's primarily used
23 when the surface that you're trying to lift from is very
24 textured.

25 Q Okay. Let me show you. That's the exterior part of

Michael Sean Nix
Cross-examination by Mr. Brannon

1 the door?

2 A The exterior-facing side of the door, yes, sir.

3 Q Let me show you what's been marked as State's Exhibit
4 No. 22.

5 MR. RHODEN: That would be 676.

6 Q All right. State's Exhibit No. 22. What does that
7 show?

8 A This is also a photograph of the exterior-facing side
9 of the carport door, in particular the door handle. And it
10 has a -- a tape lift, which is denoted by the letter B.

11 Q Okay. Let me just ask you about that handle. It
12 looks like it's sort of loose. Did y'all do that or is
13 that --

14 A No, sir. We did not.

15 Q All right. Okay. And what's the significance of the
16 letter B?

17 A It's just simply to denote one -- one fingerprint lift
18 from another, just be the difference, tell the difference
19 in them.

20 Q Okay. And, so, your team actually attempts to find
21 fingerprints in areas that might be of some significance.
22 Is that the case?

23 A Yes, sir.

24 Q All right. And you or your team actually tried to,
25 what we call, lift those prints?

Michael Sean Nix
Cross-examination by Mr. Brannon

1 A Yes, sir.

2 Q And lifting a print means what?

3 A Just placing something on it, usually some type of
4 adhesive on the print, to lift up the powder that has
5 developed a print in order to turn it in so that it can be
6 possibly, if possible, identified through the AFIS machine
7 by an AFIS operator.

8 Q Okay. And, so, once you lift the prints, is that
9 turned over to another area of the sheriff's department to
10 see if that comes back matching to any particular person?

11 A Yes, sir. That's correct.

12 Q So, that's not what you do.

13 A No, sir.

14 Q All right. Okay. Officer Nix, that's all the
15 questions I have. Answer any questions Mr. Brannon may
16 have for you.

17 MR. BRANNON: May it please the Court, Your Honor.

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. BRANNON

21 Q Deputy, I want to be sure that I'm -- are you deputy
22 or are you investigator? What is your proper title?

23 A You can refer to me as anything, Mr. Brannon, but
24 usually called investigator.

25 Q Thank you, Investigator.

Michael Sean Nix
Cross-examination by Mr. Brannon

1 would you describe or define for these 13 jurors what
2 forensic means?

3 A It's kind of hard for me to describe, but I know it
4 comes from the Latin term forénsis, which means before the
5 forum.

6 Q Okay. It means to look deeper, doesn't it?

7 A I don't know if that's the actual definition of the
8 word forensics.

9 Q Okay. Well, what kind of special training have you
10 had to become the lead forensic investigator for the
11 Spartanburg County Sheriff's Department?

12 A Different types over the years.

13 Q Well, tell me what they are.

14 A I can't remember all off the top of my head, sir.
15 I've been doing it for 16 years.

16 I've taken classes in photography and blood -- blood
17 spatter, blood-pattern-spatter analysis, general homicide
18 courses.

19 I've also learned things over the years through
20 experience on the job and being shown things by other
21 senior people at the time when I was a younger officer.

22 Q Okay. And are you generally more trained to collect
23 and gather evidence than, say, a road deputy with the
24 sheriff's department?

25 A Yes.

Michael Sean Nix
Cross-examination by Mr. Brannon

1 Q Okay. All right. And -- and you are now specialized
2 at the sheriff's department. You are called into a
3 situation where a crime has believed to have taken place to
4 gather evidence on that potential crime, is that correct?

5 A Correct, sir.

6 Q Okay. Would you tell this jury what G.S.R. stands
7 for?

8 A Gunshot residue.

9 Q Okay. And what does that -- what is that?

10 A Gunshot residue is, to put it in layman's terms, it's
11 the burn particles that are discharged from a firearm when
12 it's fired.

13 Q And generally when an individual shoots a firearm, a
14 gun, there's powder that is discharged from that fire, is
15 that correct?

16 A It can be, sir, yes, sir.

17 Q And it can splatter, is that correct?

18 A I wouldn't use the term splatter, but it can spread
19 out.

20 Q Spread out. Okay. Cool. All right. And -- and Mr.
21 Rhoden asked you something about fingerprints. But can
22 you -- can you tell these 13 people about a fingerprint and
23 how it's left?

24 A How it's left?

25 Q Yes, sir.

Michael Sean Nix
Cross-examination by Mr. Brannon

- 1 A So, your fingers have pores on them that excrete
2 fluids. And when you touch things those excretion of
3 fluids are left behind on -- or, well, can be left behind
4 on the surface that you touch. That's not always the case.
- 5 Q In this case did you test anyone for G.S.R.?
- 6 A We did do a G.S.R. on the deceased victim inside the
7 house.
- 8 Q On the deceased victim, is that correct?
- 9 A That is correct, sir.
- 10 Q Okay. And you attempted to lift fingerprints from at
11 least one place in the house, the door, is that correct?
- 12 A The carport door, yes, sir.
- 13 Q The carport door. That -- I think you side the
14 exterior-facing portion of the door, is that correct?
- 15 A That is correct, sir.
- 16 Q Okay. Now, I want to show you a picture. Would you
17 describe -- first off, did you take that picture or are you
18 aware of that picture?
- 19 A I didn't take it, but I am aware of it.
- 20 Q Okay. And can you describe for the jury what that
21 picture shows?
- 22 A So, that is a picture of the carport storm door, and
23 in this picture it is being held in place. I believe I
24 wrote in my report that it was tied in place.
- 25 Q Okay. And then that's how you found that door, is

Michael Sean Nix
Cross-examination by Mr. Brannon

1 that correct?

2 A Yes, sir. That's right.

3 Q So, you, law enforcement, didn't tie that open to get
4 it outta the way or anything.

5 A Not that I'm aware of, no, sir.

6 Q Okay. And you never saw a law enforcement officer do
7 that, correct?

8 A No, sir.

9 Q That's the way you found it.

10 A Yes, sir.

11 Q Okay.

12 MR. BRANNON: Your Honor, I move to admit.

13 MR. RHODEN: No objection.

14 THE COURT: Defendant's 1.

15 (Photograph marked Defendant's Exhibit No. 1.)

16 MR. BRANNON: Your Honor, can I present this to the
17 jury, please?

18 THE COURT: You may.

19 Q Now, Investigator, the door that you fingerprinted, it
20 opens into the house, is that correct?

21 A Yes.

22 Q And that storm door is the other -- is the outside of
23 that door that opens to the exterior of the house, is that
24 correct?

25 A Yeah. It would open in toward the carport.

Michael Sean Nix
Cross-examination by Mr. Brannon

- 1 Q Toward the carport. And it is now tied open to the
2 carport door, is that correct?
- 3 A No, no. It's tied. It's not tied to the carport
4 door. It's tied to the carport wall.
- 5 Q Carport wall. Excuse me. That's correct. Okay. All
6 right. Did you find fingerprints on that door?
- 7 A No, sir. Well, we didn't do it because it was already
8 tied open.
- 9 Q Okay. Did you find fingerprints on the wood door?
- 10 A The car -- excuse me -- the carport door, the wooden
11 door we were referring to earlier?
- 12 Q Yes.
- 13 A Yes.
- 14 Q Yeah. Were they his?
- 15 A I don't know, sir. I didn't -- I don't do the
16 analysis on who they belong to.
- 17 Q Okay. What can you get fingerprints off of?
- 18 A Various types of surfaces. It just depends on a
19 number of factors.
- 20 Q Okay. Can you get it off of wood?
- 21 A Yes.
- 22 Q Can you get them off of metal?
- 23 A Yes.
- 24 Q Can you get them off of glass?
- 25 A Yes.

Michael Sean Nix
Cross-examination by Mr. Brannon

1 Q Okay. There were several pictures introduced by Mr.
2 Rhoden related to 9mm casings, correct?

3 A That's correct.

4 Q There was one in the kitchen and one in the -- on the
5 carpet by that green chair, right?

6 A Yes, sir.

7 Q Sir, did you fingerprint those?

8 A No, sir.

9 Q Why not?

10 A Because friction and heat removes fingerprints from
11 surfaces.

12 Q Does it always, every time, remove the fingerprint
13 from the casing?

14 A Not every time.

15 Q Did you fingerprint them?

16 A No, sir.

17 Q Okay. All right. Then there is this projectile that
18 you found in a wall, correct?

19 A Correct.

20 Q You said you couldn't determine what caliber that
21 projectile was. Could you?

22 A No, sir.

23 Q Did you send it to an expert in bullet fragments to
24 determine what caliber it was?

25 A I have no idea. I don't.

Michael Sean Nix
Cross-examination by Mr. Brannon

1 Q well, and I'm not -- I'm not picking on you.

2 A I understand.

3 Q I'm asking did you send it to anybody.

4 A well, I'm trying to answer your question.

5 Q Okay.

6 A So, at the time when this was taking place, I believe
7 our procedure was, is that any evidence that was collected,
8 we would confer with the lead investigator of the case, and
9 then he would tell us what he would want us to send. We
10 would then send that stuff via the I-lab down at SLED for
11 analysis.

12 So, if he had told me to send the bullet fragment off,
13 I would have done so. I just don't remember if that was
14 something that we had sent off.

15 Q Okay. So, you don't have any personal knowledge if
16 that projectile has ever been classified for caliber,
17 correct?

18 A Not that I'm aware of, no, sir.

19 Q Okay. So, you can't tell these people that that
20 fragment has anything to do with this situation, can you?

21 A Other than there's a projectile in a wall.

22 Q well, it could have been there the week before or the
23 year before or a decade before, correct?

24 A I suppose.

25 Q Okay. So, the fact that you found a projectile in

Michael Sean Nix
Cross-examination by Mr. Brannon

1 that wall doesn't mean that it was fired into that wall on
2 that day, does it?

3 A It just means at some point a projectile was fired
4 into the wall.

5 Q Got it. Okay. All right. So, you didn't check for
6 fingerprints on the casings and you can't tell that that
7 projectile in the wall has anything to do with this
8 incident, correct?

9 A Not one hundred percent, no, sir.

10 Q Okay. All right. So, now, let's look at the diagram
11 that the state so politely left up.

12 Okay. So, the -- the door into that laundry room
13 that's been turned into a bedroom, you would open the door
14 and pull it to you, correct?

15 A Say that again.

16 Q If you're on the inside of the room the door handle
17 would -- you would open the door and pull it. It turn --
18 it opens into the room, correct?

19 A Yes, yes, that's correct, yes, sir.

20 Q Okay. All right. Show you a couple of pictures.
21 Now, do you identify -- can you identify these two
22 photographs?

23 A Yes, sir.

24 Q Okay. And would you describe for the jury what those
25 are pictures of?

Michael Sean Nix
Cross-examination by Mr. Brannon

1 A This one I'm currently holding is a picture of the --
2 of the carport door in the background as it has been opened
3 into the house.

4 And the second picture also has the same carport door,
5 but it's a different perspective of the L-shaped room that
6 we've been talking about earlier.

7 Q Okay. And behind the white door is the door into the
8 laundry room, slash, bedroom, is that correct?

9 A That is correct, sir.

10 Q Okay. And, in fact, behind that door, you can't even
11 see that other door, can you?

12 A Just looking at this picture, I wouldn't be able to
13 tell if there was a door behind it.

14 Q All right. Okay.

15 MR. BRANNON: Your Honor, I'd move to admit these two
16 photographs.

17 MR. RHODEN: No objection.

18 THE COURT: They're admitted.

19 (Photographs marked Defendant's Exhibits Nos. 2 and 3.)

20 MR. BRANNON: Present to the jury, Your Honor.

21 THE COURT: You may.

22 Q So, Investigator, if I'm standing in that laundry
23 room, the door would open like this, correct?

24 A Yes, sir.

25 Q So, for me to look out of that door, I would have to

Michael Sean Nix
Cross-examination by Mr. Brannon

1 go like this, right?

2 A I would assume so.

3 Q Okay. If I'm on the other side of that door and that
4 white door is pushed back like it is in those photographs,
5 it actually opens the other way, correct? To close the
6 door, I would have to pull it to me and step out, correct?

7 A You're referring to the white carport door.

8 Q The white carport.

9 A Yes.

10 Q Okay.

11 A You would have to pull it to you.

12 Q So, if I'm behind the door in the laundry room, it
13 opens this way. For me to look out, I have to look like
14 this, correct?

15 A Yes, sir.

16 Q But that other door opens like this. So, I'm looking
17 into the hinges of that white door, aren't I?

18 A I wouldn't know where you were looking, but you
19 probably could see --

20 Q You could see the hinges?

21 A Yes, sir.

22 Q I would not be able to see out into that L-shaped
23 room, would I, unless the doors were opened completely,
24 correct?

25 A It would depend on how much of the white door was

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 open, what you'd probably see or not see, sir.

2 Q Okay. All right. When you got there that white door
3 was pushed all the way back, wasn't it?

4 A I don't recall, sir.

5 Q Okay. You photographed that white door pushed all the
6 way back, didn't you?

7 A That's just a photograph of the way it was
8 photographed at the time.

9 Q I understand. But we know that that photograph was
10 taken before you fingerprinted it, don't we?

11 A Yes, sir. That is correct.

12 Q Okay. That door was pushed all the way back when that
13 photograph was taken, right?

14 A Oh, yeah. The door is back.

15 Q Okay. And do you believe any officer moved that door?

16 A I couldn't tell you. I don't know, sir.

17 Q Okay. All right. Did you ever get G.S.R. off of the
18 surviving victim?

19 A One of our investigators was sent to the hospital.
20 And if there was one done, he would have done it. So, I
21 don't recall off the top of my head if there was one done
22 on him or not.

23 Q Okay. All right.

24 MR. BRANNON: One second, Your Honor.

25 (Pause.)

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 MR. BRANNON: Your Honor, I don't have any further
2 questions. Thank you.

3 MR. RHODEN: May it please the Court. A few
4 followups.

5 REDIRECT EXAMINATION

6 BY MR. RHODEN

7 Q Officer Nix, in the sequence of events that happen at
8 a -- at a crime scene such as the one that you answered on
9 June the 18th of 2016, would there have been other people
10 in and out of that house before you arrived?

11 A Yes, sir.

12 Q All right. And what -- during -- there's no back
13 door, correct? You can look at the photographs at the back
14 of the house if you need to refresh your memory but --

15 A Yeah. I want to say there isn't, but just let me
16 doublecheck before I say that. Yeah. There -- that's
17 correct. There is no back door to the place.

18 Q Okay. And on that particular day when you're going --
19 going into the crime scene, were you using that carport
20 door?

21 A Yes, sir.

22 Q And was everybody using that carport door?

23 A Yes, sir.

24 Q All right. And you were not the first officer on the
25 scene.

Michael Sean Nix
Redirect examination by Mr. Rhoden

- 1 A No, sir.
- 2 Q Had E.M.S. already come and removed the surviving
3 victim to take him to the hospital?
- 4 A Correct, sir.
- 5 Q All right. would they have gone in and out of that
6 door?
- 7 A I believe even yesterday when you had a body-worn cam
8 rolling that I did see E.M.S. using that door.
- 9 Q Okay. All right. So, by the time you took the
10 photographs of the door many people had already come in and
11 out of that door.
- 12 A Yes, sir.
- 13 Q Mr. Brannon asked you about if you were in the
14 washroom. So, just look up at the screen. If you're in
15 the washroom area here inside, Mr. Brannon asked you a
16 question about this door right here, that it swings inside,
17 correct?
- 18 A Correct, sir.
- 19 Q If you open that -- and this is not to scale, correct?
- 20 A Correct, sir.
- 21 Q Do you know if that door can be opened fully without
22 going into the bed, or is that just something you don't
23 know?
- 24 A I don't recall, sir.
- 25 Q All right. You just -- you just drew it to be a

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 diagram that's not to scale.

2 A I just drew it to the best of my ability, but yes,
3 sir.

4 Q All right. So, the fact that we see the bed there
5 impeding that door may or may not be accurate in that
6 diagram.

7 A That's correct, sir.

8 Q Now, Mr. Brannon also asked you if you peeked outside
9 that door you couldn't see because the carport door going
10 into the house was open. Do you remember that question?

11 A Yes, sir.

12 Q Do you know whether or not that carport door was open
13 at the time this crime was committed?

14 A No, sir.

15 Q And even if it was, could you have taken your hand and
16 pushed it shut so you could see?

17 A Yes, sir.

18 Q Nothing to impede the action of the door.

19 A Yes, sir.

20 Q There's nothing to impede.

21 A No, no. There's nothing to impede the action. I'm
22 sorry, sir.

23 Q Now, let's talk about fingerprints. You lifted a
24 print. Mr. Brannon asked you questions about prints.

25 If somebody touches a surface, whether that, you know,

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 is like a door or wood or whatever, are you always able to
2 find their fingerprint on an item somebody might have
3 touched?

4 A No, sir.

5 Q And why is that?

6 A There's a lot of factors that go into whether a
7 fingerprint's left behind. They can include things like
8 heat, cold, the condition of your fingertips, how moist
9 they are, things like that, the condition of the surface
10 you're trying to print, what's it made of, how textured it
11 is, and just it goes on and on.

12 Q All right. Okay. So, if somebody touched a surface
13 and you didn't find their print, that doesn't necessarily
14 mean they didn't touch it.

15 A No, sir.

16 Q Officer -- excuse me -- Mr. Brannon asked you some
17 questions about the shell casings --

18 A Yes, sir.

19 Q -- and whether or not any attempt was made to get the
20 prints off the casings. Do you remember that?

21 A Yes, sir.

22 Q Do shell casings present a particular problem in
23 trying to get fingerprints off of them?

24 A Fired cartridge casings do, yes, sir.

25 Q Okay. And why is that?

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 A Because, as I explained to Mr. Brannon, heat and
2 friction are very detrimental to the survival of a print.

3 When we were talking about fingerprints earlier, we
4 were talking about the -- that your fingers secrete, you
5 know, types of liquid or moisture, whatever you want to
6 call it. Heat tends to evaporate that away.

7 Q All right. And the cartridge, the shell casings, that
8 you found at the house, both of them were 9mm.

9 A Yes, sir.

10 Q And that's a -- typically, in a handgun.

11 A Most commonly that's in a handgun, yes, sir.

12 Q All right. Okay. And when a 9mm bullet is fired by a
13 handgun, what happens to the casing?

14 A After it's fired -- excuse me -- after it --

15 MR. BRANNON: Your Honor, objection. I don't believe
16 this has anything to do with my cross-examination. I mean,
17 he's expanding. He's doing redirect here.

18 MR. RHODEN: Well, he asked about the shell casings
19 and the fingerprints, and I'm just trying to elaborate with
20 this witness concerning the -- why there was no testing
21 done for fingerprints on the casings.

22 THE COURT: Overruled.

23 MR. BRANNON: Thank you, Your Honor.

24 A Repeat the question, sir.

25 Q All right. So we have 9mm casings, correct?

Michael Sean Nix
Redirect examination by Mr. Rhoden

1 A Yes, sir.

2 Q Typically, fired out of a handgun.

3 A Typically.

4 Q All right. The fact that there were casings on the
5 floor would indicate what type of handgun.

6 A It would indicate that a 9mm handgun may have been
7 used, yes, sir.

8 Q would it be a semiautomatic?

9 A Yes, sir.

10 Q Because the casings were ejected.

11 A Yes, sir.

12 Q If it was a revolver, casings don't get ejected.

13 A That is correct, sir.

14 Q So, what process do the casings go through in the
15 firing of a handgun?

16 MR. BRANNON: Objection, Your Honor. He's not been
17 admitted as an expert in firearms or handguns and -- and I
18 asked about fingerprints on a casing, not the mechanism of
19 a 9mm.

20 THE COURT: All right. Do you want to lay a
21 foundation for this witness?

22 BY MR. RHODEN

23 Q In your field of expertise do you make decisions about
24 whether or not to try to get a print off of a casing?

25 A Yes, sir.

Michael Sean Nix
Recross-examination by Mr. Brannon

1 Q All right. And in making that decision do you
2 understand that it's part of your field to understand the
3 mechanisms that that casing goes through when fired in a
4 handgun?

5 A Generally speaking, yes, sir.

6 Q All right. And so that's all I'm asking you about.
7 Generally speaking, a casing fired from a semiautomatic
8 handgun, what does it go through when it is fired?

9 A When an unfired cartridge case is in the chamber of a
10 weapon and it's struck by the pin or a hammer, whatever you
11 want to call it, it strikes a -- a primer on the back of
12 the cartridge casings, which then causes the gunpowder
13 inside the cartridge case to explode, and that explosion
14 propels a fired -- excuse me -- that explosion propels a
15 bullet that is in that cartridge casing out of the gun down
16 through the barrel.

17 Q All right. And what happens to the casing itself?

18 A The casing is then afterward ejected out of the gun.

19 Q Okay. And when you say ejected, what does that mean?

20 A That means as the gun's mechanism, the slide -- in the
21 case of semiautomatics, the slide goes back. And as it's
22 trying to cycle another unfired cartridge case in that part
23 of that mechanism, is the unfired cartridge case is ejected
24 out of a port or whatever you want to call it on a gun.

25 Q All right. Does all of that process create heat and

1 friction?

2 A It does.

3 Q And does heat and friction destroy fingerprints?

4 A It does.

5 Q All right. Thank you.

6 MR. RHODEN: That's all I have.

7 RE CROSS-EXAMINATION

8 BY MR. BRANNON

9 Q I asked you does that heat and friction always destroy
10 a fingerprint, and you said not always, correct?

11 A Yes, because I don't give absolutes.

12 Q Okay. And Mr. Rhoden just asked you. As part of your
13 job you make decisions to look for something or to not look
14 for it, correct?

15 A I make decisions to look for things, yes, sir. Not a
16 decision not to look for things.

17 Q Okay. Well, you made a decision in this case not to
18 look for a fingerprint on a casing, didn't you?

19 A I made a decision not to fingerprint on both, yes,
20 sir.

21 Q Same thing, right?

22 MR. BRANNON: Nothing further, Your Honor.

23 A Maybe.

24 THE COURT: You may step down.

25 THE WITNESS: Thank you, sir.

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 MR. RHODEN: May we approach, Your Honor?

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 MR. RHODEN: Can the last witness, Mr. Nix, be excused
5 Your Honor?

6 THE COURT: He may be.

7 (Whereupon, the witness was excused.)

8 MR. RHODEN: Your Honor, I anticipate my next witness
9 is going to be rather lengthy, Your Honor.

10 THE COURT: All right. We'll take a short break.

11 I'll ask the jury to please go to your jury room.
12 Don't talk about the case. I'll bring you back after that
13 break.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: We'll be at ease 15 minutes.

17 (Whereupon, a recess was taken.)

18 THE COURT: All right. Bring the jury in.

19 (The following takes place in the presence of the
20 jury.)

21 THE COURT: All right. The jury is present. You may
22 proceed.

23 MR. RHODEN: State would call Paul Norris.
24
25

Paul Anthony Norris
Direct examination by Mr. Rhoden

- 1 PAUL ANTHONY NORRIS, having
2 been first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. RHODEN
4 Q Give your full name, please.
5 A It's Paul Anthony Norris.
6 Q And by whom are you employed, Paul?
7 A I'm with the Spartanburg County Sheriff's Office.
8 Q And what is your position?
9 A At this time I'm a supervisor for the violent crimes
10 unit.
11 Q Can you speak up a little bit louder?
12 A I'm a supervisor with the Spartanburg County Sheriff's
13 office violent Crimes Unit.
14 Q Okay. Were you employed with the sheriff's department
15 back on June the 18th of 2016?
16 A I was.
17 Q And what was your position back then?
18 A I was an investigator in the violent crimes unit for
19 approximately about a year at that point in time.
20 Q Did you -- was one of your cases this case that
21 happened in Duncan on June the 18th of 2016?
22 A Yes. It was.
23 Q All right. So, you worked that case.
24 A Yes. I was on call that day.
25 Q All right. Did you actually go to the crime scene?

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 A I did.

2 Q All right. Did you talk to witnesses that were there?

3 A Yes, sir. I did.

4 Q All right. Did you eventually identify the -- the
5 victims who were involved in this situation?

6 A Yes, sir. We did.

7 Q And would that have been Edgar Ruben Cojon-Lopez?

8 A Yes, sir.

9 Q And was that the individual who survived?

10 A Yes, sir. It is.

11 Q The deceased, was that Edilberto Flores-Palacio?

12 A Yes, sir.

13 Q And he was the one who was deceased.

14 A Yes, sir. That's correct.

15 Q Those were the victims in this case.

16 A Yes.

17 Q At some point in time in your investigation did you
18 talk to the witnesses who were still -- who were on the
19 scene?

20 A Yes. That would have been Ms. Mary Martin and then
21 Edwardo. I'm not sure of his last name. The boyfriend.

22 Q All right. Okay. In regard to Ms. Martin, was she
23 the one who had called 9-1-1?

24 A Yes, sir.

25 Q The 9-1-1 report which has been introduced into

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 evidence as State's Exhibit No. 4, up at the top of -- top
2 right-hand side, does that indicate a cell phone number?

3 A It does.

4 Q And would that have been the number that called 9-1-1?

5 A That is correct. Yes, sir.

6 Q And in your investigation did you determine that was,
7 in fact, Mary Martin?

8 A Yes, sir.

9 Q Okay. In the course of your investigation was
10 Ms. Martin brought to the sheriff's department for an
11 extensive interview?

12 A Yes, sir. She was.

13 Q And was she cooperative?

14 A Yes, sir. She was.

15 Q Did she -- did she have a cell phone in her possession
16 when you encountered her at the scene?

17 A Yes, sir. She did.

18 Q And also during the interview?

19 A Yes.

20 Q Did you actually physically examine her cell phone?

21 A I looked at it in reference to making sure there was a
22 phone number she wanted to provide for the suspect. So, I
23 looked at the phone and verified that because at -- when I
24 was still on the scene, I needed to let Sergeant Letterman
25 who wanted to actually start trying to do an active ping on

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 that -- on that number to verify that number.

2 Q Okay. Now, you did not do what we call a data
3 extraction for her cell phone.

4 A Not at that time, we didn't do that.

5 Q Okay. Once again, your voice is trailing off.

6 A I'm sorry. During that time period we did not do
7 that. No, sir.

8 Q Okay. All right. So, when I say physically examine
9 the cell phone, I'm basically saying did you actually pick
10 it up, look at it, look at the call history, contact, that
11 information.

12 A Yes, sir. That's correct.

13 Q You physically did that.

14 A Yes, sir.

15 Q All right. And Mary was cooperative.

16 A Yes.

17 Q All right. And did you determine a number that had
18 been either a number going to the phone or out of the phone
19 that was very common on this day in particular?

20 A Yes, sir. That's the number she provided that she had
21 been getting recent phone calls from.

22 Q Okay. And what would that number have been?

23 A It was (770)718-8613.

24 Q Okay. And as a result of that information did you
25 reach out to AT&T and request the cell phone records for

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 that number?

2 A Yes, sir. I did.

3 Q Okay. And let me show you what's been marked as
4 State's Exhibit 1. Are these the cell phone records for
5 that number that you identified as the number Mary was
6 communicating with that day?

7 A Yes, sir. They are.

8 Q And let me show you State's Exhibit No. 2, which has
9 already been admitted into evidence.

10 Is this a summary that comes from the larger exhibit
11 that just shows the communication between Mary's cell phone
12 number and the number that you identified with the suspect?

13 A Yes, sir. It is.

14 Q Okay. Now, at some point in time did you make a
15 determination to seek warrants against Mr. Molina?

16 A Yes, sir.

17 Q And was that fairly early into the investigation?

18 A It was, I think, that evening or the next day.

19 Q Okay. All right. At that point in time did you have
20 any idea where Mr. Molina was?

21 A No.

22 Q Okay. Did you start -- did you obtain warrants for
23 Mr. Molina?

24 A Yes, sir. I did.

25 Q Did you start looking for Mr. Molina?

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 A We did. We were still trying to actively ping that
2 phone number at that point in time that had been turned
3 off.

4 Q Okay. So, how shortly was that after the actual time
5 of the incident?

6 A I don't know the exact time. I think it was probably
7 within 30 minutes or so after the shooting.

8 Q Okay. So, in regard to tracing where he might be
9 after the warrants were issued, the cell phone information
10 was not -- it wasn't working at that point.

11 A No. At that point in time it was -- really no used to
12 in reference to locating him.

13 Q All right. Did you reach out and/or did you go
14 through whatever process you go through to put a BOLO out
15 or a be-on-the-lookout for the vehicle that was described
16 as the vehicle Mr. Molina was in?

17 A Yes, sir. We entered the vehicle into N.C.I.C.

18 Q And what is N.C.I.C.?

19 A It's the National Crime Information Center, which is
20 operated by the F.B.I. for all the data in reference to
21 arrests and vehicle information, is inputted into that.
22 And it could be searched nationwide by any law enforcement
23 agency.

24 Q Okay. And did you do that in regard to both
25 Mr. Molina's person and for this particular vehicle that

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 was identified as his getaway vehicle?

2 A Yes, sir.

3 Q At some point in time did you receive information that
4 the vehicle had been found?

5 A Yes. That was around April the 7th of 2017.

6 Q Okay. And where was the vehicle found?

7 A It was located by the Dallas Police Department at 3619
8 Legendary Drive.

9 Q Okay. And when you say Dallas, would that be Dallas,
10 Texas?

11 A Dallas, Texas, yes.

12 Q Let me show you this document and ask you if you can
13 identify that document.

14 A This is the incident report in reference to locating
15 the car in Dallas, Texas.

16 Q All right.

17 MR. RHODEN: Your Honor, the state would move this
18 document into evidence.

19 MR. BRANNON: No objection.

20 THE COURT: It's admitted.

21 (Incident report from Texas marked State's Exhibit No.
22 23.)

23 Q Let me call your attention to page three of the
24 document that's now been marked as State's Exhibit No. 23.
25 The bottom portion of that document, does that contain

Paul Anthony Norris
Direct examination by Mr. Rhoden

- 1 information about the vehicle itself?
- 2 A Yes, sir. It does.
- 3 Q All right. And does that indicate a tag number?
- 4 A Yes, sir. It does.
- 5 Q And what tag number would that be?
- 6 A It would be P, papa, X, x-ray, W, whiskey, 6954.
- 7 Q All right.
- 8 A Georgia tag.
- 9 Q And was that the tag that you were looking for in
- 10 regard to this case?
- 11 A Yes, sir. It is.
- 12 Q Okay. All right. And does that incident report also
- 13 have registration information about who owned that
- 14 vehicle --
- 15 A It does.
- 16 Q -- or who it was registered to?
- 17 A Who it was registered to at the time, yes, sir.
- 18 Q And does that have a name?
- 19 A It does.
- 20 Q All right. Let's do this. Let's put this up on the
- 21 elmo.
- 22 (Pause.)
- 23 Q Okay. Can you see it okay?
- 24 A Yes, yes, sir.
- 25 Q All right. Does that indicate that it was a Toyota

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 Tundra pickup truck?

2 A Yes, sir.

3 Q Color gold?

4 A Yes, sir.

5 Q And the indication of the registered owner is that

6 a -- looks like Ortis Eneida Marie.

7 A Yes, sir. That's correct.

8 Q With a Georgia tag?

9 A Yes, sir.

10 Q And a Smyrna, Georgia, address.

11 A Yes, sir.

12 Q And was Mr. -- Mr. Molina located at that time?

13 A No, sir. He was not.

14 Q All right. Did you continue actively searching for
15 Mr. Molina?

16 A I talked to Mary several times after this incident in
17 reference to if she had any contact or could give us a
18 location.

19 I know that she had made mention a couple of times
20 about he was contacting the children. And I explained to
21 her I needed to, you know, determine how was he contacting,
22 was it through social media or another cell phone.

23 My understanding was through possible facebook
24 messenger, but I was never able to determine the -- so, you
25 need the information from the facebook profile to obtain a

Paul Anthony Norris
Direct examination by Mr. Rhoden

1 search warrant, and I was unable to determine that profile
2 information.

3 Q All right. And this was after warrants were issued?

4 A Yes, sir.

5 Q And did Mary know warrants were issued?

6 A Yes, sir.

7 Q So, you were actively, the department was actively,
8 trying to find Mr. Molina.

9 A Yes. There for a while -- I can't get the exact time,
10 probably a month or so, and of course things develop. You
11 have other things that take place. So, this sort of pushed
12 to the side.

13 He's entered in N.C.I.C. So, another agency across
14 the country comes in contact with him and he provides the
15 truthful information then and they enter that information
16 into N.C.I.C., then it would show that we had multiple
17 warrants on him at that time.

18 Q Okay. All right. Did you eventually get information
19 about Mr. Molina's whereabouts?

20 A Yes.

21 Q Okay. And what did you do once you obtained that, a
22 possible location for Mr. Molina?

23 A So, once we received the information, we have officers
24 that are on a U.S. Marshal Task Force. So, basically they
25 have jurisdiction throughout the state when they're with

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 the U.S. Marshals, and then they use those contacts to
2 reach out to other places in the country, we are looking
3 for a fugitive.

4 So, once I had the information, I provided that
5 information to Brad Roper who was working with us at the
6 time and was on the U.S. Marshal's Task Force and then had
7 him reach out to the appropriate authorities in that
8 location where he had the information that he may be
9 located at.

10 Q Okay. And was Mr. Molina eventually found?

11 A Yes, sir. He was.

12 Q And where was he found?

13 A Peoria, Illinois.

14 Q All right. And is that where he was after Hinton?

15 A Yes.

16 Q And was the U.S. Marshal Service involved in the
17 apprehension of Mr. Molina?

18 A Yes. They were.

19 Q And after he was apprehended, of course, he was
20 brought back to South Carolina.

21 A Yes, sir. He was.

22 Q All right. Officer Norris, that's all the questions I
23 have for you. Answer any questions Mr. Brannon has.

24 MR. BRANNON: May it please the Court.

25 THE COURT: Mr. Brannon.

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 CROSS-EXAMINATION

2 BY MR. BRANNON

3 Q Investigator Norris, how long have you been with the
4 sheriff's department?

5 A Twenty-three years.

6 Q Okay. And you've been doing violent crimes for years
7 now?

8 A Yes.

9 Q Okay. All right. And you're the lead investigator on
10 this case, is that correct?

11 A That's correct. Yes, sir.

12 Q Okay. So, did you tell that officer that just
13 testified, the forensics guy? Did you tell him to
14 fingerprint the bullet casings?

15 A No, sir.

16 Q But that would have been at your direction, correct?

17 A It would have been, yes. Since I'm lead, it would
18 have been something if I wanted done, I would have made
19 sure he would have done it.

20 Q So, in other words, you didn't want it done.

21 A I just didn't have it done though.

22 Q Okay. All right. That bullet fragment that was dug
23 out of the wall, did you tell him to send it anywhere to
24 have it classified for potential caliber?

25 A No. That would be what I would do. And the reason

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 that it was not done, especially during this point in time
2 in 2016, we didn't send that -- that evidence down to SLED
3 because SLED's not going to analyze it because they don't
4 have a firearm. If I don't have a firearm, I can't compare
5 it. So, they won't do that at that point in time.

6 Q Okay. well, I didn't ask you if you sent it to have
7 it compared to a specific gun. I asked you if you sent it
8 anywhere or directed that other gentleman to send it
9 someplace to determine if you could tell what caliber it
10 was.

11 A No.

12 Q Did you do that?

13 A No. we did not.

14 Q Okay. You didn't do that.

15 Okay. All right. You sought and were awarded or
16 granted a subpoena for a cell phone number that started with
17 the area code 770, correct?

18 A Yes, sir. That's correct.

19 Q Okay. what's Mary's number?

20 A It is (864)221-3540 during the time period.

21 Q Does she still have that phone to date?

22 A I have no idea.

23 Q Did you subpoena her records?

24 A No. I did not.

25 Q why not?

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 A I didn't see the need to at that point in time.

2 Q Well, that 777 number -- 770 number -- forgive me.

3 Whose name is that in?

4 A It's in a MM [sic].

5 Q MM .

6 A Yes.

7 Q Okay. It's not in my client's name, is it?

8 A No, sir. It's not.

9 Q So, you believe that phone number is my client's phone
10 number because Mary told you it was his phone number,
11 right?

12 A Yes, sir.

13 Q Okay. You didn't subpoena Mary's records to confirm
14 it through electronic means, did you?

15 A No, sir. I did not.

16 Q Okay. All right. Who is that phone? Who is that
17 person? Whose name, the name you gave -- MM -- who is
18 that?

19 A MM . That would be -- if I'm not mistaken,
20 that's Mr. Molina's son.

21 Q Well, it would be Mary's son too.

22 A Yes. Right. It would be.

23 Q It's her child's phone, correct?

24 A It's in his name, yes, sir.

25 Q It's in that child's name. Okay. Now, I'm going to

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 show you --

2 MR. RHODEN: May we approach, Your Honor?

3 (Bench conference held off the record in the presence
4 of the jury but out of the hearing of the jury.)

5 Q Let me show you what's been introduced as No. 2. I
6 didn't realize it was already in evidence.

7 A Makes it easy.

8 Q So, I'm going to ask you to look at that page right
9 there. Okay. Then I'm going to go get what's in as No. 4,
10 which is the 9-1-1 CAD. Okay?

11 A Yes, sir.

12 Q All right. The 9-1-1 call comes in at what time?

13 THE COURT: Be careful of the microphone.

14 THE WITNESS: Oh, I'm sorry.

15 A 6:28 -- 6:28 p.m.

16 Q What's the last phone call on that summary?

17 A Six -- that would be 6:15.

18 Q So, it's 14 minutes before the 9-1-1 call, correct?

19 A Yes, sir. It is.

20 Q Who calls who?

21 A It's an out -- incoming call from -- calling number is
22 221-3540. Let me make sure I get this right. Looks like
23 it's an incoming call.

24 Q Calling number?

25 A Yes. Calling number is, yes, (864)221-3540. And it's

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 calling 1-770-718-8613.

2 Q whose number is the 864 number?

3 A That is Mary's.

4 Q And whose number is she calling?

5 A That is what we believe to be Ms. Molina's phone
6 number.

7 Q It's the phone in the son's name?

8 A Yes, sir.

9 Q What's the duration of that phone call?

10 A It's a seven-minute-and-21-second phone call.

11 Q Fourteen minutes before she dials 9-1-1, she dials her
12 son's phone, correct?

13 A She dials the number that her son's name is in, yes,
14 sir.

15 Q And how long does she talk to that person?

16 A Seven minutes and 21 seconds.

17 Q She told you that he'd been calling her all day long
18 bothering and harassing her, didn't she?

19 A Yes.

20 Q The call right before that one, who called it?

21 A It's her -- her number calling back out to him at
22 5:32 p.m.

23 Q What's the duration on that phone call?

24 A Two minutes and 24 seconds.

25 Q The last two phone calls before she dials 9-1-1, she

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 calls her son's phone and tells you that she's calling or
2 that it's my client's phone, is that correct?

3 A Yes. That's correct.

4 Q In that hour she called him and they talked for almost
5 ten minutes, didn't they?

6 A Yes, based on those records.

7 Q They called -- she called somebody and talked for
8 almost ten minutes, right?

9 A Yes.

10 Q That Toyota Tundra vehicle wasn't found until over a
11 year after you went looking for it, is that correct?

12 A Yes, sir. That's correct.

13 Q Was it fingerprinted when it was located?

14 A So, when -- ended up doing a search warrant on it in
15 Texas. Sergeant Letterman and Investigator Walsh went
16 there, and that was sometime after they had located it.
17 And they executed a search warrant as far as I know. I
18 wasn't there present at the time. But I know there was
19 some evidence recovered from the vehicle.

20 Q You don't have any way of linking that vehicle to my
21 client. And when I say linking, meaning you don't -- you
22 can't put him in that vehicle at any time, can you?

23 A No, sir. I cannot.

24 Q Let's go back to No. 4 again. I don't want you to get
25 you into the microphone here if I can help it.

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 All right. Look through here and tell me the first tag
2 number that Mary gave you to put on a BOLO.

3 MR. RHODEN: Your Honor, I'm going to object to the
4 question because he has no way of knowing what Mary gave.
5 He can testify what's on the sheet, that the 9-1-1 person
6 put on there but --

7 THE COURT: Sustained.

8 Q Did you watch the video of Investigator or Deputy
9 Brown's body camera yesterday?

10 A Yes, sir. I did.

11 Q On that video did you see Mary tell what truck she was
12 alleging my client was in?

13 A Yes. It was a Toyota Tundra. Yes, sir.

14 Q Did you see her or hear her say a tag number and who
15 that vehicle belonged to?

16 A She provided a tag and said it belonged to, she
17 thought, was Mr. Molina's sister.

18 Q Okay. Now, would you read the tag number that was
19 first given or listed on that CAD?

20 A It looks like it's right here at 18:31:22. Tag info:
21 State equals South Carolina, tag equals PX 56594.

22 Q Okay. Then there's a change, is that correct?

23 A Let me look for it here.

24 (Pause.)

25 A Yes. Looks like new information was put into CAD at

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 1907, which is 7:07, and that information is, tag
2 information is, PXW 6594.

3 Q And is there a different state?

4 A It says in here she did not give the state, nor did
5 she give me her names. Tag ran, Georgia, comes back to a
6 van.

7 Q Comes back to a van.

8 A Yes, sir.

9 Q Okay. All right. Unfortunately, a person died on
10 that day in that house.

11 A Yes, sir.

12 Q You directed somebody to take, look for, G.S.R. on
13 that person's hands, didn't you?

14 A It's just typical at that point in time. That was
15 just automatic for a lot of stuff, yes. Not necessarily my
16 direction but something that Sean would have done, yes.

17 Q Did you give directions to check the surviving victim
18 for G.S.R.?

19 A Again, that's sort of protocol when it comes to that.
20 The only reason they may not have been able to do that due
21 to the injury. He may have been in surgery at the time.
22 So, they may not at that point in time been able to collect
23 G.S.R. In the course of time, 24 hours or less, there's no
24 need to do G.S.R. because it's going to be -- dissipate off
25 your hands.

Paul Anthony Norris
Cross-examination by Mr. Brannon

1 Q Okay. Did you look at the fingerprint evidence that
2 was collected in this case?

3 A When it was ran, yes. I mean yes. When it came in,
4 yes. And that's typically not something I do with AFIS and
5 stuff like that. We have technicians that do that.

6 Q Right. But there's no fingerprint evidence that puts
7 my client at that house in Duncan, South Carolina, is
8 there?

9 A No, sir.

10 Q Okay. I've shown pictures of that carport door. The
11 exterior carport door opened all the way up so that it was
12 basically hiding that laundry room door, correct?

13 A Yes.

14 Q And Mr. Rhoden wants the jury to believe that people
15 were going in and out of that house all day long after the
16 incident occurred, and they were -- they were. And there
17 were fingerprints taken or attempted to be taken off of
18 that door, right?

19 A Yes, sir.

20 Q Did you find any police department or police officer
21 or sheriff's deputy fingerprints on that door that were
22 lifted and then you could exclude?

23 A No, not to my knowledge, no.

24 Q Did you find any fingerprints for E.M.S. as they went
25 in and touched the door? Did you find any fingerprints

Paul Anthony Norris
Redirect examination by Mr. Rhoden

- 1 there?
- 2 A No, not to my knowledge, no, sir.
- 3 Q Okay. So there's no evidence that anybody touched
- 4 that door, correct?
- 5 A Outside the one print?
- 6 Q Yeah.
- 7 A That -- yes, sir.
- 8 Q Okay.
- 9 MR. BRANNON: One second, Your Honor.
- 10 (Pause.)
- 11 Q That van -- or excuse me -- that truck, that name, who
- 12 is that name?
- 13 A Let me go back and look again. I think it's
- 14 pronounced Eneida Mary Ortis.
- 15 Q Do you know who she is?
- 16 A My understanding, it was Mr. Molina's sister, one of
- 17 his sisters.
- 18 Q One of his sisters.
- 19 A Yes, sir.
- 20 Q Okay. All right. And what color does it say the
- 21 truck is?
- 22 A I want to say gold.
- 23 Q Okay. Gold isn't champagne, is it?
- 24 A All depends on the eye, I think. All depends on
- 25 who -- who looks at it but...

Paul Anthony Norris
Redirect examination by Mr. Rhoden

1 Q Well, would you look at something champagne color and
2 call it gold?

3 A I would actually, yes.

4 Q You would.

5 A I would.

6 Q Okay. All right. Thank you.

7 MR. BRANNON: Nothing further.

8 MR. RHODEN: May it please the Court. A few
9 followups.

10 REDIRECT EXAMINATION

11 BY MR. RHODEN

12 Q Detective Norris, Mr. Brannon asked you a bunch of
13 questions about the CAD sheet there, which is State's
14 Exhibit No. 4. The information that is actually -- I think
15 we covered this earlier, but the information that's
16 actually in that is produced by the 9-1-1 people, is that
17 correct?

18 A Yes. There's a call-taker that is typing this
19 information in, and she's being relayed by whoever is
20 calling in.

21 Then that's on different screens at the CAD, at the
22 9-1-1, where other operators can dispatch. So, that person
23 that's actually typing this in may not be the one that's
24 actually dispatching to the officers, to E.M.S. or fire.

25 Q Okay. All right. And Mary, the lady who called

Paul Anthony Norris
Redirect examination by Mr. Rhoden

- 1 9-1-1, she didn't have any involvement in actually
2 producing this document.
- 3 A No, sir.
- 4 Q That's just the 9-1-1 folks.
- 5 A That's correct.
- 6 Q Trying to get it right?
- 7 A Yes, sir.
- 8 Q Sometimes they do and sometimes they don't.
- 9 A Absolutely.
- 10 Q Mr. Brannon asked you about these records, which is
11 State's Exhibit No. 1, which has on -- it has somewhere in
12 here determined that it was in the name of MM [REDACTED].
- 13 A Yes, sir. That's correct.
- 14 Q I think you said Moralis.
- 15 A I did say Moralis. It's Molina, yes, sir.
- 16 Q Molina.
- 17 A Yes, sir, yes.
- 18 Q And that would have been Mr. Molina's 14-year-old son
19 at the time.
- 20 A Yes. I'm not sure exactly how old he was at the time,
21 but yes.
- 22 Q All right. And that shows an address in Georgia,
23 correct?
- 24 A Yes.
- 25 Q Okay. Now, Mr. Brannon asked you about the pickup

Courtney Reynolds
Direct examination by Mr. Rhoden

1 truck or the Toyota Tundra, the tag number.

2 A Yes, sir.

3 Q About how it was changed in the CAD or what not,
4 correct?

5 A Yes, sir.

6 Q All right. Have you listened to the 9-1-1 call?

7 A I haven't for some time now.

8 Q Okay. And it's in evidence.

9 A Yes, sir.

10 Q And that's Mary calling 9-1-1.

11 A Yes.

12 Q If you play the -- just the very first part, and I'm
13 going to play it. We're going to play that.

14 (Whereupon, the tape was played for the jury.)

15 Q PXW 6954. Is that the correct tag number?

16 A Yes.

17 Q All right. So, Mary actually gave the correct tag
18 number.

19 A Yes, sir.

20 Q All right. 9-1-1 got it wrong.

21 A Based on the CAD report, yes.

22 Q All right. Thank you.

23 MR. RHODEN: That's all the questions I have.

24 THE COURT: You may step down.

25 MR. RHODEN: Your Honor, would you indulge me to check

Courtney Reynolds
Direct examination by Mr. Rhoden

1 on a witness? Can we approach, Your Honor?

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 MR. RHODEN: The state would call Courtney Reynolds.

5 COURTNEY BURGESS, having been
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. RHODEN

8 Q Give us your full name, please.

9 A It's Courtney Burgess.

10 Q And by whom are you employed?

11 A Spartanburg County Sheriff's Office.

12 Q And what is your position at the sheriff's office?

13 A I am a latent fingerprint examiner.

14 Q Okay. And, Ms. Burgess, in regard to the incident
15 that occurred on June the 18th of 2016, were you asked to
16 examine some fingerprints?

17 A I was.

18 Q Okay. And how many?

19 A There were two fingerprint cards submitted. On those
20 cards there were two fingerprints.

21 Q Okay. All right. And were you able to -- were both
22 prints useable?

23 A No. Only one.

24 Q Okay. And what determines if it's useable or not
25 useable?

Courtney Reynolds
Direct examination by Mr. Rhoden

1 A Just the looking at the fingerprint itself. If --
2 number one, if you can see ridge detail, which are the
3 lines that are -- the ridges that are on the fingerprint
4 fingertips, if you can see general flow of the ridges,
5 there's also detail within those ridges. There has to be
6 sufficient amount of detail to be able to make a comparison
7 and a possible identification.

8 Q Okay. All right. So, one of the fingerprints that
9 you were asked to examine was not -- you were not capable
10 of getting any useful information.

11 A Right. We would call that insufficient detail for
12 identification. So, there just wasn't enough there.

13 Q Okay.

14 A You could tell that it was a fingerprint, a partial
15 fingerprint, but there wasn't enough there to be able to
16 identify who it belonged to.

17 Q All right. And then the second -- or let me -- let me
18 back up. Where -- where did these prints come from?

19 A One came from the exterior carport door and the other
20 one came from the exterior carport doorknob.

21 Q Okay. All right. So, both of them come from an
22 exterior area of the carport door.

23 A Yes.

24 Q Okay. Which one was not useable?

25 A The one from the doorknob.

Courtney Reynolds
Cross-examination by Mr. Brannon

- 1 Q The doorknob?
- 2 A Uh-huh, yes, sir.
- 3 Q So, you couldn't tell whose fingerprint that was on
- 4 the doorknob.
- 5 A No.
- 6 Q And the other print came from where?
- 7 A The other print came from the exterior side of the
- 8 door.
- 9 Q All right. Let me show you what's been marked as
- 10 State's Exhibit 21.
- 11 MR. RHODEN: Which, Matt, would be photographs 672.
- 12 Q Let me show you what's been marked as 21, State's
- 13 Exhibit 21. Can you -- is that where the fingerprints came
- 14 from?
- 15 A Yes. On the picture you can see that little white
- 16 square with the letter A on it, and also on the doorknob.
- 17 It's kinda hard to see in the picture, but you can see a
- 18 piece of tape across the doorknob.
- 19 Q Okay. So, just to clarify, the one on the doorknob
- 20 was not useful.
- 21 A Right.
- 22 Q Okay. And the one that you actually got a print from
- 23 was from an upper part of the door.
- 24 A Correct.
- 25 Q And that was not the defendant.

Courtney Reynolds
Redirect examination by Mr. Rhoden
Recross-examination by Mr. Brannon

1 A Correct.

2 Q All right. And do you know who that was?

3 A It was the left palm of Alex Bustillo. I guess that's
4 how you say it. B-U-S-T-I-L-L-O.

5 Q All right. Was he one of the residents of the house?

6 MR. BRANNON: Objection.

7 MR. RHODEN: I'll get to that. I'll withdraw it.

8 I'll get to that later.

9 Q All right. So, the only useful fingerprint you had
10 was that one that came from the -- did it come from the
11 actual door itself?

12 A Yes, on the -- I guess that's a wood door on the --
13 right there on that panel right next to the deadbolt.

14 Q Okay. All right. And any other prints?

15 A No. That -- those were the only prints that I
16 received.

17 Q Okay. All right. Thank you.

18 MR. RHODEN: That's all I have.

19 MR. BRANNON: May it please the Court.

20 CROSS-EXAMINATION

21 BY MR. BRANNON

22 Q Ms. Burgess --

23 A Yes.

24 Q -- let me get this straight. They had you come here
25 today to testify that you found one fingerprint that was

Mary Martin
Direct examination by Mr. Rhoden

1 useable and it wasn't his.

2 A Correct.

3 Q Okay. Have you ever driven from Spartanburg to
4 Anderson?

5 A I don't think so.

6 Q You don't think so. Okay. All right. Can you get
7 fingerprints off of bullet casings?

8 A It's very difficult.

9 Q That's not what I asked you. Can you?

10 A It can be possible, yes.

11 Q Thank you.

12 MR. BRANNON: Nothing further.

13 REDIRECT EXAMINATION

14 BY MR. RHODEN

15 Q In your time as a fingerprint examiner, how rare is it
16 to get a print off of a shell casing?

17 A I can't think of any that I've personally dealt with
18 in the nine years that I've been doing fingerprint
19 examinations and in the nine years prior to that doing
20 crime scene investigations off of fired casings. I -- I
21 can't think of any off the top of my head, no.

22 Q All right. Thank you. That's all.

23 RECROSS-EXAMINATION

24 BY MR. BRANNON

25 Q Wouldn't it be worth looking?

Mary Martin
Direct examination by Mr. Rhoden

1 A It's always worth it.

2 Q Thank you.

3 MR. BRANNON: Nothing further.

4 MR. RHODEN: Ask this witness be excused, Your Honor.

5 MR. BRANNON: No objection.

6 THE COURT: You may step down. You may also be
7 excused. Thank you.

8 (Whereupon, the witness was excused.)

9 MR. RHODEN: State would call Mary Martin.

10 MARY MARTIN, having been first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. RHODEN

13 Q All right. Mary, are you okay?

14 A Yes.

15 Q All right. You're going to have to speak up for me
16 and answer the questions. Okay?

17 THE COURT: Get closer to that microphone.

18 Q All right. Mary, first of all, where do you live?

19 A In Anderson, South Carolina.

20 Q And do you know the defendant Mr. Molina?

21 A Yes.

22 Q And how do you know him?

23 A He is my exhusband.

24 Q How long have you known Mr. Molina?

25 A Twenty-six years.

Mary Martin
Direct examination by Mr. Rhoden

- 1 Q And do you have any children by Mr. Molina?
- 2 A Yes. I have three.
- 3 Q And what are their names?
- 4 A JM ; MM ; TM
- 5 .
- 6 Q Okay. At the time of this incident were the children
- 7 living with you?
- 8 A Yes, sir.
- 9 Q Have the children always lived with you?
- 10 A Yes, sir.
- 11 Q Has there ever been a time in your relationship with
- 12 Mr. Molina that he had the children and you did not?
- 13 A No, sir.
- 14 Q When did you get divorced from Mr. Molina?
- 15 A 2014.
- 16 Q Back on June the 18th of 2016 were the children living
- 17 in your home in Anderson?
- 18 A Yes, sir.
- 19 Q And where was Mr. Molina living at that time?
- 20 A At that time, I want to say Atlanta. He was in
- 21 Chicago for a year, a little over a year, and then he come
- 22 back to Atlanta.
- 23 Q Okay. All right. So, he would have been in the
- 24 Atlanta area?
- 25 A Yes, sir.

Mary Martin
Direct examination by Mr. Rhoden

1 Q At the time of this incident MM would have been
2 14, is that right?

3 A Yes, sir.

4 Q Now, during your relationship with Mr. Molina --
5 or/and you were not in here when we played the body-cam
6 footage, were you?

7 A No, sir.

8 Q But the body-cam footage shows you. You remember
9 being there at the incident scene and talking to the police
10 officers?

11 A Yes, sir.

12 Q All right. There's a portion on the body cam that we
13 played yesterday where you say Mr. Molina doesn't have any
14 papers.

15 A Yes, sir.

16 Q What does that mean?

17 A That he's not legal.

18 Q Did Mr. Molina have a habit during your relationship
19 of putting things in other people's names?

20 A He never put nothing in his name that I know of.

21 Q When you married Mr. Molina did he even use his
22 correct name?

23 A No.

24 Q When did you find out that he used another name to get
25 married to you?

Mary Martin
Direct examination by Mr. Rhoden

- 1 A I knew.
- 2 Q Huh?
- 3 A I knew.
- 4 Q You knew?
- 5 A Yes.
- 6 Q And when, again, were you divorced?
- 7 A 2014.
- 8 Q You were the 9-1-1 caller on June the 18th of 2016, is
- 9 that correct?
- 10 A Yes.
- 11 Q Did you convey to the 9-1-1 operator what had just
- 12 happened?
- 13 A I tried to, yes.
- 14 Q At the time you actually called 9-1-1 was Mr. Molina
- 15 still there in the house?
- 16 A Yes.
- 17 Q Did he see you call 9-1-1?
- 18 A He heard the voice of the 9-1-1 operator and looked at
- 19 me angry and went out the door real fast.
- 20 Q All right. What I want to do now -- and I know it's
- 21 going to be difficult, Mary, but bear with me. I want to
- 22 play the 9-1-1 call for you. Okay.
- 23 (Whereupon, the tape was played for the jury.)
- 24 Q All right. Mary, are you okay?
- 25 A Yeah. I'll be fine.

Mary Martin
Direct examination by Mr. Rhoden

- 1 Q Mary at some -- at a point in the call the -- the --
2 well, let me back up. You called, according to the 9-1-1
3 information that we have, it looks like you made the call
4 at about -- it was June the 18th of 2016. Looks like the
5 call comes in at 6:28:34 -- 6:18 and 34 seconds that
6 afternoon, p.m., correct? Does that sound right?
- 7 A I'm not sure.
- 8 Q okay.
- 9 A I can't say yes or no.
- 10 Q Okay. And this is a call sheet showing it came from
11 your cell phone number, correct?
- 12 A Okay. Yes.
- 13 Q Mary, how long had you been at the house that day?
- 14 A All day.
- 15 Q And who -- who all was at that house that day?
- 16 A That day, even that morning?
- 17 Q well, that afternoon.
- 18 A Okay. That afternoon was just me and my boyfriend at
19 the time and the two -- one guy that lived there. It was
20 an old man. And then somebody come to visit. I don't know
21 his name. It was a young guy. I'm not sure. But there
22 was four people there altogether.
- 23 Q Okay. All right. So, when the 9-1-1 -- when you're
24 telling the 9-1-1 operator about four people, who are we
25 talking about?

Mary Martin
Direct examination by Mr. Rhoden

1 A At first I was talking about me and the -- the person
2 that was shooting, then the two that was laying on the
3 ground.

4 Q Okay. All right. So, you have the two victims,
5 Mr. Molina and you.

6 A Yes.

7 Q And was your boyfriend also there?

8 A At the moment of the shooting, he jumped out the
9 window, so, no, he wasn't there.

10 Q All right. Right before Mr. Molina came to the house,
11 had you been on the phone with Mr. Molina?

12 A Yes, sir.

13 Q All right. And the call records or the summary sheet
14 that I introduced as State's Exhibit No. 2 shows a call
15 that started at 6:15 p.m. between your phone and
16 Mr. Molina's phone. Would that -- and that looks like
17 that's the very last call. Was that a conversation that
18 you had with Mr. Molina?

19 A Yes. We's arguing.

20 Q An argument.

21 A Yes.

22 Q And what were you arguing about?

23 A He wanted me to go home. He said he was on his way to
24 Atlanta, that I needed to be with my kids, that I didn't
25 need to be where I was at, that the kids were down at my

Mary Martin
Direct examination by Mr. Rhoden

1 mom's.

2 Q All right. And, so, he told you he was going to
3 Atlanta.

4 A Yeah. He said he was on his way to Atlanta.

5 Q Did that turn out to be true?

6 A No.

7 Q Pardon?

8 A No.

9 Q That call has a duration of about seven -- it's seven
10 minutes and 21 seconds. It comes in at 6:15 p.m., correct?

11 A I can't see it. 7:20. Yeah. Okay. Yes.

12 Q That's the duration. It comes in at 6:15 on the 18th.

13 A Yes, sir.

14 Q During that phone call did Mr. Molina make any
15 threats?

16 A Yes. On the last one when we was arguing, he told me
17 if I didn't go home he was going to kill everybody in the
18 house.

19 Q He was going to kill everybody in the house.

20 A Yes.

21 Q How long after you hung up with that phone call did
22 somebody come in the house?

23 A Not even two or three minutes maybe.

24 Q All right. And what did you hear or see?

25 A When the person come in the house?

Mary Martin
Direct examination by Mr. Rhoden

1 Q Yes.

2 A All I know is I heard a knock on the door after the
3 phone call, and somebody opened the door. And when the
4 door opened, there was two gunshots.

5 I looked over at my boyfriend. I was like get out of
6 the window, he's here to kill you.

7 He jumps out the window. When he jumps out the
8 window, I hear two more gunshots, and then I go into the
9 living room and I see him coming up through the hallway.

10 Q Okay. Let's stop there. You say him. Who did you
11 see?

12 A Francisco Molina.

13 Q Any doubt in your mind that it was Francisco Molina?

14 A No.

15 Q You saw him coming up the hallway.

16 A Yes.

17 Q Okay. State's Exhibit No. 6. All right. Mary, I'm
18 going to use this diagram. Can you see the diagram okay on
19 the screen?

20 A Yes.

21 Q All right. When you say he came from the hallway, are
22 you speaking about this hallway here?

23 A Yes.

24 Q All right. And this is a house where people sleep.

25 A Yes.

Mary Martin
Direct examination by Mr. Rhoden

1 Q And your boyfriend had his bedroom over here?

2 A Yeah. It was behind the living room door.

3 Q Okay. All right. So, after you heard the gunshot,
4 you opened that door and looked to see what was going on?

5 A Yes.

6 Q And is that when you see Mr. Molina?

7 A Yes.

8 Q Okay. Was he walking toward you down this hallway?

9 A Yes.

10 Q Okay. And what did you see him do next, Mary?

11 A I was yelling at him to stop.

12 Q Did he stop?

13 A No. I was screaming why are you doing this, and they
14 didn't have nothing to do with it. And he'd just been
15 sober, puts the gun to the old man's head and looks at me
16 in my eyes and told me it's all my fault.

17 He pulled the trigger, and then he said something,
18 goes over to the other one that's laying on the ground.
19 He's trying to move. And I -- I just went over the top of
20 them and just shielded him and said please don't do this,
21 he didn't have nothing to do with this. He grabbed me up,
22 threw me up against the wall.

23 Q And you say he threw you against the wall.

24 A Francisco Molina threw me up against the wall and told
25 me he'll take away everything that I ever loved in my life.

Mary Martin
Direct examination by Mr. Rhoden

1 He let me go. He turned around and started picking up
2 bullet shells off the floor. I grabbed the phone to call
3 9-1-1, and that's when he heard it and went out the door.

4 Q All right. I know this is hard, Mary.

5 Did you actually see Mr. Molina shoot one of the
6 victims in the head after he was already on the floor?

7 A Yes.

8 (Pause.)

9 A Yes. I did.

10 Q Okay. And did he move toward -- it was Mr. --
11 Mr. Lopez who survived. Did he move toward Mr. Lopez after
12 he put that second bullet in the head of the -- Mr.
13 Edilberto?

14 A I don't know about the second, but after he did what
15 he did, yes, he went over to the other one. And I just
16 laid over the top of them and begged him please don't do
17 it, because he didn't have nothing to do with it.

18 I didn't even know who he was. And he just grabbed me
19 and threw me up against the wall. Like I said, he told me
20 he was going to take away everything I ever loved.

21 Q And then that's when you -- shortly after that you
22 called 9-1-1.

23 A Yes, sir.

24 Q And Mr. Molina was still present at the house when you
25 called 9-1-1?

Mary Martin
Direct examination by Mr. Rhoden

- 1 A Yes, sir.
- 2 Q All right. He saw you do that.
- 3 A He heard. He heard the lady answering the 9-1-1 call.
- 4 He looked at me angry and went out the door fast.
- 5 Q Did he make any comments about whose fault this was?
- 6 A Only when he -- before he shot the old man.
- 7 Q And what did he say?
- 8 A He told me it was all my fault before he pulled the
- 9 trigger.
- 10 Q All right. And what vehicle did Mr. Molina leave in?
- 11 A Like a champagne four-door Tundra, I think it was.
- 12 Q All right. The -- the records that we have, which
- 13 have been introduced as State's Exhibit No. 23, show a name
- 14 listed as the registered owner. And do you recognize the
- 15 name?
- 16 A Yes. That's his baby sister, his youngest sister.
- 17 Q All right. So, this vehicle -- and is this the tag
- 18 number that you gave 9-1-1?
- 19 A Yes.
- 20 Q Okay. So, this vehicle was registered in Mr. Molina's
- 21 younger sister's name.
- 22 A Yes.
- 23 Q Now, you said a minute ago that he said he was going
- 24 to take away everything, take from you everything, you
- 25 loved in your life. What -- what did you take that to

Mary Martin
Direct examination by Mr. Rhoden

1 mean?

2 MR. BRANNON: Objection. Calls for speculation.

3 A Because of my kids.

4 MR. RHODEN: Present sense impression, Your Honor.

5 THE COURT: Just a minute.

6 A The only thing I ever loved in my life was my kids.

7 THE COURT: Just a minute -- just a minute, ma'am.

8 Overruled.

9 Go ahead.

10 Q What did you take that to mean when he said that?

11 A That he was going to hurt my kids, that he can take
12 their lives --

13 Q Okay.

14 A -- because it was the only thing I ever loved in my
15 life.

16 Q All right. And where were the kids at that time?

17 A He said they was at my mom's.

18 Q Were you concerned about getting police to your house
19 in Anderson?

20 A Yes.

21 Q Were you afraid for your children's safety?

22 A Yes, after what I just saw, yes.

23 Q So, let's now go back. Let's -- we're going to back
24 up in time now to that earlier -- that day -- so we can
25 kind of put everything in perspective.

Mary Martin
Direct examination by Mr. Rhoden

- 1 A Okay.
- 2 Q That day was a Saturday, is that right?
- 3 A I'm not sure. I can't answer that.
- 4 Q Okay. All right. Well, earlier that day, the evening
- 5 before I'm going to say, where were you?
- 6 A At home.
- 7 Q Okay. And was there any communication going on
- 8 between you and Mr. Molina that evening?
- 9 A Yes.
- 10 Q Was he calling you?
- 11 A He was calling me; I was calling him.
- 12 Q All right. Did he come to your house in Anderson?
- 13 A Yes.
- 14 Q Do you remember about what time it would have been?
- 15 A I just know it was nighttime.
- 16 Q Okay. Well, let's look at the call records if we can.
- 17 All right. So, this incident, you called 9-1-1 on June
- 18 the 18th, 2016. The call came in at 6:28. The last two --
- 19 the last call was the call that you just talked about at
- 20 6:15 where you are.
- 21 A Yes.
- 22 Q So, let's back up -- let's back up. Let's begin --
- 23 let's begin on 6/18. Okay. And I'll let you look at
- 24 the -- might be easier for you to just look at the document
- 25 itself, which is State's Exhibit No. 2. Where we start

Mary Martin
Direct examination by Mr. Rhoden

1 here at 6/18 at 5354, that would have been the early
2 morning of June the 18th, correct?

3 A Yes.

4 Q All right. And it shows a series of incoming calls.
5 And, once again, this is Mr. Molina's records. So, that
6 would be calls that you were making to him.

7 A Yes.

8 Q Okay. Very short duration. So, there might not have
9 been any conversation on those calls, correct?

10 A Yes.

11 Q And then as we scroll down we see a series of outgoing
12 calls that began at 1:16 a.m. from Mr. Molina to you. Do
13 you see those?

14 A Yes, sir.

15 Q And it looks like we have several of those. Okay.
16 So, we have Mr. Molina calling your phone number beginning
17 at 1:16 in the morning where it says outgoing call. That'd
18 be from his.

19 One -- looks like one had a seven minute and 35-second
20 duration. And then there's numerous more calls or -- well,
21 it looks like, yeah. That looks like that's the end at
22 6:17, I mean -- excuse me -- 1:17. And then we have more
23 calls going out of Mr. Molina's phone at 3:08, 3:16, 3:16,
24 3:17; 3:18, 3:19. Do you see all of those calls?

25 A Yes.

Mary Martin
Direct examination by Mr. Rhoden

1 Q And that would be him trying to call you, is that
2 correct?

3 A Yes.

4 Q All right. And -- all right. And then we get to
5 3:38 a.m. with it. Looks like a call that he's making to
6 you. Do you see that?

7 A Yes.

8 Q And then we have a gap between 3:38 and 6:20 a.m. Do
9 you see that?

10 A Yes.

11 Q Where there's no calls either way, you going to him or
12 he coming to you, correct?

13 A Yes.

14 Q Did he arrive at your house at some time that morning
15 while it's still night?

16 A To me it would have been nighttime, but yes.

17 Q Okay. Did you know he was coming to your house?

18 A No, because usually he tells me when he comes.

19 Q All right. Did he just show up there?

20 A Yes.

21 Q When he gets to your house do you -- is it a pleasant
22 visit, or what happens?

23 A We just start talking about why we wasn't together,
24 what we could do about fixing it. And it just got where I
25 got aggravated and upset, where I decided I didn't want to

Mary Martin
Direct examination by Mr. Rhoden

- 1 be there.
- 2 Q All right. All right. Were your children home?
- 3 A Yes.
- 4 Q Okay. At some point in time did you make a decision
- 5 to get out of the house?
- 6 A Yes.
- 7 Q Okay. And where did you go?
- 8 A I went to Greer to my boyfriend's house.
- 9 Q All right. Did you take any of your children with
- 10 you?
- 11 A I took my youngest daughter with me.
- 12 Q And that's TM ?
- 13 A TM , yes.
- 14 Q Okay. And, so, you go to your boyfriend's house.
- 15 A Yes.
- 16 Q And your boyfriend lived at East Main Street,
- 17 Duncan?
- 18 A Yes.
- 19 Q Okay. And do you spend the rest of the evening with
- 20 him?
- 21 A Yes.
- 22 Q Later on in that morning is there -- after you get up
- 23 is there more communication or calls from Mr. Molina?
- 24 A Yes.
- 25 Q At some point in time that morning did you have a

Mary Martin
Direct examination by Mr. Rhoden

1 conversation over the phone with Mr. Molina?

2 A Yes. He asked me to bring his daughter to the fishing
3 pond so he can go fishing with her and his boys.

4 Q Okay. And is that TNT Fishing Lake?

5 A Yes, sir.

6 Q And where is that?

7 A I want to say in Belton. I'm not sure.

8 Q Okay. So, is that a fishing lake that the kids had
9 been to before?

10 A They always go there with him every time pretty much
11 when he come down there.

12 Q All right.

13 A Something the kids loved doing.

14 Q Did you take the -- TM was with you. Did you take
15 TM to meet Mr. Molina at the fishing lake?

16 A Yes. I did.

17 Q And were the other kids with him? That would be
18 MM and JM

19 A Yes, sir.

20 Q And did TM stay with him?

21 A Yes.

22 Q Okay. And where did you go?

23 A I went back to Greer.

24 Q Greer?

25 A Or Duncan.

Mary Martin
Direct examination by Mr. Rhoden

- 1 Q Duncan?
- 2 A Yeah. The exit says Greer.
- 3 Q Okay. ■ East Main Street?
- 4 A Yes.
- 5 Q And what did you do the rest of the day --
- 6 A Went to work.
- 7 Q -- before this incident happened?
- 8 A Before that happened, we went to wash clothes and went
- 9 out to eat and then went back to the house.
- 10 Q Okay. All right. So, that afternoon you and your
- 11 boyfriend were just doing things, you know, eating and
- 12 washing clothes and things of that nature.
- 13 A Yes, sir.
- 14 Q All right. And then he eventually comes to the house.
- 15 Looks like you had a phone conversation. Looks like you
- 16 had a phone conversation.
- 17 MR. RHODEN: Last page.
- 18 Q Looks like you had a phone conversation with him about
- 19 5:30.
- 20 A Yes.
- 21 Q All right. Was anything unusual about that phone
- 22 conversation?
- 23 A No.
- 24 Q Was he -- then you have the very last conversation,
- 25 correct?

Mary Martin
Direct examination by Mr. Rhoden

1 A Yes.

2 Q And is that -- is that when the incident happened,
3 shortly after that?

4 A Not even a few minutes afterwards. Yes.

5 Q Okay. During that day with all of these phone calls
6 back and forth between you and him what -- what was he
7 trying to get you to do?

8 A To come home to talk to try to figure out what we was
9 doing, why things were the way they was. And I was just
10 being ignorant.

11 Q All right. And was the last phone call a very heated
12 conversation?

13 A Yes, very.

14 Q And what did he say, again, at that last phone call?
15 what was the threat that he made?

16 A The threat? He told me if I didn't go home that he
17 was going to kill everybody in the house.

18 Q In the house.

19 A In the house.

20 Q All right. So, did Mr. Molina know you had a
21 boyfriend?

22 A Yes.

23 Q Did he like that fact?

24 A No.

25 Q Did he know where?

Mary Martin
Direct examination by Mr. Rhoden

- 1 A He didn't know where.
- 2 Q Didn't know where the boyfriend was?
- 3 A No.
- 4 Q Okay. Well, when you pulled up to the house, you were
- 5 driving a -- a minivan.
- 6 A Yes.
- 7 Q Did Mr. Molina know the vehicle that you drove?
- 8 A Yes.
- 9 MR. RHODEN: Go back to the pictures, the 684.
- 10 Q All right. I am going to show you what's been marked
- 11 as State's Exhibit 17. Is that your minivan?
- 12 A Yes.
- 13 Q Okay. The one that Mr. Molina knew you drove?
- 14 A Yes.
- 15 Q And you're parked right in the, basically, right next
- 16 to the house.
- 17 A Yeah. Beside the garage.
- 18 Q All right. And the road that runs in front of the
- 19 house is the road that comes right off the interstate, is
- 20 that correct?
- 21 A Yes.
- 22 Q And your boyfriend, where did he work?
- 23 A At the Mexican restaurant right on that same road.
- 24 Q All right. Right down the street.
- 25 A Yes.

Mary Martin
Direct examination by Mr. Rhoden

1 Q So, your car is parked basically in broad daylight.

2 A Yes.

3 Q The color of your car in relation to the color of the
4 truck that Mr. Molina was in, are the colors close or
5 different?

6 A Different. The van was gray. His was like a
7 champagne color, close, like a light brownish color.

8 Q Okay. Did you know anyone? You have your boyfriend
9 there at the house.

10 A Yes.

11 Q Did you know any of the other people that lived at the
12 house?

13 A I know Chinom. It was a guy who was staying there.
14 But not much about him.

15 Q Do you know his correct name?

16 A No. I don't.

17 Q Okay.

18 A I really don't. I didn't know none of them's real
19 name. They all used different names.

20 Q Okay. All right. All right. Mary, did the -- did
21 you cooperate with the police that day?

22 A Yes. I did.

23 Q Okay. Did you go down to the police station and
24 answer questions?

25 A Yes. I did.

Mary Martin
Direct examination by Mr. Rhoden

- 1 Q All right. Did you give statements?
- 2 A Yes.
- 3 Q All right. How many statements did you give?
- 4 A I think two.
- 5 Q All right. Was there any information in those
- 6 statements that was not correct?
- 7 A Just only the date on them where I didn't fill the
- 8 date out.
- 9 Q Okay. And was the information that you put in those
- 10 statements correct?
- 11 A Yes.
- 12 Q All right. Did Mr. Molina threaten you that day?
- 13 A Yes.
- 14 Q And what did he say or do to threaten you?
- 15 A Just told me he would take away my kids.
- 16 Q All right.
- 17 A Well, he didn't say kids. Sorry. He said I'll take
- 18 away everything you ever loved in your life.
- 19 Q All right.
- 20 A To me that just meant my kids.
- 21 Q All right. When he was at the house with his gun in
- 22 his hand, did he threaten you?
- 23 A I cannot recall that.
- 24 Q You put -- well, did you put any information in your
- 25 statement about that?

Mary Martin
Direct examination by Mr. Rhoden

- 1 A I did.
- 2 Q And what did you say in your statement?
- 3 A I said he put a gun to my head and pulled the trigger
- 4 but that there wasn't a bullet in the chamber.
- 5 Q All right. was that true or not?
- 6 A To be honest with you, I can't recall.
- 7 Q All right. was this a very traumatic event for you?
- 8 A Yes, it was. It was the worst thing I've ever seen in
- 9 my life.
- 10 Q And you're telling at one point during the body-cam
- 11 video that we played that he was already back in Anderson
- 12 just minutes after this happened. why were you saying
- 13 that?
- 14 A I was on the phone with my father and my son. I was
- 15 trying to inform my father to watch over the kids because
- 16 he was on his way there. And I thought for some reason my
- 17 son said he was there, and I just assumed that he was
- 18 there.
- 19 Q Okay. So, you just thought that in the moment.
- 20 A Yes. I was so stressed and going through all of that
- 21 right there, going through what I went through, I just
- 22 assumed that he was there.
- 23 Q All right. Because when he said he'd take everything
- 24 away from you that you loved in your life, you thought that
- 25 meant the kids.

Mary Martin
Direct examination by Mr. Rhoden

- 1 A Yes. I really did.
- 2 Q Did he wind up at your house?
- 3 A No. He didn't.
- 4 Q You had a hard time with the -- with the address, but
- 5 you finally got it right, correct?
- 6 A Yes, because I didn't know the address at all.
- 7 Q Okay. All right. But you gave the correct tag
- 8 number, didn't you?
- 9 A Yes, because I was reading it as he was pulling outta
- 10 the driveway.
- 11 Q Now, as time goes by are you helping the detectives as
- 12 best you can to try to find Mr. Molina?
- 13 A That night, I did. I did everything possible to try
- 14 to pull up everything I knew on him or where he lived or
- 15 his facebook. Whatever, I could think in my head possible
- 16 anything about him, I was trying to pull it up to -- so
- 17 they could find him as soon as possible.
- 18 Q All right. And meeting with the detectives, did you
- 19 help them? Or let me just ask you this. Can you identify
- 20 these pictures?
- 21 A Yes.
- 22 Q And what --
- 23 A This is the trailer park where he was staying with his
- 24 brother and where I lived with him before in one of the
- 25 trailers.

Mary Martin
Direct examination by Mr. Rhoden

1 Q Okay.

2 MR. RHODEN: Your Honor, we would move, the state
3 would move, to introduce these five photographs.

4 MR. BRANNON: No objection.

5 THE COURT: They're admitted.

6 (Photographs marked State's Exhibits Nos. 24 through
7 28.)

8 Q Okay. So, Mary, I'm showing you what's been marked as
9 State's Exhibits 24 through 28. Were these photographs to
10 try to help the police find Mr. Molina?

11 A Yes. They asked me what was the address where he
12 lived at, and I couldn't pull it up because I didn't know
13 off the bat. But I knew by pulling it up, like off G.P.S.
14 and the pictures, I can point it out.

15 Q Okay. You didn't know the address but you knew how to
16 get there.

17 A Yes.

18 Q And this is one of them here, which is State's Exhibit
19 No. 28, has Sparkles Roller Skating Rink.

20 A That's right behind it.

21 Q So, that was right behind the last address that you
22 knew for Mr. Molina.

23 A Yes.

24 Q And did you at one time while y'all were together
25 actually live at that address?

Mary Martin
Direct examination by Mr. Rhoden

- 1 A In that trailer, yes.
- 2 Q And that would have been in the Atlanta area, is that
- 3 right?
- 4 A Yes.
- 5 Q So, let me ask you. Let me ask you this about
- 6 MM . He was about 14 at the time of this incident.
- 7 A Yes.
- 8 Q And Mr. Molina, you said, had a habit of putting
- 9 accounts in other people's names?
- 10 A Yes.
- 11 Q When you called that phone number that's on the
- 12 summary sheet, that 770 area code number, were you talking
- 13 to Mr. Molina?
- 14 A Yes.
- 15 Q You weren't talking to your son MM .
- 16 A No.
- 17 Q And that was the contact number you used to get
- 18 Mr. Molina.
- 19 A Yes.
- 20 Q Any doubt in your mind that the person on the other
- 21 end of that call was Mr. Molina?
- 22 A No.
- 23 Q Now, eventually the authorities were able to locate
- 24 Mr. Molina in 2020. Do you remember that?
- 25 A Yes.

Mary Martin
Direct examination by Mr. Rhoden

1 Q As the authorities were closing in on Mr. Molina, did
2 you have a phone conversation with him?

3 A Yes.

4 Q And what was -- what were you talking about as the
5 authorities were closing in on him?

6 A He called and my son answered the phone -- JM
7 And he told my son that he loved him and good-bye, that
8 they were outside fixing to come in and arrest him, that he
9 wasn't going out like that.

10 Q Did he say anything to you about having -- about what
11 he had planned to do as the authorities were closing in?

12 A He just said there was guys in the house with guns and
13 that he wasn't going out, he wasn't going to be carried out
14 in handcuffs.

15 Q All right. And what did you do in response to that or
16 say to him in response to that?

17 A I just begged him not to, to remember that he has
18 kids, that at least if he goes to jail he can see his kids.

19 Q All right. And did he tell you he had a weapon?

20 A Yes.

21 Q And did he say anything? Did he have any remorse for
22 what he had done?

23 A He just told me that he was sorry for everything, to
24 please forgive him. And I just kept begging him not to do
25 anything stupid, just reminding him of his kids.

1 Q All right. Just to recap, Mary. When you saw
2 Mr. Molina in the house pulling the trigger standing over
3 Edilberto, is there any doubt in your mind that that was
4 Mr. Molina?

5 A Can you rephrase the question?

6 Q Right. When the person was standing over Edilberto in
7 the house with a gun pointed at his head, who was that?

8 A Francisco Molina.

9 Q Any doubt in your mind about that?

10 A No.

11 Q All right. Thank you, Mary.

12 MR. RHODEN: That's all the questions I have.

13 THE COURT: We're going to break for lunch before we
14 continue.

15 So, I'll ask you to step down, please, from the
16 witness stand.

17 THE WITNESS: Do I go out?

18 THE COURT: Have a seat right there behind Mr. Rhoden.

19 We'll break for lunch. Remember my caution. No
20 discussion, no investigation, no media exposure. Have a
21 good lunch.

22 Please report to your jury room at 2:30 -- 2:30 this
23 afternoon.

24 (The following takes place outside the presence of the
25 jury.)

Mary Martin
Cross-examination by Mr. Brannon

1 THE COURT: Ms. Martin, your examination is not
2 complete because they still have additional questions to
3 ask you.

4 So, you'll need to be back not later than 2:30 this
5 afternoon to continue with that examination.

6 In the meantime during the lunch recess, you can't
7 talk about the case or talk about your testimony because
8 you're still on the witness stand.

9 Okay. And I guess Mr. Rhoden will give you direction
10 about where to come back, but I need you back in here not
11 later than 2:30. Okay. No discussions about your
12 testimony.

13 Court is in recess until 2:30.

14 (Whereupon, a recess was taken.)

15 THE COURT: Any matters to address before the jury is
16 brought in?

17 MR. RHODEN: Nothing from the state, Your Honor.

18 MR. BRANNON: Nothing from the defense, Your Honor.

19 THE COURT: Okay.

20 (The following takes place in the presence of the
21 jury.)

22 THE COURT: Good afternoon.

23 As you know, when we recessed for lunch Mary Martin
24 was a witness on the witness stand. She had just completed
25 the direct examination by the prosecutor. So, we're going

Mary Martin
Cross-examination by Mr. Brannon

1 to continue with her examination, cross-examination, by
2 defense counsel.

3 Ms. Martin, if you will, please come back around.
4 You're still under oath. Take your place on the witness
5 stand.

6 All right. Mr. Brannon.

7 MR. BRANNON: May it please the Court.

8 CROSS-EXAMINATION

9 BY MR. BRANNON

10 Q Ms. Martin --

11 A Yes.

12 Q -- I'm not intending to keep you very long.

13 A Okay.

14 Q How many statements did you write for law enforcement
15 in this matter?

16 A Statement would be two.

17 Q So, and understand I just get copies. So, do you
18 recognize that as a copy of one of those statements?

19 A Yes.

20 Q And do you recognize this as a longer one but yet a
21 second statement?

22 A Yes. This was done the same day.

23 Q Right. But it's two separate statements. You agree
24 with that?

25 A I thought it would be one, but yes.

Mary Martin
Cross-examination by Mr. Brannon

1 Q Well, I mean, you signed it here and then you signed
2 it again. You signed a second one, right?

3 A Okay. So, that's two statements.

4 Q Okay. Now, and then everybody in the courtroom has
5 seen Officer Brown's body-cam video of you speaking. And
6 you were on the telephone and very excited and -- and
7 distraught the way of this incident.

8 So -- so, basically, the jury has seen one statement,
9 and there are two other written statements, right?

10 A Yes.

11 Q Okay. All right. Ma'am, do you have any idea why on
12 June the 18th of 2016 when you were talking to Deputy Brown
13 and those other officers that you didn't say at that point
14 that you laid over a victim to protect him? Do you know
15 why that slipped your mind?

16 A They didn't ask.

17 Q Do you know why you didn't put it in either of these
18 written statements?

19 A Because I was just putting what was important, that I
20 thought at that time was important.

21 Q Okay. All right.

22 A Because if you notice this one is shorter than this
23 one.

24 Q I do notice that. I understand that. And, ma'am, I
25 can't imagine being in your position. So, I understand.

Mary Martin
Cross-examination by Mr. Brannon

- 1 But would you agree with me -- in fact, why don't you go
2 ahead and look and make sure that you didn't write that in.
3 A I didn't write that in there.
4 Q You didn't. Okay.
5 A No. I had done wrote it.
6 Q All right. How did you -- how did you cover that
7 person, ma'am?
8 A Over his head when he was laying there because he was
9 laid back like this.
10 Q Okay. And -- and were you on your knees or --
11 A Yes. I was on my knees.
12 Q You were. How far away from his body were you? Were
13 you touching him?
14 A I was over his head, like, where shoulders and face
15 was. I wasn't even near the --
16 Q Okay. And, ma'am, did you change your shirt from when
17 you covered the man until you were outside in the driveway
18 when Deputy Brown was -- was talking with you?
19 A No.
20 Q Okay. Did they ever check your hands for blood or
21 anything like that?
22 A I had blood on my hands.
23 Q Did they, did law enforcement or anybody, wipe it off
24 of your hands --
25 A No. Nothing like that.

Mary Martin
Cross-examination by Mr. Brannon

1 Q -- or anything like that?

2 A No. They didn't really look at my hands.

3 Q Okay. Ma'am, if you laid on the ground, could you
4 show this jury how you covered that man?

5 A Sure.

6 (Whereupon, the witness left the stand.)

7 A Like this right here.

8 Q Thank you, ma'am.

9 (Whereupon, the witness returned to the stand.)

10 Q Ms. Martin, you testified earlier that you lived in
11 Georgia. I'm not going to put a city there. But you lived
12 in Georgia --

13 A Yes.

14 Q -- with Francisco, is that right?

15 A Yes.

16 Q And then you lived in that trailer.

17 A Yes.

18 Q What city is that in?

19 A Smyrna, Marietta.

20 Q Okay. All right. But you lived there but you didn't
21 know the address?

22 A No. It's been a long time since I lived there.

23 Q And how long? How long ago?

24 A I believe about maybe a year and a half or two.

25 Q Year and a half or two.

Mary Martin
Cross-examination by Mr. Brannon

1 A Uh-huh.

2 Q From what date? I'm sorry.

3 A Let's see. I don't -- I can't even say that because
4 it was probably around 2010 maybe.

5 Q Okay. All right. So, did you live in Georgia with --
6 with my client after you divorced him?

7 A No.

8 Q Okay. All right. So, it was more than two years ago,
9 right?

10 A Yes, yes.

11 Q Okay. Okay. I got you. You told police the day of
12 this incident that the shooter pointed the gun at you,
13 pulled the trigger but he didn't have any bullets, right?

14 A That's what the statement says, yes. But I don't
15 remember that now.

16 Q It's not true, is it?

17 A Like I said, I don't remember that.

18 Q When did you tell law enforcement that you didn't
19 remember it or that it wasn't true?

20 A I think four years ago. They called me to Spartanburg
21 County and asked me to come in for questioning.

22 Q Uh-huh.

23 A That they arrested, they had a suspect in there, and
24 they showed me pictures and they asked me to go over my
25 statement. And then they asked me was any of it not true.

Mary Martin
Cross-examination by Mr. Brannon

1 And I said, well, I'm not sure but I'm -- I don't remember
2 this happening.

3 I don't remember him putting the gun to my head. I
4 don't remember him pulling the trigger and there wasn't
5 nothing in it.

6 I just know I had a knot on the side of my head and my
7 eye was black, but I was not sure what that come from or
8 how that even got there.

9 Q Okay. So, you can't tell these people that --

10 A No. I can't.

11 Q -- the person with the gun pointed it at you, can you?

12 A I honestly can't tell you that.

13 Q You can't tell them that he put hands on you, can you?

14 A I can tell you that he grabbed me and put me up
15 against the wall, but that's all I can tell you.

16 Q Which wall did he put you up against?

17 A As you walk in the -- I'm sorry -- as you walk in the
18 front door, there's a wall right -- right --

19 Q Mary, let me stop you.

20 Are you talking about the front door or the door in the
21 carport?

22 A The -- the carport.

23 Q The carport door. Okay. I just wanted to clarify
24 which door we're talking about.

25 A Yeah. It goes into the living room.

Mary Martin
Cross-examination by Mr. Brannon

1 Q Uh-huh.

2 A That wall right there as you go through the door.

3 Q So, up against the wall that was the divider between
4 the living room and your boyfriend's bedroom then, right?

5 A Yes, right there.

6 Q It was that wall. Okay. All right. You didn't tell
7 police that day that he put you up against the wall though,
8 did you?

9 A No. It's not in the statement.

10 Q Okay. All right.

11 A I don't think.

12 Q Did you know that my client got charged with a crime
13 for your saying that he pointed a gun at you and pulled the
14 trigger?

15 A Yeah. They told me that. And I told them that I
16 wasn't sure if he did that or not.

17 Q Okay. You said that during that seven-and-a-half-
18 minute phone call that you were talking, and you were
19 talking about you coming home. And then you surprised me.
20 You said that you were just being ignorant.

21 A Yes, because I wanted to hurt him. I wanted him
22 angry. I wanted him mad because he's hurt me all of them
23 years. I was just there out of spite. I shouldn't have
24 been there. I should have been at home.

25 Q You wanted to hurt my client.

Mary Martin
Cross-examination by Mr. Brannon

- 1 A Yeah.
- 2 Q Okay. Who is Usenia?
- 3 A It's his wife now.
- 4 Q How many children does my client have with Usenia?
- 5 A Three that I know of.
- 6 Q How old is the oldest one?
- 7 A I can't tell you because I'm not sure.
- 8 Q Okay. Is that oldest one more than five years old?
- 9 A I think four maybe.
- 10 Q Okay. Ma'am, he had moved on, hadn't he?
- 11 A I guess he has. When he come back from Chicago he
- 12 told me he was with somebody else.
- 13 Q Okay. He wasn't mad at you, was he?
- 14 A No, he wasn't mad at me.
- 15 Q Ma'am, you said that my client had never been to the
- 16 house at [REDACTED] East Main Street, Duncan, South Carolina,
- 17 right?
- 18 A Not prior to the incident, no.
- 19 Q Did you tell him where you were?
- 20 A I've never told him where I was.
- 21 Q Did you believe that he was searching for a gold
- 22 minivan?
- 23 A I don't know if he was searching for a gold one.
- 24 Mine's gray. So, I don't know.
- 25 Q I mean, do you believe that he was search for a

Mary Martin
Cross-examination by Mr. Brannon

- 1 minivan that he would know you were driving?
- 2 A Maybe, yes.
- 3 Q Did you tell him -- if we believe your story in full,
- 4 did you tell him when you dropped your daughter off at the
- 5 fishing lake where you were going?
- 6 A Yeah. I told him I was going back to Greer.
- 7 Q Okay. So, you told him you were going to Greer. But
- 8 you didn't give him an address.
- 9 A No.
- 10 Q Ma'am, do you believe he had G.P.S. on your phone so
- 11 that he could track you?
- 12 A No. He hadn't done anything like that.
- 13 Q So, he just got lucky and found [REDACTED] East Main Street
- 14 in Duncan, South Carolina, and your van?
- 15 A Yes. Because it's right off the exit. Right after
- 16 you top the exit, it's right there off the exit. And my
- 17 van was parked in the very front yard where anybody in the
- 18 world could see it.
- 19 Q Okay. But you told him you were going to Greer.
- 20 A Duncan and Greer is the same thing. The exit is
- 21 Greer.
- 22 Q Ma'am, do you believe that the mayor of Greer and the
- 23 mayor of Duncan would you tell that it's the same thing?
- 24 A Sir, I'm not sure. I'm not from here. I'm from
- 25 Anderson.

Mary Martin
Redirect examination by Mr. Rhoden

- 1 Q So, you didn't tell my client --
- 2 A I just know the sign is there.
- 3 Q You didn't tell my client where you were, right?
- 4 A No.
- 5 Q And he was able to find you.
- 6 A Yes.
- 7 Q But he wasn't mad at you, was he?
- 8 A No.
- 9 MR. BRANNON: One second, Your Honor.
- 10 (Pause.)
- 11 Q You testified that you were in the bedroom with your
- 12 boyfriend, correct?
- 13 A Yes.
- 14 Q The door was closed, correct?
- 15 A Yes.
- 16 Q You heard a knock at the door.
- 17 A Yes.
- 18 Q And then gunshots.
- 19 A I heard two gunshots, yes.
- 20 Q You then tell your boyfriend to jump out the window.
- 21 A Yes.
- 22 Q And then you ran towards the bullets, is that right?
- 23 A No. I stood there and heard two more gunshots, and
- 24 then I went out because I knew it was him.
- 25 Q Got you. Thank you.

Mary Martin
Recross-examination by Mr. Brannon

1 MR. BRANNON: No further questions.

2 MR. RHODEN: Just a couple of followups, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. RHODEN

5 Q Mary --

6 A Yes.

7 Q -- didn't you tell the police that day when you were
8 right outside the house while the officers were still there
9 and the body cam was still running that Mr. Molina had been
10 stalking you?

11 A Yes. The week prior to that he would pop up and sit
12 at the end of the driveway, leave flowers in my car while I
13 was in a store. Come back out and there's flowers in my
14 car. Stuff like that, yes.

15 Q All right. Because they asked you how he knew you
16 were there, and you said he's been stalking you, correct?

17 A Yes.

18 Q You told your boyfriend to jump out the window.

19 A Yes.

20 Q Mr. Brannon asked you about that. That was right --

21 A After the second gunshots.

22 Q Right. But you'd had the conversation with Mr. Molina
23 just a few minutes before that where he said he was going
24 to kill everybody in the house.

25 A Okay. My boyfriend was sitting at the kitchen table

Mary Martin
Recross-examination by Mr. Brannon

1 with two other guys. I was in the bedroom. He called me.
2 After I got off the phone with him, I stepped out and told
3 him to come to the room so I can tell him what my exhusband
4 said.

5 As soon as we shut the bedroom door, we heard door --
6 somebody knock on the front door. I heard two gunshots,
7 and I just looked at him and told him to jump out the
8 window because he was there to kill him.

9 Q Okay. Thank you.

10 MR. RHODEN: That's all I've got.

11 RECROSS-EXAMINATION

12 BY MR. BRANNON

13 Q When my client was giving you those flowers, did you
14 ever see him put them in the car?

15 A No.

16 Q What was he driving?

17 A His truck.

18 Q Was that a black Frontier, Nissan Frontier?

19 A No.

20 Q Okay. All right. Did you see him put those flowers
21 in your car or wherever you left them?

22 A No. But he asked me did I get the flowers outta the
23 front seat. So, I knew it was him.

24 Q Okay. That was all in Anderson County, wasn't it?

25 A Yes. It was.

Dr. Christopher Chittum
Direct examination by Mr. Rhoden

1 Q Did he ever give you flowers in Spartanburg County?

2 A No.

3 Q Did he ever give you flowers in Greenville County?

4 A No.

5 Q Did he ever give you flowers in Greer?

6 A No.

7 Q Did he ever give you flowers in Duncan?

8 A No.

9 Q Did you ever go to the restaurant where your boyfriend
10 worked?

11 A Yes.

12 Q Did you ever see my client at that restaurant?

13 A No.

14 MR. BRANNON: Nothing further.

15 MR. RHODEN: That's all from this witness.

16 THE COURT: Thank you. You may step down.

17 MR. RHODEN: We ask that she be excused.

18 MR. BRANNON: No objection.

19 THE COURT: She may be.

20 (Whereupon, the witness was excused.)

21 MR. RHODEN: May we approach, Your Honor?

22 THE COURT: Yes.

23 (Bench conference held off the record in the presence
24 of the jury but out of the hearing of the jury.)

25 MR. RHODEN: Your Honor, my next witness is here.

Dr. Christopher Chittum
Direct examination by Mr. Rhoden

1 Call Dr. Christopher Chittum.

2 DR. CHRISTOPHER CHITTUM,
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. RHODEN

5 MR. RHODEN: May it please the Court.

6 THE COURT: Sure.

7 Q State your full name, please.

8 A Christopher Chittum.

9 Q All right. And your profession?

10 A I'm a neurosurgeon.

11 Q All right. Could you give us a little bit of your
12 educational background?

13 MR. BRANNON: Your Honor, defense would stipulate that
14 Dr. Chittum is a gifted surgeon and would be admissible as
15 an expert in any type of medical practice that the state
16 intends to introduce him as.

17 THE COURT: All right. What are you offering him as
18 an expert in?

19 MR. RHODEN: Offering as a treating physician.

20 THE COURT: No objection. You may continue.

21 Q All right. Dr. Chittum, back in June of --

22 THE COURT: You can ask about his background if you
23 want to, but you don't have to.

24 MR. RHODEN: No. I'll accept the stipulation.

25 Q Are you a practicing physician here in Spartanburg

Dr. Christopher Chittum
Direct examination by Mr. Rhoden

1 County?

2 A Yes.

3 Q And what's the bulk of your practice? What type of
4 specialty? What do you do?

5 A So, neurosurgery deals with disorders of the brain and
6 spine.

7 Q All right. And do you also perform surgery?

8 A Yes.

9 Q Do you -- are you affiliated with any particular
10 hospital here in town?

11 A I retain privileges at Mary Black Hospital,
12 Spartanburg Regional, Pelham Hospital and the Spartanburg
13 Surgery Center.

14 Q All right. Back in June, specifically June 18th of
15 2016, did Edgar Lopez become a patient of yours?

16 A Yes.

17 Q And can you tell this jury how he -- how you came to
18 have him as a patient?

19 A So, we take call for emergencies. And when an
20 emergency comes in the emergency room, they call us for
21 specific instances. In this particular case, I was called
22 to see him.

23 Q Right. And did you assess Mr. Lopez's injuries?

24 A Yes.

25 Q And what type of injuries did Mr. Lopez have?

Dr. Christopher Chittum
Direct examination by Mr. Rhoden

1 A So, upon examining the patient, it was very evident
2 that he had been shot in the head.

3 Q Did his injuries or -- well, let me back up. Were his
4 injuries life threatening?

5 A Yes.

6 Q All right. Did his injuries require him to be
7 operated on?

8 A Yes.

9 Q All right. And did you, in fact, perform that
10 surgery?

11 A Yes.

12 Q Can you tell the jury just briefly what that surgery
13 entails?

14 A So, in this kind of situation the most important thing
15 is to stop any type of active bleeding and to control any
16 sources of extrinsic infection, to be an open wound.

17 So, we took him to the operating room, opened up the
18 skull, removed bone fragments that had been pushed into the
19 brain itself.

20 I did retrieve a piece of foreign body, which I'm not
21 a gun person. But even I could tell it wasn't the bullet
22 itself but it's what we call a jacket or the shell portion
23 of a bullet, was still present. And I passed that off as a
24 specimen.

25 Once we do all of that and stop the bleeding, then the

Dr. Christopher Chittum
Direct examination by Mr. Rhoden

1 plan is to close it so that it could heal as best it's
2 going to. And that's what we did.

3 Q All right. Let me -- let me show you some pictures.
4 I say pictures. That might not be the proper term. But
5 can you identify those?

6 A So, these are actually images of a C.T. scan of the
7 brain that was performed. Date here is listed June 18th of
8 2016, on a patient Edgar Cojon-Lopez.

9 This demonstrates foreign bodies or bone material into
10 the brain itself and the entry site of it.

11 Q All right. Thank you.

12 MR. RHODEN: State would move to introduce these
13 three.

14 MR. BRANNON: No objection.

15 (Photographs marked State's Exhibits Nos. 29, 30 and
16 31).

17 Q All right. Dr. Chittum, I'm going to show you what's
18 been marked as State's Exhibit No. 31. Is that the
19 photograph that's showing on the screen?

20 A Yes.

21 Q And is that a scan of Mr. Lopez's brain?

22 A Yes.

23 Q The area that's just left of midline, the white area,
24 what is that?

25 A So, when you look at a C.T. scan you have to imagine

Dr. Christopher Chittum
Cross-examination by Mr. Brannon

1 yourself at the patient's foot looking forward.

2 So, the left side of the screen as we stare at it is
3 actually the right side of the head. The left side is on
4 our right.

5 That is bone fragments that have been pushed into the
6 brain itself by the force of a gunshot.

7 Q All right. And these next photographs -- let me show
8 you what's been marked as State's Exhibit No. 29. Does
9 that appear to be that photograph that's on the screen?

10 A Yes.

11 Q Okay. And, once again, is that just a later or do
12 they -- when they do the scan, does it take multiple images
13 at the same time, or how does that work?

14 A So, they're actually slices. So, this may be one
15 centimeter above or below the previous one we looked at.
16 Not sure how they're stacking on this picture here. It's
17 not telling me the image number. Actually, it is. Okay.
18 So, the previous one was a lower image. This is slightly
19 higher.

20 Q All right. And the white area, once again, is that
21 the same fragments that were --

22 A Correct.

23 Q All right. And, finally, the last one. Show you
24 what's -- all right. That's all right. I'm just going to
25 do those two.

1 All right. Dr. Chittum, the surgery that you performed
2 on Mr. Lopez, you performed that on the -- did you do that
3 on the 18th, actually that day?

4 A I'd have to check the op note to see what the exact
5 date was in time.

6 Q But sometime shortly after he was brought in.

7 A Yes.

8 Q All right. Was this operation successful?

9 A I believe so.

10 Q And Mr. Lopez was able to survive?

11 A Yes.

12 Q All right. Once again, were these very catastrophic
13 injuries to his brain?

14 A Untreated, yes.

15 Q And untreated, would he likely have died?

16 A Yes.

17 Q All right. Dr. Chittum, that's all the questions I
18 have. Answer any questions Mr. Brannon may have.

19 MR. BRANNON: May it please the Court.

20 CROSS-EXAMINATION

21 BY MR. BRANNON

22 Q Dr. Chittum, you don't know who pulled the trigger
23 that caused those bone fragments and that projectile to
24 enter that gentleman's brain, do you?

25 A No.

Dr. John David Wren
Direct examination by Mr. Rhoden

1 Q Merry Christmas.

2 THE COURT: Thank you. You may step down.

3 MR. RHODEN: Ask Dr. Chittum be excused.

4 THE COURT: He may be.

5 THE WITNESS: Thank you.

6 (Whereupon, the witness was excused.)

7 MR. RHODEN: Once again, may I check to see if my next
8 witness is here yet?.

9 (Pause.)

10 MR. RHODEN: May we approach, Your Honor?

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 THE COURT: Another witness is coming but is not quite
14 here yet.

15 So, I'll ask you to please go to your jury room.
16 Don't talk about the case. I'll bring you back as soon as
17 the witness arrives.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: All right. We'll be at ease while we wait
21 for the witness.

22 (Whereupon, a recess was taken.)

23 THE COURT: Are we ready for the jury?

24 MR. RHODEN: Yes, sir.

25 THE COURT: Bring them in.

Dr. John David Wren
Direct examination by Mr. Rhoden

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: All right. The jury is present. You may
4 proceed.

5 MR. RHODEN: May it please the Court. The state would
6 call Dr. David Wren.

7 DR. JOHN DAVID WREN, having
8 been first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. RHODEN

10 Q would you give us your full name, please?

11 A John David Wren.

12 Q And, Dr. Wren, what is your profession?

13 A I'm a medical doctor with a specialty in pathology.

14 Q All right. And can you give us the benefit of your
15 training and background?

16 MR. BRANNON: Your Honor, the defense would stipulate
17 that Dr. Wren has been admitted as an expert in pathology
18 hundreds of thousands of times. He's abundantly qualified,
19 and I would stipulate to his admissibility as an expert.

20 THE COURT: Are you satisfied with that?

21 MR. RHODEN: We'll accept the stipulation.

22 THE COURT: All right. He is so qualified, having
23 been previously qualified many times before.

24 Q Dr. Wren, what was your involvement in this particular
25 matter that you're here on today?

Dr. John David Wren
Direct examination by Mr. Rhoden

1 A I was doing forensic autopsies for Spartanburg County
2 until -- from the time I got here October the 18th, 1982,
3 until I stopped doing those on May the 13th, 19 -- I'm
4 sorry -- 2019. And the reason I'm here today is I did an
5 autopsy in 2016 on June the 19th on Edilberto
6 Flores-Palacio.

7 Q All right. And the purpose of performing an autopsy
8 is basically to determine what?

9 A The manner of death. Cause of death can be a
10 questionable decision when you -- where one takes in
11 account all of the history that they can get and
12 extenuating circumstances around that and decide what the
13 manner of death is, whether it's one of six things. It can
14 be natural, homicide, accidental. I haven't recalled these
15 in a while. Natural, homicide, suicide, accidental and
16 then undetermined. And then there's another one. Sudden
17 unexplained death in children and in adults.

18 Q Dr. Wren, did you actually perform an autopsy on
19 Edilberto Flores-Palacio on June the 19th of 2016?

20 A Yes, sir. A complete autopsy.

21 Q All right. And can you tell this jury briefly your
22 findings from the autopsy?

23 A Briefly, he had two immediate or one immediate cause
24 of death and one that's almost immediate cause of death
25 caused by -- one was a through-and-through gunshot wound

Dr. John David Wren
Direct examination by Mr. Rhoden

1 that entered in his right side of his head and came out the
2 left. We did not recover that bullet from the body.

3 The other one went in behind his left ear and went
4 down and hit the front of his cervical spine, did not
5 penetrate the spine, and then went into the chest cavity
6 through and through the right lung, hit the right lateral,
7 I mean, the lateral right rib and came to rest in the flank
8 area where I recovered a bullet from that area.

9 Then he had two minor abrasions that I'd have to look
10 up, but he did have two small injuries.

11 One was a subcutaneous hemorrhage in the midline
12 interior to the right armpit. That was associated with a
13 gunshot wound. And his left arm had a superficial abrasion
14 along the lateral elbow. Only measured an inch -- 1.1
15 inches by 0.65 inches, and some injury. No other external
16 injuries.

17 Q So, he had two gunshot wounds.

18 A He had -- there were two gunshot -- there were three
19 gunshot wounds. One was a through and through. You count
20 each individual entrance or exit as a gunshot wound.
21 That's mainly to keep track of how many shots might have
22 been fired and hit the body.

23 If you -- if you do a complete body x-ray and you
24 don't -- and you have no bullets but three wounds, you've
25 got to go back and find something, because you can't have

Dr. John David Wren
Direct examination by Mr. Rhoden

1 three wounds unless some of them go in and out. They can
2 do that. But it's mainly to keep track of how many
3 gunshots you might have had. So, there were at least two
4 gunshots fired at him.

5 Q All right. And did I hear you correctly that one
6 gunshot entered from the right side and one entered from
7 the left side?

8 A Yes, sir. And one was going almost straight through
9 the head. Since the head can move in 360 degrees, you
10 can't tell exactly how the head was positioned, in other
11 words, whether the gunshot wound went in and out at about
12 the same height in the -- height in the body and just about
13 the same plane. Coronal plane is the plane that you draw
14 straight down from the head down through the body.

15 That one was almost through -- it was straight through
16 and through, but if his head had been turned this way and a
17 person were over here, since bullets usually travel in
18 straight lines unless they hit something, it means if the
19 person were up higher he could have had his head like this,
20 or if he was lower he could have his head like that. You
21 can't tell how the person was positioned. You can just
22 tell where the gunshot came from.

23 The other one went in almost like a -- it had an oval
24 shape to the wound and it went downwards and -- and went on
25 down slightly forward and came to rest after hitting his

Dr. John David Wren
Direct examination by Mr. Rhoden

1 rib and hitting the spinal -- the spine internally. And I
2 got that bullet out. It was a copper-jacketed lead bullet
3 if I recall correctly.

4 I did describe it. I said in the right flank, which
5 is the side, interior to the mid axillary line. Now, the
6 axillary -- axilla is the armpit in layman's term, and you
7 can divide it whether it's creases in the arm going to the
8 chest wall. That would be anterior. In the middle would
9 be mid axilla, and posterior axilla, axillary line would
10 have been the three landmarks. And it was in the mid
11 axillary line.

12 It was a copper-jacketed lead bullet. And it measured
13 .27 by .41 inches in the maximum dimensions and had a
14 distorted base up to -- it was up to .63 inches in length.
15 And I labeled that bullet Arabic No. 7, the Greek letter
16 Delta and forwarded it to Officer Michael Sean Nix of the
17 Spartanburg County Police Department.

18 That was the one that went in behind his left ear and
19 traveled slightly forward, hit his spine and then went on,
20 went through his -- top of his right third rib on the right
21 and came to rest in the soft tissues of his -- between the
22 ribs and the skin.

23 Q The -- the angle of that bullet, does that tell you
24 anything about where the shooter may have been when the gun
25 was fired?

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 A Well, you can draw an imaginary line. If he was
2 standing -- if he was straight, the shooter would have had
3 to have been up to his left.

4 Now, if he were ducking -- the person, he could have
5 been trying to duck, and it could have come in the same
6 way. But, nevertheless, it did go rather straight.

7 So, I would suspect that's probably the first one.
8 And he probably fell to his left side, because he had that
9 abrasion on his lateral arm when he fell.

10 And the other one was straight through and through.
11 Now, his head could have been any -- it could have -- it
12 came from the other side of him though, on his left side.

13 Q Could that have been after he was -- had fallen from
14 the first bullet?

15 A Probably, yes. The first one was not immediately
16 fatal, although he bled a good bit. He had about
17 three hundred -- 275 ccs of blood in his right pleural
18 cavity around the lung itself. And he lost some blood from
19 the other wounds. But the immediate fatal wound was one
20 that went through and through his head because it cut the
21 brain stem off from the cerebrum, and nobody survives that.

22 Q Right. And, so, what was your ultimate determination
23 as to the cause of death for Mr. Edilberto?

24 A I assigned his cause of death as -- I just decided --
25 I said it was a result of a gunshot wound to the head.

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 The other one could have been contributory towards it,
2 but he could have died from the other one, depending on the
3 circumstances, whether he was resuscitated. He could have
4 survived that one.

5 Q All right.

6 A The one that went in the left side and went down
7 through his lung.

8 Q All right. Thank you, Dr. Wren. Answer any questions
9 that Mr. Brannon may have.

10 MR. BRANNON: I don't have any questions, Your Honor.

11 THE COURT: Thank you. You may step down.

12 MR. RHODEN: Ask that Dr. Wren be excused.

13 THE COURT: He may be.

14 (Whereupon, the witness was excused.)

15 MR. RHODEN: The state would call Edgar Lopez --
16 Cojon-Lopez.

17 EDGAR RUBEN COJON-LOPEZ,
18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. RHODEN

20 Q Could you give us your full name, please?

21 THE INTERPRETER: Edgar Ruben Cojon-Lopez.

22 Q And, Mr. Lopez, how old are you?

23 THE INTERPRETER: I'm 29 years old.

24 Q All right. And, Mr. Lopez, did you at one time live
25 at ■ East Main Street, Duncan, South Carolina?

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 THE INTERPRETER: Yes.

2 Q And, Mr. Lopez, when you lived at that address did you
3 work anywhere?

4 THE INTERPRETER: Yes. I worked at the restaurant
5 that was nearby.

6 Q All right. And is that the Mexican restaurant down by
7 the -- close to the interstate?

8 THE INTERPRETER: Yes, yes. I think so.

9 Q All right. Did other people also live at that address
10 at [REDACTED] East Main Street?

11 THE INTERPRETER: Yes. Four of us used to live there
12 at that address.

13 Q And I'm going back to June of 2016. That's the
14 timeline I'm talking about. So, who was living at that
15 residence back in June of 2016?

16 THE INTERPRETER: Alex was -- it was Edilberto,
17 Edwardo, Alex Bustillo and myself.

18 Q All right. And were all of you working at the
19 restaurant?

20 THE INTERPRETER: Yes.

21 Q All right. And was Edilberto the gentleman who was
22 killed at that residence?

23 THE INTERPRETER: Yes.

24 Q And you also mentioned an Alex Rosolis [sic]. Was he
25 home at the time this incident occurred?

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 THE INTERPRETER: No. He was at work.

2 Q All right. Was Edwardo Antero home at the time of
3 this incident?

4 THE INTERPRETER: Yes.

5 Q All right. And did you -- did you see Mary Martin
6 testify earlier today?

7 THE WITNESS: No.

8 THE INTERPRETER: No.

9 Q All right. Well, do you -- was Ed -- Edwardo Mary's
10 boyfriend at that time?

11 THE INTERPRETER: I don't know. I saw him when he
12 entered the residence, but I don't know if they were
13 boyfriend or girlfriend.

14 Q All right. I want to take you back to June the
15 18th of 2016. That afternoon what -- were you home at that
16 residence?

17 THE INTERPRETER: Well, yes. That -- okay. That
18 afternoon I was home. I was in the dining room. We were
19 sitting at the table -- Edilberto and I. We were drinking
20 and eating and when a man came in at 2:00 in the afternoon
21 to fight, in the afternoon.

22 Q All right. Sometime that -- that afternoon? Is that
23 what you're saying?

24 THE INTERPRETER: Yes, yes, exactly. I'm not quite
25 sure, but it was in the afternoon.

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 Q Okay. You don't know -- do you know what time it was
2 or are you just taking a -- taking a guess?

3 THE INTERPRETER: Yes, exactly, yes.

4 Q Just a guess.

5 THE INTERPRETER: No. I didn't know exactly what time
6 it was or anything like that.

7 Q He said what?

8 THE INTERPRETER: I didn't even look at the clock. I
9 didn't know what time it was.

10 Q Okay. You didn't know what time it was.

11 THE WITNESS: Uh-huh, no.

12 THE INTERPRETER: No.

13 Q Okay. All right. And this is while -- while you were
14 sitting at the table. Who was sitting at the table with
15 you?

16 THE WITNESS: Edilberto.

17 THE INTERPRETER: Edilberto.

18 Q Okay. Did someone -- did a man come in the door that
19 you didn't know?

20 THE INTERPRETER: I didn't know. I didn't know him,
21 no.

22 Q Okay.

23 THE INTERPRETER: Yeah. I didn't know who he was, but
24 he was there for a while. He was -- he was walking around.

25 Q All right. Let me -- let me try to ask some short

Edgar Ruben Cojon-Lopez
Direct examination by Mr. Rhoden

1 questions.

2 when you were sitting at the table with Edilberto did a
3 man come in the door?

4 THE INTERPRETER: He came in. I don't -- sorry. He
5 didn't even knock. He came in.

6 Q Okay. You don't know whether he knocked or not. He
7 just came in.

8 THE WITNESS: Uh-huh.

9 THE INTERPRETER: Uh-huh.

10 Q Okay. Did you know this man?

11 THE INTERPRETER: No.

12 Q Had you ever seen him before?

13 THE WITNESS: No.

14 THE INTERPRETER: No.

15 Q Okay. What did he do when he came in?

16 THE INTERPRETER: He came in. He stood up. He took a
17 few steps on the hallway. Then I realized that he took out
18 a weapon.

19 I think he -- he walk right behind me and start
20 shooting at me. I fell down, and everyone saw me when I
21 fell down. And he said -- he said what's -- what's
22 happening, what happened to this dude, what happened. When
23 he shoot at me, I lost consciousness. I didn't know what
24 else.

25 Q Did you --

Edgar Ruben Cojon-Lopez
Cross-examination by Mr. Brannon

1 THE INTERPRETER: I didn't know anything else after
2 that.

3 Q Did you get a look at the man who shot you?

4 THE INTERPRETER: Yes.

5 Q Did you also see that man shoot Edilberto?

6 THE INTERPRETER: Yes.

7 Q All right. Do you recognize that man and can you
8 point him out to the jury?

9 THE INTERPRETER: Yes. He did. He shot at me.

10 Q Where is he? The man with the beard sitting at
11 counsel table?

12 THE INTERPRETER: Yes, yes, yes. Before he didn't
13 have a beard and his hair was short.

14 Q Okay. Are you -- and let the record reflect that the
15 witness is pointing to the defendant Mr. Molina.

16 Now, did you lose consciousness after you got shot?

17 THE INTERPRETER: Yes, yes, yes, yes. I lost
18 consciousness and then -- and then I came back. I was in
19 and out. My body was very warm. I started taking off my
20 clothes.

21 I grabbed my car keys outta my pocket. I took them
22 out, and then I lost consciousness again. I fainted, and
23 then I regained consciousness once more when the paramedics
24 arrived.

25 Q All right. And, Mr. Lopez, just to backtrack a little

Edgar Ruben Cojon-Lopez
Cross-examination by Mr. Brannon

1 bit, you saw Edilberto get shot also?

2 THE WITNESS: Uh-huh.

3 THE INTERPRETER: Uh-huh.

4 Q And are you sure that the defendant Francisco Molina
5 is the man that shot you and Edilberto?

6 THE INTERPRETER: Yes.

7 Q All right. Thank you. Answer any questions Mr.
8 Brannon may have for you.

9 CROSS-EXAMINATION

10 BY MR. BRANNON

11 Q Good afternoon, Mr. Lopez.

12 Do you remember talking to that police officer right
13 there, the man with the shiny head?

14 THE WITNESS: Uh-huh.

15 THE INTERPRETER: Uh-huh.

16 Q On June the 18th of 2016, the man that entered the
17 door, did he knock?

18 THE INTERPRETER: No. He didn't knock. He just
19 appeared out of thin air.

20 Q Had you ever seen him before?

21 THE INTERPRETER: No, no. Was the first time that I
22 saw.

23 Q When was the next time you saw him?

24 THE INTERPRETER: This is the first time I saw him
25 since.

Edgar Ruben Cojon-Lopez
Cross-examination by Mr. Brannon

1 Q Do you remember telling that officer that you saw a
2 picture in a newspaper after they arrested my client?

3 THE INTERPRETER: No. I don't remember having said
4 that. No.

5 Q You don't remember telling him that you saw his
6 picture in the newspaper.

7 THE INTERPRETER: I don't remember nothing.

8 Q How long was this shooter in your house before he shot
9 you?

10 THE INTERPRETER: Like five minutes.

11 Q What did he say?

12 THE INTERPRETER: Approximately, five minutes. I
13 didn't, you know, count the time. I did not count the
14 time.

15 THE WITNESS: No.

16 THE INTERPRETER: No.

17 Q What did he say while he was there?

18 THE INTERPRETER: He didn't say anything. He didn't
19 say anything to us. We didn't exchange any type of words.

20 Q Did not knock, did not talk.

21 THE INTERPRETER: No, no. He didn't talk.

22 Q Before you got shot, where was Mary?

23 THE INTERPRETER: Mary was in there, in the room with
24 Edwardo.

25 Q Was the door closed?

Edgar Ruben Cojon-Lopez
Cross-examination by Mr. Brannon

1 THE INTERPRETER: Yes, the door was closed.

2 Q Was the door to the carport open?

3 THE INTERPRETER: I don't remember very well.

4 Q Okay. Did you ever see Mary open the door?

5 THE INTERPRETER: No.

6 Q After you were shot did Mary lay her body over you to
7 protect you?

8 THE INTERPRETER: I can't remember all of those
9 details because I was unconscious, and then I regained
10 consciousness. I was in and out.

11 Q Did you ever see Mary come out of the room?

12 THE INTERPRETER: I don't remember that night, I mean,
13 at least I don't remember that.

14 MR. BRANNON: Okay. Your Honor, may we approach
15 briefly?

16 (Bench conference held off the record in the presence
17 of the jury but out of the hearing of the jury.)

18 THE COURT: All right. Ladies and gentlemen, I've got
19 one matter we need to address. We're finding clip of an
20 audio -- excuse me -- of a video that needs to be shown.
21 So, we've got to find it first and then prepare it and show
22 it.

23 It shouldn't take long, but we'll have you go back to
24 your jury room while we do that. Don't talk about the
25 case. I'll bring you back in just a few minutes.

Edgar Ruben Cojon-Lopez
Redirect examination by Mr. Rhoden

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: You can ask him to step down. Just have a
4 seat.

5 We will be at ease.

6 (Whereupon, a recess was taken.)

7 THE COURT: All right. Y'all got it fixed?

8 MR. RHODEN: I think so.

9 MR. BRANNON: Yes, sir.

10 THE COURT: All right. Bring the jury in.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: All right.

14 MR. BRANNON: Your Honor, the video that's about to be
15 played is a copy of this witness' interview with the
16 sheriff's department.

17 MR. RHODEN: Of the footing context, that interview
18 was taken on July the 28th of 2020.

19 (Whereupon, the video was played for the jury.)

20 MR. BRANNON: Thank you, Judge.

21 Q Sir, do you remember now telling police that you
22 didn't see him again -- this person -- until you saw a
23 picture of him in the press?

24 THE INTERPRETER: Yes.

25 Q You didn't know him on June the 18th of 2016, did you?

Edgar Ruben Cojon-Lopez
Redirect examination by Mr. Rhoden

1 THE INTERPRETER: No. I did not know him.

2 Q You did not know his name, did you?

3 THE INTERPRETER: When he entered into the house, I
4 didn't know him. I didn't know his name.

5 Q He never said a word.

6 THE WITNESS: No.

7 THE INTERPRETER: No, no.

8 Q Next time you saw -- was the next thing you saw was a
9 picture of a man who had been arrested, correct?

10 THE WITNESS: Uh-huh.

11 THE INTERPRETER: Uh-huh.

12 Q And you got his name from that picture, isn't that
13 correct?

14 THE INTERPRETER: Yes. I didn't know his name after I
15 got out of the hospital. I didn't know his name. I just
16 left it like that.

17 Q Did you learn his name from the newspaper?

18 THE WITNESS: Uh-huh.

19 THE INTERPRETER: Uh-huh.

20 MR. BRANNON: No further questions.

21 MR. RHODEN: Follow up.

22 REDIRECT EXAMINATION

23 BY MR. RHODEN

24 Q Mr. Lopez, when you point out the defendant here in
25 the courtroom today, is that from your memory of the

John Lindman
Direct examination by Mr. Rhoden

1 incident on June the 18th of 2016?

2 THE INTERPRETER: Yes. How could I forget the person
3 who caused me so much trouble?

4 Q Thank you.

5 MR. RHODEN: That's all I have.

6 THE COURT: Thank you. You may step down.

7 MR. RHODEN: That is all the witnesses we have for
8 this afternoon.

9 THE COURT: All right. We'll resume in the morning at
10 9:30.

11 Keep in mind my caution previously given. No
12 discussions about the case; no research; no investigation;
13 no media exposure.

14 Have A good evening. Report to the jury assembly room
15 at 9:30 in the morning. We'll see you then. Have a good
16 evening.

17 (The following takes place outside the presence of the
18 jury.)

19 THE COURT: Any matters to address before we recess?

20 MR. RHODEN: Nothing from the state, Your Honor.

21 MR. BRANNON: Nothing from the defense, Your Honor.

22 THE COURT: All right. We'll be in recess until
23 9:30 in the morning.

24 END OF PROCEEDINGS DECEMBER 19, 2023

25

John Lindman
Direct examination by Mr. Rhoden

1 (Proceedings December 20, 2023)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Ready for the jury?

5 MR. RHODEN: The state's ready, Your Honor.

6 MR. BRANNON: The defense is ready.

7 THE COURT: Bring them in.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning.

11 when we recessed yesterday the state was still in the
12 midst of their presentation, so we'll continue with that
13 presentation this morning.

14 Mr. Rhoden.

15 MR. RHODEN: May it please the Court. The state would
16 call John Lindman.

17 JOHN LINDMAN, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. RHODEN

20 Q Give us your full name, please.

21 A John Lindman.

22 Q And, Mr. Lindman, by whom are you employed?

23 A United States Marshal Service.

24 Q And did you have some involvement with this defendant
25 Mr. Molina?

John Lindman
Direct examination by Mr. Rhoden

1 A Yes. I did.

2 Q All right. When would that have been?

3 A I believe it was November of 2020.

4 Q If I may, let me just give you a copy of your report
5 to refresh your memory.

6 A July of 2020. Sorry.

7 Q All right. And with the U.S. Marshal Service, what
8 was your -- your job duties? Just kind of tell the jury
9 what -- what your position and role was with the U.S.
10 Marshal Service.

11 A So, with the U.S. Marshal Service I work with the
12 Great Lakes Regional Fugitive Task Force. I was a team
13 leader on the task force.

14 Q All right. And what does the task force do? What are
15 they doing for the U.S. Marshal Service?

16 A It's a violent fugitive task force. We -- our job is
17 to apprehend fugitives wanted by the U.S. Marshals.

18 Q All right. Was your task force asked for some
19 assistance from law enforcement in regard to Mr. Molina?

20 A Yes. It was.

21 Q All right. And in response to that request, did you,
22 your task force, take some action?

23 A Yes.

24 Q And kind of, would you tell the jury what you did?

25 A So, the way it comes to us is in a collateral lead.

John Lindman
Direct examination by Mr. Rhoden

1 we got a lead from South Carolina here, and our task force
2 immediately went to work on -- on locating Mr. Molina.

3 And what we did from there was -- I believe the first
4 thing we did, we had some information in a collateral lead
5 that led us to an area and some names that he -- he could
6 be. And we started looking around those areas, conducting
7 surveillance, making phone calls.

8 Q All right. So, you had -- your task force actually
9 had -- you had a lead, but you actually had to develop some
10 specifics in regard to his location?

11 A Yes. We did.

12 Q All right. And did you make a determination of where
13 he might be?

14 A Yes. There was a possibility that he had been working
15 with a roofing company, and, so, what I did was contacted
16 the -- the owner of the roofing company.

17 Q All right. After contacting the owner did you believe
18 that you had identified the person that was Mr. Molina?

19 A No. At that time we still were not sure. The roofing
20 company, the owner of the roofing company, gave us the name
21 of Marco. He said it could be that individual. So, we had
22 some more work to do from there.

23 Q All right. And -- and tell me what you did after you
24 got that information.

25 A So, the roofing -- the owner of the roofing company

John Lindman
Direct examination by Mr. Rhoden

1 gave us a location where -- where Marco may be. We set up
2 surveillance on that area. And then shortly after the
3 roofing company owner -- I can't remember his name right
4 offhand -- he -- we were going to work with him, although
5 he -- he called Mr. Molina in the meantime and let him know
6 that we were after him.

7 Q All right. So, what happened next, I mean?

8 A So, what happened next was -- the information that the
9 owner of the roofing company gave us that -- that this
10 Marco, Mr. Moleno --

11 MR. BRANNON: Objection. Hearsay, Your Honor.

12 Q Don't get into the hearsay.

13 After -- after you got some information, what -- what
14 did you actually do?

15 A Right. So, I -- I spoke with Mr. Molina on the phone.
16 I was fairly confident that I was speaking to Mr. Molina on
17 the phone. Although he agreed to meet with us, when he met
18 with us it was not Mr. Molina. He sent two other
19 individuals to meet with us.

20 Q Did you -- do you believe that the person -- you said
21 you believe the person on the phone was Mr. Molina.

22 A Yes.

23 Q And -- and how -- and the person that actually showed
24 up was someone else?

25 A Yes. I do believe.

John Lindman
Direct examination by Mr. Rhoden

- 1 Q Okay. Well, how --
- 2 A Well, we confirmed that.
- 3 Q How did you kind of make that determination?
- 4 A I spoke with Mr. Molina on the phone. Once the
- 5 individual arrived posing as Mr. Molina to us, he had a
- 6 completely different voice. His accent was completely
- 7 different. I could tell right off that it was not Mr.
- 8 Molina.
- 9 Q All right. So, that wasn't the right guy.
- 10 A It was not the right guy.
- 11 Q So, did you then go back to work and try to figure out
- 12 where Mr. Molina was?
- 13 A Yes. We did.
- 14 Q All right. And did that take you to another location?
- 15 A Yes. It did.
- 16 Q And where would that have been?
- 17 A So, the -- it took us a while to get some information.
- 18 We did receive some more information on where Mr. Molina
- 19 could possibly be, and so the next morning we -- we
- 20 received information that he was at a location in Peoria,
- 21 Illinois.
- 22 Q All right. And did you go to that location?
- 23 A We did.
- 24 Q And did you set up surveillance at that location?
- 25 A We did set up surveillance.

John Lindman
Direct examination by Mr. Rhoden

1 Q All right. And can you tell the jury what -- what the
2 surveillance revealed? what did you see?

3 A So, we observed Mr. Molina coming out of this, the
4 residence, and with a backpack. He placed the backpack in
5 the -- in the back seat of a pickup truck, and then he went
6 back into the residence.

7 Q All right. And then what happened next?

8 A So, from there we surrounded the location and we
9 attempted to call Mr. Molina out of the residence.

10 Q All right. Was he responsive?

11 A He -- I believe he appeared at the front door for a --
12 a short second and closed the front door and then would not
13 come out.

14 Q Did you -- how long of a time was it that he was
15 behind closed doors and you were trying to get him to come
16 out?

17 A I can't remember specifics. It was -- it was quite
18 some time, at least 20 to 30 minutes possibly.

19 Q All right. Did he eventually come out of the -- of
20 the house?

21 A I believe that if I can remember correctly we were let
22 into the house and then we -- we -- we contacted Mr. Molina
23 in the front living room of the house.

24 Q All right. So, did you have to force your way in
25 or --

John Lindman
Cross-examination by Mr. Brannon

1 A I believe we may have into a rear entry door.

2 Q Okay. All right. And was he taken into custody at
3 that time?

4 A Yes. He was.

5 Q All right. In regard to this backpack, you had seen
6 Mr. Molina with this backpack?

7 A Yes. I did.

8 Q Did you follow up on the -- with the backpack?

9 A Yes. Mr. Molina was very adamant about us -- about us
10 getting the backpack. So, I sent one of my team members
11 out to the pickup truck to retrieve the backpack.

12 Q At that time did he give you consent to look in the
13 backpack?

14 A He wanted the backpack. He asked for us to give him
15 the backpack. We would never give an individual a backpack
16 that we just placed under custody without checking in the
17 backpack to see if there was anything dangerous inside of
18 it.

19 MR. BRANNON: Your Honor, at this point I would renew
20 a pretrial objection as to the contents of the backpack.

21 THE COURT: Overrule the objection.

22 Q All right. And did you look into the backpack?

23 A I did not look into the backpack originally. One of
24 my team members did.

25 Q All right. Were you present when that happened?

John Lindman
Cross-examination by Mr. Brannon

1 A I was.

2 Q All right. And did you see what was in the backpack?

3 A Yes, yes, sir, I did.

4 Q And what was it?

5 A I observed a large amount of cash and a firearm.

6 Q All right. And do you recall what kind of firearm it
7 was?

8 A I do not.

9 Q Was it a pistol?

10 A Yes. It was a handgun.

11 Q Okay. And when you say a large sum of money, do you
12 know how much that turned out to be?

13 A It turned out to be approximately \$59,000 in cash.

14 Q And from that point did -- was Mr. Molina put into the
15 custody of the U.S. Marshal Service?

16 A Yes. He was.

17 Q All right. And was he eventually transferred back to
18 South Carolina?

19 A Yes.

20 Q And did that conclude your involvement in this case?

21 A Yes. It did.

22 Q Thank you. Answer any questions Mr. Brannon may have.

23 CROSS-EXAMINATION

24 BY MR. BRANNON

25 Q Sir, do I call you officer, marshal? What -- how do I

Matthew wilde
Direct examination by Mr. Rhoden

- 1 address you?
- 2 A Deputy.
- 3 Q Deputy. Did the owner of this roofing company, did he
- 4 tell you how long that Marco or my client had been working
- 5 for him in that area?
- 6 A No. He did not. I cannot remember if he did or not.
- 7 Q Okay. The residence, was it his residence?
- 8 A The residence that we apprehended?
- 9 Q Yeah.
- 10 A No.
- 11 Q Do you know whose it was?
- 12 A I can't remember.
- 13 Q Was it in the name of Yocinia?
- 14 A No.
- 15 Q Okay. Do you know who Yocinia is?
- 16 A I do.
- 17 Q Who is that?
- 18 A I believe it was his girlfriend at the time.
- 19 Q All right. And this was in 2020, correct?
- 20 A Yes.
- 21 Q Okay. And you apprehended him in July of 2020.
- 22 A Yes.
- 23 Q Sir, do you know the date that the incident for which
- 24 my client is charged took place?
- 25 A I don't.

Matthew wilde
Direct examination by Mr. Rhoden

1 Q Okay.

2 MR. BRANNON: Nothing further, Your Honor.

3 MR. RHODEN: No follow-up questions, Your Honor. I
4 ask that this witness be excused.

5 THE COURT: You may step down. You may also be
6 excused.

7 (Whereupon, the witness was excused.)

8 MR. RHODEN: State would call Matt wilde.

9 MATTHEW WILDE, having been
10 first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. RHODEN

12 Q Give us your full name, please.

13 A My name is Matthew wilde.

14 Q And by whom are you employed?

15 A I'm a special agent with the F.B.I.

16 Q All right. And what -- what is your title and what is
17 your job description?

18 A Right now I'm a supervisory special agent. So, I
19 manage a group of about 25 individuals specialized in doing
20 historical call detail record analysis. Our unit is
21 called CAST. I was a member of that unit from 2016 until
22 present.

23 Q All right. And that unit deals with cell phone
24 information?

25 A We do. We deal with looking at the records that we

Matthew wilde
Direct examination by Mr. Rhoden

1 can get from AT&T, Verizon, T-Mobile, specifically, the
2 cell tower information on those records. And then
3 historically mapping the general area where those phones
4 were located at this time.

5 Q All right. Now, Agent wilde, could you give us the
6 benefit of your educational background?

7 A Yes. So I have a bachelor's degree in business
8 administration with a concentration in accounting from
9 Limestone College.

10 I attended the South Carolina Criminal Justice Academy
11 before becoming a -- or while I was a deputy with the
12 Spartanburg County Sheriff's Office.

13 And then in 2010 I attended the F.B.I. Academy, and
14 then starting in 2012 I started the training to become a
15 certified CAST team member by taking a basic course, which
16 was two days, where we took a basic -- we took a look at
17 the records. We learned how to match the records to a list
18 of cell phone towers and then make a very basic map.

19 I use that technique in every one of my cases working
20 violent crimes between 2012 and 2016.

21 In 2016 I was selected to go to the advanced course
22 where we took a deeper dive into the different types of
23 records we can get and different ways to use them.

24 After that I was selected to go to the certification
25 course, which was four weeks.

Matthew wilde
Direct examination by Mr. Rhoden

1 The first week we learned about radio frequency
2 theories. We learned how radio waves travel from a cell
3 phone to the antennas on the tower and how those
4 communications go through the network and generate the
5 records.

6 The second week we met with the carriers, so AT&T,
7 Verizon and T-Mobile. And we learned from their records
8 and records custodians. Those are the people that provide
9 law enforcement the records.

10 And then we also learned from the engineers. Those
11 are the people that design and maintain the effort.

12 The third week we learned about dry testing on a piece
13 of equipment I can put in my car and drive around a cell
14 tower and I can figure out how far that tower actually
15 reaches.

16 And then the fourth week we did moot court exercises
17 where we were getting a real case. We got to read the
18 records, make a map and go in and testify to it. And at
19 the conclusion of that I was certified as a CAST team
20 member.

21 Q All right. And this training and this -- the training
22 that you receive through this program, did it involve any
23 type of testing to make sure that you were proficient in
24 what was being taught?

25 A It did. The radio frequency theory portion had a

Matthew wilde
Direct examination by Mr. Rhoden

1 written test, and then the moot court portion is a test
2 because we're evaluated by the already subject matter
3 experts in that field within our agency.

4 Q And did you receive some sort of certification after
5 you finished with that training?

6 A I did. I was a certified CAST team member at that
7 point.

8 Q And who provides that certification?

9 A The F.B.I. provides it.

10 Q All right. Have you received any additional
11 certifications or training after that?

12 A So, every year after that we do a yearly meeting or
13 recertification meeting. It's about three days where we go
14 back and meet with all of the carriers again, get updates
15 on the technology.

16 we have trainings from -- from professors at the
17 Florida Institute of Technology on upcoming technology, so
18 five-G, whatever is going to come after that. We'll --
19 we'll learn about that kind of stuff.

20 And then because we are -- my unit is located all over
21 the United States and then sometimes different parts of the
22 world doing this, we'll do case presentations on -- for
23 each other on what we're seeing in our respective areas.

24 Q All right. And what -- what is historical cell site
25 analysis?

Matthew wilde
Direct examination by Mr. Rhoden

1 A So, historical cell site analysis is taking those
2 records. And those records are very much like the old
3 paper phone bill we got in the mail maybe 15 years ago.
4 They would have the date. They have the date and the time
5 that the calls occurred, who called who. So, if they're my
6 records, like who did I call or who called me. And then
7 the duration of those, of that call, so how long that call
8 lasts.

9 The major difference between an old paper phone bill
10 that we got in the mail and what I look at is -- what I
11 look at also adds the cell tower and the side of the tower
12 being used to handle that call. So, I get the general
13 location of where that call occurred.

14 So, cell site analysis is using those records to match
15 up to a known date and time. Most of the time when law
16 enforcement is investigating a case, we know what date it
17 happened, about what time it happened and generally where
18 it happened. So, we're using that information in comparing
19 it to the records and trying to see if they line up.

20 Q And approximately how many times have you performed
21 historical cell site analysis and in what type of cases?

22 A Over a thousand times in homicides, robberies,
23 kidnappings, burglary cases, national security cases,
24 missing persons. Basically, anything you could really
25 imagine that the F.B.I. would investigate.

Matthew wilde
Direct examination by Mr. Rhoden

1 Q And does that include real -- real world experiences
2 and trying to find cell phones and locations?

3 A Oh, absolutely. So, there are instances where we'll
4 have a missing person. And just happened a few weeks ago
5 up in Rock Hill. Had a missing person. Went back and
6 pulled the records for that person, tried to figure out
7 when their last phone activity was, where they were before
8 they went missing and then trying to figure out where they
9 are now by looking at those records.

10 Q And you -- can you explain how you use those records
11 to find phones and people?

12 A Yes. So, the records have -- again, they have the
13 date, the time and the cell tower being used.

14 The way the cell phones work is that if my phone is
15 powered on, it's scanning its environment, scanning what's
16 around it. It's trying to find the tower and the sector
17 with the best signal. Most of the time that's going to be
18 the closest tower to where -- where the phone is located.

19 So, using these records to find a missing person, a
20 lot of times what I do is I get the records. I look at the
21 very last record, and it tells me that that person used a
22 tower and sector in -- I don't know -- let's say Union,
23 South Carolina. So, I have a general idea of Union. Then
24 I have to just figure out, well, why are they in Union,
25 what neighborhood would they be in. And then there's some

Matthew Wilde
Direct examination by Mr. Rhoden

1 other additional records we can get that give us the
2 distance from the tower that the phone is located.

3 And so what I do is I look at those records and then
4 we can go out there and pull video. We can go do a
5 neighborhood canvass. We can go to a whole bunch of
6 different other techniques to try to figure out why that
7 person is there or if they're still there.

8 Q All right. And how many cases are a request for
9 historical cell -- record analysis as CAST performs such as
10 2010?

11 A Well over 10,000.

12 Q And what agencies can request your services?

13 A Any law enforcement agency can request our assistance.

14 Q And is the CAST team associated with any other teams
15 within the F.B.I.?

16 A We are. So, we're -- we're actually under the --
17 we're under the criminal investigative division. So, we
18 work with all of the other units within that division.

19 So, but one we work with is the child abduction rapid
20 deployment team. So, any time we have a missing child and
21 F.B.I. assistance is requested, we're deploying out there
22 to work on the ground, to work the records and work the
23 phone side of things to help assist in that investigation.

24 Q Is CAST only using criminal investigations?

25 A No, sir. Again, we use it in just to find missing

Matthew wilde
Direct examination by Mr. Rhoden

1 people. We use it to find missing hikers, missing joggers.
2 You know, things where there might be a criminal element to
3 it or a thought of a criminal element. And then, I mean,
4 just sometimes people go missing and things happen.

5 I personally used it to find a woman who crashed her
6 car. She went missing in the early morning traveling from
7 point A to point B, and they thought something. The local
8 investigators thought something may have happened to her.

9 I was able to pull her records, go back, look at the
10 cell site records and determine that between the two cell
11 phone towers she used at that time there was nothing else
12 in that area and no reason for her to stop there at
13 6:00 o'clock in the morning.

14 And we deployed highway patrol out there and they were
15 actually able to find her car. Unfortunately, she had
16 crashed her car and was deceased inside the car, but, so,
17 it wasn't a criminal matter, but we're still able to kind
18 of help out when we can.

19 Q All right. Based on your training and experience in
20 cell -- cellular phone record analysis, is cellular phone
21 record analysis reliable?

22 A It is. Again, it has to be. The phones are always
23 searching for that tower they see is the best signal.
24 Usually, that's going to be the closest one. And, so, just
25 for the network to operate it -- it has to be reliable.

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1 And in my experience I've used it hundreds of times to find
2 people, find places, find evidence. And in my experience
3 it is. It's accurate.

4 Q All right. And have you ever testified as an expert
5 in court before?

6 A Yes.

7 Q About how many times?

8 A 150 times.

9 Q And, Agent wilde, what are the skills, abilities or
10 knowledge that a person has to possess in order to become
11 an expert in historical cell site analysis?

12 A So, you have to have -- you have to have experience
13 reading the records, understanding the technology and then
14 using that -- that experience in real time to locate a
15 phone, a person or a place, have all three of those.

16 Q I'm going to back up one more time.

17 In your -- your testimony in court before have you
18 testified in general sessions court in South Carolina?

19 A I have testified in -- in general sessions court in
20 South Carolina in Aiken, I believe Edgefield, and then down
21 in Walterboro.

22 Q Have you testified in federal court?

23 A I've testified in federal court in Maryland, North
24 Carolina, Washington, D.C., Georgia. I think that's it.
25 And then I testified in other state courts. Basically,

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1 everywhere from Delaware down to Florida. I think the only
2 one I'm missing is Virginia.

3 Q All right.

4 MR. RHODEN: At this time, Your Honor, I would offer
5 Agent wilde as an expert in cellular telephone record
6 analysis.

7 MR. BRANNON: No objection.

8 THE COURT: He is so qualified.

9 Q I'm going to direct your attention to this particular
10 case. Were you asked to perform certain analysis in this
11 case?

12 A Yes.

13 Q All right. And in performing that analysis were you
14 supplied with records from AT&T?

15 A I was.

16 Q Let me show you what's been marked as State's Exhibit
17 No. 1. It's already in evidence. Is that -- are those the
18 records that you used in performing your analysis in this
19 case?

20 A Yes. They are.

21 Q All right. And using those records did you, in fact,
22 perform an analysis which used a telephone number that is
23 identified in those records as the account telephone
24 number?

25 A I did. The telephone number that I -- the records --

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1 the record I analyzed are associated with telephone number
2 (770)718-8613.

3 Q All right. And is that your understanding that was
4 the defendant's cell phone number?

5 A That is my understanding.

6 Q Okay. And after you performed your analysis using
7 those records, do you produce a report?

8 A I do. So, I use a -- I take these records, do
9 excel -- well, I put them in excel or I take the raw
10 records and put them in a mapping system. It's a Google --
11 a Google based mapping platform. And then I conduct my
12 analysis. And then I basically use that mapping system and
13 PowerPoint to generate a report for the case.

14 Q All right. Let me show you this document, Agent
15 wilde. Are you familiar with that document?

16 A Yes, sir. This is the report I generated for this
17 case.

18 MR. RHODEN: At this time the state would offer the
19 report into evidence, Your Honor.

20 MR. BRANNON: No objection, Your Honor.

21 THE COURT: It's admitted.

22 (Report of Matthew wilde marked State's Exhibit
23 No. 32.)

24 Q Agent wilde, getting this out. Did you also,
25 basically, convert that information, that report, into a

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1 PowerPoint presentation?

2 A I did. Yes.

3 Q And is this, in fact, the PowerPoint presentation that
4 you generated from your report?

5 A Yes, it is.

6 Q All right.

7 MR. RHODEN: Move to introduce to the PowerPoint.

8 MR. BRANNON: No objection, Your Honor.

9 THE COURT: It's admitted.

10 (PowerPoint D.V.D. marked State's Exhibit No. 33.)

11 MR. RHODEN: Matt, if you would pull, the PowerPoint
12 up, please.

13 Q All right. Agent wilde, can you see the PowerPoint on
14 the screen there?

15 A I can.

16 Q All right. And, if you could, walk us through that,
17 basically, section by section. What are we looking at
18 right now?

19 A So, the first page is just a -- a front page. It just
20 says, you know, who I am, where I work, the case name and
21 then the phone number involved in the case, and the date
22 that I completed the report.

23 Q Okay.

24 MR. RHODEN: The second page.

25 A The second page is the background. So, just says that

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1 I was asked by the sheriff's office here in Spartanburg to
2 complete the report in reference to a homicide that
3 occurred on June 18th of 2016.

4 The methodology is that I did analysis on the call
5 detail records provided and that that analysis for the
6 records provide me the cell site, so the tower being used
7 by the phone and the side of the tower, the sector.

8 And then what I do is I compare that information to a
9 list of all the AT&T towers in the area, and it provides me
10 a general geographic location where the phone was located
11 at the time of those calls.

12 Q All right.

13 A The cell site locations. So, I used the cell site
14 tower list that was in existence during the time of the
15 incident.

16 Okay. So, the network changes over time. Probably
17 since 2016 we've gone from using mostly 4-G to using mostly
18 5-G. The towers change every time. It would be improper
19 for me to use a 2023 tower list to map a case from 2016.
20 So, I use the tower list that was in effect in 2016.

21 My conclusions are further down the report.

22 Q All right. was --

23 A So, this is just different examples of cell phone
24 towers.

25 I'll draw your attention to the one on the top left.

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1 That's a general cell phone tower. Really, you'd see it
2 anywhere in America. There's a couple of important things
3 about that.

4 If you look at that tower you notice that those --
5 there's little speaker looking devices kinda hanging from
6 the tower. Those are the antennas that transmit and
7 receive the signal to and from the phone.

8 A phone is very much like a car radio. As I drove
9 here this morning, I tuned my car radio to my favorite
10 frequency, my favorite radio station, and somewhere in
11 Spartanburg there's a tower that emits a signal. My car
12 radio can receive that signal. I can listen to my favorite
13 station.

14 The difference between my car radio and my cell phone
15 is that my car radio -- I'm only receiving information.
16 That information goes in one direction, from the tower to
17 the radio.

18 with my cell phone, it has to go in both directions.
19 I have to be able to receive from the tower and I have to
20 be able to send that information back to the tower so I can
21 send that text message, request to watch a U-tube video,
22 whatever I'm dealing with the phone.

23 So, those are the antennas that transmit and receive
24 those signals.

25 The second important thing about that is you'll notice

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1 that that cell -- those antennas hang on a triangular
2 shaped structure. Most cell phone towers are designed to
3 cover 360 degrees or a full circle. And the way that the
4 carriers accomplish that is by breaking that circle into --
5 into three sides. I call those sectors. So, you'll see
6 that those antennas are hanging on three sectors or three
7 sides facing three different directions.

8 And then, you know, there's times when it's not
9 possible for the carriers to put a pole like that up in
10 the -- in the middle of a city or something.

11 You take maybe downtown Spartanburg, downtown
12 Greenville. Maybe they're going to put them on the outside
13 of the buildings kinda like that picture in the middle.
14 And then just going on, everyone's favorite, my favorite,
15 it's always the pine tree because it fits in basically
16 nowhere. But you'll see those sometimes along the
17 interstate. You'll see a big pine tree. At the top
18 they'll spray paint the antennas brown because they want to
19 kinda make it blend in to the environment. And, so, those
20 are just different examples of cell phone towers.

21 Q Is that a silo looking thing?

22 A That's also -- that's also one too. Yeah. They'll be
23 underneath a cover at the top, or sometimes you'll see them
24 actually hanging the antennas on the outside of the silo.

25 Q All right. And what does this represent?

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1 A All right. So, this is explaining sectors and
2 orientation. So, again, each tower has three sides.
3 Reading the records, it's my job to figure out which way
4 that sector being used actually faces. And the way I do
5 that is by looking at something called the azimuth. The
6 azimuth is nothing more than a big scary word for
7 direction.

8 Okay. So if the azimuth is zero that just means that
9 that sector faces north. If the azimuth is 180, it faces
10 south.

11 Okay. So, in this case if the azimuth is zero, I draw
12 a line facing north, and then I know they're going to break
13 that circle into three equal sides.

14 So, what I do is I draw a line going north. Then I
15 draw a line to 60 degrees to the right, 60 degrees to the
16 left. That gives me 120 degrees. It's one-third of that,
17 of that circle.

18 Q All right. Next page.

19 A This page is how I demonstrate or I illustrate the
20 sector. So, you see I have that. Again, I drew the
21 sector, drew the line at zero degrees, went 60 degrees in
22 each direction and now I have this red sector on the map.

23 I do have this little shaded area there in the middle
24 of the sector. When you see that on the map, I'm not by
25 any means saying that one has to be within that shaded

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1 area. It can be. It doesn't have to be.

2 I picked that shaded area as just the direction that
3 the energy is being emitted from that tower. It'd be like
4 me pointing a flashlight out here on the stand and shining
5 it towards the back of the room.

6 You'd have that area in the middle where anybody could
7 read a book by using that flashlight light. That's what
8 I'm representing by using that shaded area there. It's
9 just that the light or the energy's being emitted in that
10 area.

11 Q Next page.

12 A This is just how the sector is going to be shown on
13 the map. So, you have that red wedge that identifies
14 that's the sector. And those green dots, they're on the
15 map. Those just represent the other cell phone towers.

16 So, what I could say about where this phone is is the
17 phone is going to be somewhere between the tower being
18 used, or it's between that red sector and the next tower in
19 that direction but closer to the one being used.

20 Okay. As if you can imagine, the next tower to the
21 north of that has another sector that faces to the south.
22 And so as you travel, whereas, somebody would travel from
23 the tower on the bottom or the sector on the bottom towards
24 the one at the top, eventually the signal level from the
25 one on the bottom is going to get weaker and weaker and

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1 weaker as you move away, and eventually it'll jump over to
2 the one to the north that faces south.

3 Q Okay. Next page. What -- what exactly do we see here
4 in this page?

5 A So, this is the legend page here from my report. So,
6 every one of -- first of all, every one of those blue dots
7 represents an AT&T cell phone tower.

8 Okay. The red pen up there at the top right, that
9 represents the crime scene in this case. And the address
10 is -- sorry. I'm getting older. I can't read that from
11 that far away. It's [REDACTED] East Main Street in Duncan.

12 Then the green pin down kinda on the sector towards
13 the bottom left in the map, that is the T.N.T. Catfish Lake
14 at 220 State Road in Belton, South Carolina. And then the
15 blue pin on the bottom left is at 2443 Middleton Road in
16 Anderson, South Carolina.

17 Q And that'd be Mary Martin's address?

18 A I believe so, yes.

19 Q All right. So, all -- all of those dots in this
20 picture represent cell phone towers?

21 A They do. And, as you can see, the network is designed
22 to cover what is in that area. And what I mean by saying
23 that is, you know, if you look around Greenville the towers
24 are a lot more dense. They're a lot closer together. But
25 as you get further out kinda south of Greenville, you know,

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1 east of Anderson, there's not a lot of population density
2 out there.

3 So, it's more farmland. It's more people living in a
4 more spread-out way. You can see there's less towers out
5 there, so they're actually spaced further apart.

6 As you get closer to the city, they get closer
7 together. And then as you get further out into the
8 country, they get a little bit further apart.

9 Q All right. Okay. Next page. All right. What --
10 what do we see here on -- on this page? I believe is --

11 A It's page eight.

12 Q Page eight?

13 A Yes, sir. So page eight shows the activity for
14 (770)718-8613. So, that's the telephone number on mapping
15 here.

16 It's showing that activity at 9:15 p.m. on
17 June 17th of 2016.

18 At that time that phone is using a tower and sector
19 that's in the area of Smyrna, Georgia. So, that's just to
20 the -- I believe it's to the southwest of Atlanta.

21 Q Okay. Is there a reference to a -- I believe a
22 Sparkles on that map?

23 A There is. So, where the black wedges and the shaded
24 area, is if you look there just inside the shaded area,
25 there's a green pin. In that green pin, there's a text

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1 next to it, and that says Sparkles Family Fun Center of
2 Smyrna.

3 Q Let me show you some photographs, particularly this
4 photograph which has been marked as State's Exhibit No. 28.
5 Does that exhibit also show the Sparkles Skating -- Skating
6 Rink?

7 A It does. The Sparkles Skating Rink is -- this is what
8 the roof of it is, this white building here in the center
9 of the map. And it's a Sparkles Roller Skating Rink. And
10 this red arrow is just to the south of that.

11 Q All right. So, in your analysis in this report --
12 I'll put it that way -- so, we're starting. My eyes are
13 not that great either. That's why I have glasses. Give me
14 a second. I'll pull it up a little bit closer to my face.

15 So, the records that were introduced as State's Exhibit
16 No. 1 that you used to perform this analysis, they -- they
17 have a portion of time, and I think they actually go back
18 earlier than June the 17th. But did your report -- did you
19 start with June the 17th?

20 A I did. That was the start of the -- what was
21 portrayed to me as the relevant time period. There's no
22 need to go back days and days and days and map all of this
23 out. It's more -- this was the start point where this
24 became relevant, was right here.

25 Q All right. To put it in context here when we see

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1 the -- the wedge area there right near the Sparkles Family
2 Fun Center, skating rink or whatever it's called, that --
3 does that represent the cell tower?

4 A Yes, sir. That wedge represents the cell tower.
5 well, the cell tower is represented by the blue pin -- the
6 blue dot at the base of the wedge. Then the wedge
7 represents a sector that's being used on that tower.

8 Okay. Now, I can't tell you looking at this. I can't
9 say that that phone is at the Sparkles Fun Center or at a
10 house behind there.

11 what I can say is that this is consistent. If that
12 phone were to be at the Sparkles Fun Skate Center, this
13 activity is consistent with that.

14 I can't pinpoint specifically where the phone is using
15 these records. Okay. And so just to double down on that,
16 I can't tell you the phone is on the steps of this
17 courthouse.

18 what I can tell you is the phone's using the tower on
19 this courthouse. That tower faces south, so that phone has
20 to be somewhere between the courthouse and wherever the
21 next tower is going south here.

22 Q And, so, on the State's Exhibit 28, which I just
23 showed you a minute ago, Sparkles -- there's an arrow
24 pointing to, looks like, a mobile home or trailer behind
25 Sparkles. And that would be shown on this map as behind

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1 the sparkles or near that cell tower?

2 A Yes, sir.

3 Q All right. And we -- we start at, on June the 17th, I
4 think is the first time that's listed as 9:15:01, and then
5 there's a 9:15:27. Can you explain what that represents?

6 A Yes. So, on these records there's dates and times of
7 the calls and the text messages that were -- that were
8 incoming or outgoing to this device. And so each one of
9 those times represent either an incoming or an outgoing
10 call or text message.

11 Q All right. So, just to clarify, you're using a cell
12 phone number that has been identified in this case as
13 Mr. Molina's number, and on June the 17th of 2016 at
14 9:00 o'clock p.m., thereabouts, was that cell phone near
15 this tower?

16 A Yeah. That cell phone is in the general area around
17 this tower and sector at 9:15 p.m. on the 17th.

18 Q Okay. All right. Go to the next one. What are we
19 seeing here on this next line?

20 A So here we're seeing the activity between 9:15 p.m. on
21 June 17th -- so that call we just looked at -- to
22 12:36 a.m. on the 18th. So, we're looking at the activity.
23 During that time the phone moves from the area around
24 Smyrna up towards between Spartanburg and Gaffney.

25 Q All right. So -- so, we start at the location that

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1 number one would be the same location as the previous slide
2 was showing.

3 A Yes, sir.

4 Q All right. And then number two, that is where the
5 cell phone is located at 11:00 -- 11:00 p.m. on June the
6 17th.

7 A Generally, yes, sir.

8 Q Okay. And number three would be where the phone was
9 located at 11:11 p.m.

10 A Yes, sir.

11 Q All right. And, finally, number four would be where
12 the phone was generally located at 12:36 a.m. That would
13 be past midnight. So, we're now on June the 18th.

14 A Yes, sir. It'd be just after midnight.

15 Q Okay. And number four, I see, is close to the red --
16 it's almost a square but not quite a square.

17 A Yes, sir.

18 Q What -- what does that red locator mark represent?

19 A So, again, that represents the crime scene of [REDACTED] East
20 Main Street in Duncan. And, so, this slide is showing that
21 the phone traveled from Smyrna towards between Spartanburg
22 and Gaffney.

23 And then the other interesting -- the other thing
24 about this is any time the phone inside those boxes is in
25 red, that's indicates contact. So, either an incoming or

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- 1 outgoing call with telephone number (864)221-3540.
- 2 Q All right. Okay. So, now let's put it in the context
3 here. You've got Mr. Molina's phone records, his cell
4 phone number. Are you also looking at the number that is
5 Mary Martin's cell phone number?
- 6 A Now, so, I'm looking at Mr. Molina's cell phone
7 records, and in those records I can see that he's in
8 contact with Ms. Martin's cell phone number. And that's
9 what I'm marking out.
- 10 Q All right. So, when doing your report, those two
11 phone numbers are your important phone numbers that you're
12 looking at.
- 13 A Yes, sir.
- 14 Q All right. One being Mr. Molina and the other one
15 being Mary Martin.
- 16 A Correct.
- 17 Q All right. And, so, this slide represents that the
18 phone at -- on June the 18th at about 12:36 a.m., which
19 would be right after midnight, is somewhere past the crime
20 scene.
- 21 A It is. So, it's out there between probably Cowpens
22 and Gaffney using towers in that area.
- 23 Q All right.
- 24 MR. RHODEN: So go to the next slide.
- 25 Q Is this kind of a blowup of what we just saw?

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1 A Well, this is a closeup. This is a different time
2 period. So, this is ending at twelve -- this is starting
3 at 12:36 a.m., which was the last call on the previous map.
4 And this ends at 12:56 a.m.

5 And what you can see there is that phone is using two
6 towers and two sectors. They face each other. And-but
7 during that time that phone is in that area between the two
8 towers and sectors between 12:36 and 12:56. And then
9 there's a handful of calls and text messages with that
10 (864)221-3540.

11 Q All right. So, there are calls between Mr. Molina and
12 Ms. Martin.

13 A That's correct.

14 Q All right. And those are your references. That's
15 what you're looking at.

16 A Yes, sir.

17 Q Okay. All right. Go to the next slide.

18 All right. Looking at this next slide, it looks like
19 this is page 11 of your report. What -- what does that
20 show?

21 A So, this shows the time period of 12:56 to 3:16 a.m.
22 And, so, during that time the phone travels again from that
23 spot there between, I guess, Cowpens and Gaffney down to
24 close to the 2443 Middleton Road address in Anderson.

25 Q Okay. So, you got -- you got an arrow, and I just

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1 point this out. You're not saying that that was the -- the
2 actual travel, but that's a straight line. You're just
3 pointing that's a travel direction.

4 A It's just the general direction of travel. I don't
5 believe Mr. Molina was in a helicopter. Not that day.

6 Q Okay. So, at almost 1:00 a.m. on June the 18th, he's
7 still, or that cell phone is still, in the -- somewhere
8 close to Gaffney.

9 A Yes. So, about 1:00 a.m. it's -- it's in that area
10 between Gaffney and Cowpens. And then at 1:17, it's there
11 on the west side of -- it's using a tower on the west side
12 of Spartanburg along I-85. And then 2:09, it's down in the
13 area of Anderson. And then by 3:16 it's down in the area
14 of that blue pin at Middleton Road in Anderson.

15 Q Okay. So, at 3:16 a.m. on June the 18th that phone is
16 located very close to Mary's address.

17 A That's correct.

18 Q All right. And if you look at the summary that we
19 have, which has been introduced into evidence as State's
20 Exhibit No. 2, which I will show you on page three of that
21 report -- and you're familiar with that report. I think
22 you did that report, didn't you?

23 A Yes, sir. I did.

24 Q Does that show a series of communications around the
25 3:00 a.m. time on June the 18th between Mary and

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1 Mr. Molina?

2 A It does. So, starting at 3:08 a.m. there is a series
3 of outgoing calls between 3:08 and 6:29 a.m. They're all
4 outgoing calls from Mr. Molina to Ms. -- is it Mary Martin?
5 Ms. Martin's telephone number.

6 Q Okay. And at that point at 3:00 something, about
7 3:30 or thereabout, is there a gap on that summary sheet
8 where there's really no activity going on between
9 Mr. Molina and Ms. Martin?

10 A There is. That's 3:38 a.m. to 6:20 a.m.

11 Q Okay. Nothing between the two of them for that about
12 three-hour period.

13 A Correct. There's a gap in the -- in the records
14 during that time.

15 Q All right. And in that summary sheet it's got call
16 duration, I believe, is that correct?

17 A It does.

18 Q And some of them are very, very short.

19 A They are. The only one that is -- well, actually
20 after 3:08 they are all -- let me see. Yeah. There's no
21 call longer than 38 seconds. That's the longest, the
22 longest call.

23 Q What -- what does that indicate, that short of a --
24 short of a duration?

25 A I mean, most of these are seven five, you know, 14

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1 seconds. It's not necessarily -- doesn't mean that the
2 phone was actually answered or they actually talked.
3 They're probably unanswered outgoing calls.

4 Q Okay. And when it's an outgoing call on that summary
5 sheet, that would be a call from Mr. Molina.

6 A That's correct.

7 Q All right. And, so, the short durations in all
8 probability are not actual connections between the two
9 phones?

10 A That's correct. They're probably, you know, phone
11 ring, you know, picking up a phone, hitting that green
12 button, maybe the phone rings, maybe it goes to voice mail,
13 the phone's hung up. I -- they're not. They don't look
14 like connected calls.

15 Q All right. So every time that summary sheet says
16 outgoing, that would be an attempt by Mr. Molina to call
17 Mary.

18 A Yes.

19 Q And if it says incoming, that would be an indication
20 of Mary calling Mr. Molina.

21 A That's correct.

22 Q All right. So, we know at this point in time that
23 around six -- once again, can't see that far -- six --
24 six -- excuse me -- 3:16 a.m. that that call is right there
25 at Mary's address, or close to it.

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1 A Yes.

2 Q All right. Go to the next one. Okay. So, now we're
3 looking at page 12 of your report. What are you -- what
4 are you -- what are you showing in that?

5 A So, this one's showing the time period of 3:16 a.m. to
6 6:29 a.m. During that time the phone is mostly using that
7 tower on the bottom closest to the 2443 Middleton Road
8 address.

9 It does use that other one just north of there on two
10 occasions. I don't think the phone was, like, driving up
11 north and coming back. I bet it's -- it's in a place where
12 those two have -- both have coverage. And, so, what it's
13 doing is it's seeing each at an equal strength and bouncing
14 back and forth with those multiple calls.

15 And then every one of the calls on that map -- these
16 are all the calls that occurred during that time period.
17 And every single one of those calls are outgoing from
18 Mr. Molina's phone to Ms. Martin's phone.

19 Q All right. And, so, in your opinion based on your
20 skill and expertise, you do not believe the phone is
21 actually moving to that other tower.

22 A Correct. The phone is somewhere where it can see both
23 at a -- you know, at an equal strength.

24 So, again, those lines -- those lines aren't -- to go
25 back to my flashlight, like, you know, if I shine a

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1 flashlight in the back of the room, there's a place where
2 there's light. There's a place where there's no light.
3 But then you kinda have that fuzzy area in between. Okay.
4 That fuzzy area in between winds up being the boundaries of
5 those towers and sectors when they emit that energy. And
6 so there's places where those boundaries can kinda overlap
7 that tower. When we're driving around, we can go from
8 tower to tower to tower as you go down the road and not
9 drop a call.

10 And, so, if you're in those areas where the boundary
11 might overlap, you'll see that kind of ping-ponging back
12 and forth between the towers and the sectors.

13 Q All right. So, in your opinion that phone was located
14 close to Mary's house between 3:16 a.m. all the way up to
15 6:30 a.m.

16 A Yeah. It's consistent with being in the area around
17 Mary's house.

18 MR. RHODEN: Go to the next slide.

19 Q All right. What this would be, page 13 of your
20 report? Now, what are we seeing here?

21 A So, here we're looking at 6:29 a.m. to 8:05 a.m.
22 Again, starting at 6:29 that phone was in the area around
23 Mary's house on Middleton Road.

24 And then after that the phone travels back up towards
25 that area between Cowpens and Gaffney at -- by 8:05 a.m.

Matthew wilde
Direct examination by Mr. Rhoden

1 And, again, every one of the calls here are outgoing calls
2 between Mr. Molina and/or from Mr. Molina to Ms. Martin's
3 phone.

4 Q Okay. All right. So at 8:00 o'clock in the morning
5 the phone, once again, is somewhere near Cowpens or
6 thereabouts.

7 A Yes, sir.

8 Q All right.

9 MR. RHODEN: So, go to the next slide.

10 Q This would be page 14 of your report. What are you
11 showing now?

12 A Showing 8:05 a.m. to 9:54 a.m. And, again, during
13 this time the phone goes from that spot between Cowpens and
14 Gaffney back down towards Ms. Martin's residence. And,
15 again, each one of these calls are outgoing from Mr.
16 Molina's phone to Ms. Martin's phone.

17 Q All right. And, so, at 9:54, almost 10:00 o'clock in
18 the morning, that phone once again is located very close to
19 Mary's residence.

20 A Yes.

21 Q Okay. And the arrow represents the -- the direction
22 that that phone is --

23 A The general direction of travel, the fact that it's
24 moving from, you know -- from east of Spartanburg-Cowpens
25 area down to Anderson.

Matthew wilde
Direct examination by Mr. Rhoden

1 Q All right. And if we go to the next page, page 15 of
2 the report, what does that represent?

3 A So, this page 15 represents the activity on
4 Mr. Molina's phone between 9:54 and 10:55 a.m. Again, that
5 phone is down in the area using that tower and sector
6 consistent with being in the area of Middleton Road. And
7 it uses that tower and sector twice at 9:54 and 10:55. And
8 then it uses the other one at 10:25. And each one of those
9 calls are outgoing between -- or they are indicating
10 contact with Ms. Martin's phone.

11 Q All right. If we go to the next page, page 16, of
12 your report, what -- what are we seeing here on -- on this
13 page?

14 A Well, here we're seeing 11:28 to 12:40 p.m. So, at
15 11:28 that phone is using the tower and sector No. 61367,
16 which is on the left side of the page. You know, contact
17 with Ms. Martin's phone. And then at 12:39 and 12:40 the
18 phone is using two towers. They're up on the top right
19 side of the page. And two sectors consistent with being in
20 the area of the T.N.T. Catfish Lake.

21 Q I was going to ask you about that. In this case
22 there's testimony from Ms. Martin that Mr. Molina wanted to
23 take his kids fishing at the T.N.T. Catfish Lake. Is that
24 represented by the green square?

25 A It is.

Matthew Wilde
Direct examination by Mr. Rhoden

1 Q Okay. And, so, the phone stays in that location from
2 about 11:28 until around 12:40 p.m.

3 A The 11:28 one is not consistent with being in the area
4 of the catfish lake. So, here again, I'm -- I'm relying
5 upon user of the device making or receiving calls at a
6 record here. So, I can't tell you how long it was at the
7 catfish lake. What I can tell you is it's consistent with
8 being at the catfish lake between 12:39 and 12:40.

9 Q Okay. We'll go to the next page, which is page 17, of
10 the report. What are we seeing here?

11 A So, here we're looking at 1:51 to 2:10 p.m. And, so,
12 from 1:51 to 1:53 the phone is there on the southwest side
13 of Anderson. And then by 2:10 it's back using the tower
14 and sector consistent with being in the area of Middleton
15 Road. And, again, all of these calls are outgoing to
16 Ms. Martin's telephone number.

17 Q All right. So, the -- the phone would have traveled
18 from the vicinity of the catfish lake to Ms. Martin's
19 residence.

20 A That's correct.

21 Q And, once again, this is Mr. Molina's phone.

22 A It is.

23 Q And go to the next page, page 18, of -- of your
24 report. What are we seeing here?

25 A So, page 18, we're looking at the activity of 5:02

Matthew wilde
Direct examination by Mr. Rhoden

1 p.m. on June 16th. I'm sorry. June 18th. And here the
2 phone's using a tower and sector close to the [REDACTED] East Main
3 Street address. And this is an outgoing call from
4 Mr. Molina to Ms. Martin's telephone. It's using a sector
5 that kind of faces away from the 935 East Main Street
6 address. But this tower is actually located almost across
7 the street from the crime scene.

8 And, so, sometimes, I know through my experience and
9 through some of the testing I've done, is that if somebody
10 or a device is really close to the tower, sometimes it can
11 get a little energy from all three sectors if they're at
12 the base of that tower or, let's say, a hotel with a --
13 with a tower on top of it. If you're sitting outside the
14 front of the hotel, you can get a little coverage from all
15 three sectors on that tower. And, so, what you'll see is
16 it kind of bounces around a little bit.

17 Q And the road there, is that I-85 that we --

18 A It is. So, I-85 kinda runs up the middle of the page
19 from the bottom left to the top right. And then Highway
20 290 kinda bisects that -- or East Main Street is Highway
21 290 going into Duncan. It kinda bisects that tower, that
22 sector there.

23 Q All right. Now, let me -- let me digress a little bit
24 from your report.

25 I'm going to show you two exhibits, State's Exhibit

Matthew Wilde
Direct examination by Mr. Rhoden

1 No. 19 and State's Exhibit No. 20, which were previously
2 introduced into evidence.

3 This is the house at [REDACTED] East Main Street, Duncan. And
4 one of them is a shot looking at the back side of the house
5 and the other is a shot looking at the back and the side of
6 the house. Let me show you those so you can -- can look at
7 those.

8 A Yes, sir.

9 Q All right. Does that also show the cell tower that is
10 in question here?

11 A It does. You can see the tower literally right across
12 the street from where the house is located. You can see it
13 here in the background of the picture, so you see it in
14 that picture. And then on Exhibit No. 19, it's a little
15 bit further away. You can still see the tower right across
16 the street.

17 Q Thank you.

18 A Yes, sir.

19 Q Okay. So, let's go to the next slide, page No. 19.
20 Okay. What are we seeing here?

21 A So, page No. 19, showing activity between 5:11 and
22 6:15 p.m. And during that time that phone is using the
23 tower and sector -- again, the tower right across the
24 street from the crime scene. It's using the sector that
25 faces away from the crime scene. But it's there between

Matthew wilde
Direct examination by Mr. Rhoden

1 5:11 and 6:15.

2 And there's a series of calls. There's one, two,
3 three, four, five calls with Ms. Martin's phone. And then
4 finally the last call at 6:15 is -- it's about seven
5 minutes and 15 seconds long, is that last outgoing call
6 there on the page.

7 Q Okay. So, all of those calls -- well, there's one,
8 two, three, four, five, six total there that were calls
9 that were from Mr. Molina's phone. Between Mr. Molina's
10 phone and Mary's phone.

11 A Yes.

12 Q Okay. So, the phone was in that vicinity according to
13 this page of your report from 5:11 p.m. until 6:15 p.m.

14 A Yes, sir.

15 Q And, once again, the red mark is the crime scene.

16 A It is. And actually it's 6:15, is the start of that
17 call. And then if you add seven minutes to it, so it'd be
18 until about, what, 6:20 or 6:22 or so. It's in that area.

19 Q And go to the next page. Is this just kind of a
20 blowup here of what we're looking -- we were previously
21 looking at?

22 A It is. It's just to show how close the -- to
23 demonstrate how close the tower is to the actual residence
24 where the crime occurred.

25 Q All right. Okay. So, based on your skill and

Matthew Wilde
Direct examination by Mr. Rhoden

1 expertise as a -- as an expert in this area, are you
2 telling this jury that in your opinion that phone was
3 very -- Mr. Molina's phone was very close to the -- to the
4 crime scene location between 5:11 and six -- really 6:22?

5 A It's -- or actually the phone uses that tower and
6 sector. That tower and sector is consistent with being in
7 the area of the crime scene during that time.

8 You know, it could -- it could be a half a mile away
9 from that tower also during that time. All I'm saying is
10 it's consistent with being in that area.

11 I zoomed in on this to show the proximity between the
12 crime scene and the cell tower beams.

13 Q All right. Let's go to the next page. Basically, is
14 this the same thing overlaid by -- with -- with like a
15 Google earth sort of map?

16 A It is like a Google map to see, you know, on the
17 ground what it -- what it would like look overhead. So,
18 you can see that proximity again.

19 Q All right. And, once again, the little red mark
20 represents the crime scene.

21 A Yes, sir.

22 Q Okay. Finally, go to the next page, page 22 of your
23 report. What are we seeing here?

24 A So, page 22 is showing the activity between 6:15 and
25 6:51. So, again, on the top right you have that call at

Matthew wilde
Direct examination by Mr. Rhoden

1 6:15 that was seven minutes long -- seven minutes and 15
2 seconds.

3 Then after that there's a call at 6:37. After that
4 there's two at 6:41 and 6:42. Then 6:48 and then 6:50 and
5 6:51. So, between 6:15 or so and 6:51, the phone has
6 traveled south along I-85 between Duncan and basically the
7 west side of Greenville.

8 Q All right. And I want to point this out too. When --
9 when we see a call like sixteen -- 6:15 p.m. up at the top
10 right-hand corner where it says duration seven minutes and
11 15 seconds -- when it's in red like that, that is
12 communication between Mr. Molina and Ms. Martin, is that
13 correct?

14 A It is.

15 Q All right. So, the first thing we see there on the
16 upper -- upper right-hand side is that last -- that last
17 call between Mr. Molina and Ms. Martin that lasted seven
18 minutes and 15 seconds.

19 A That's correct.

20 Q All right. And then the -- the -- that's very close,
21 somewhere close to the crime scene.

22 A Yeah. That's using the tower and sector. Basically,
23 it's using the tower across the street from the crime scene
24 and the sector that could potentially provide coverage to
25 the area around the crime scene.

Matthew wilde
Direct examination by Mr. Rhoden

1 Q Okay. So, the next time we get is 6:37 p.m. If I
2 tell you that this is -- shooting occurred somewhere around
3 6:25 to 6:28 -- there I think the call comes in around
4 6:28 to 9-1-1 -- that -- that phone then travels at -- to
5 somewhere, I guess, south of the crime scene at 6:37 p.m.

6 A Yeah. It's using a tower and sector. Trying to
7 figure out -- where that is. It's using a tower and sector
8 probably south of the airport at that point in time. So,
9 just a few exits down from -- from Highway 290.

10 Q Okay. So, now after the -- the crime has occurred,
11 this report on this page is showing that phone, which was
12 Mr. Molina's phone, traveling away from the crime scene.

13 A It's definitely traveling away from the crime scene.
14 It travels south through Greenville and ending up at
15 6:51 on the southwest side of Greenville, that being the
16 last call on the records.

17 Q All right. And I just want to point out. These last
18 calls that you have there are not in red. What does that
19 mean?

20 A It means that it was -- the phone was in contact with
21 somebody other than Ms. Martin at that time period.

22 Q Okay. So, I want to be clear here. The AT&T records
23 that you used were from records from Mr. Molina's phone,
24 correct?

25 A Yes. So, I used the records from Mr. Molina's --

Matthew wilde
Direct examination by Mr. Rhoden

1 Mr. Molina's phone. Those records tell me who his phone
2 number is in contact with.

3 Q All right.

4 A And that's how I'm using those records to identify the
5 times he's in contact with Ms. Martin.

6 Q All right. And those records, Mr. Molina's records,
7 show every number he -- he may have called or numbers that
8 come into him, not just Mary's, correct?

9 A Correct.

10 Q All right. The summary is just Mary's that's been
11 introduced into evidence here as State's Exhibit No. --

12 A Two.

13 Q -- 2. Those are just Mary's calls between Mary and
14 Mr. Molina.

15 A Yes.

16 Q Correct? But the overall records that you use, which
17 is State's Exhibit No. 1, shows all of the calls coming or
18 going from Mr. Molina's phone.

19 A Yes.

20 Q Okay. So, as the phone is traveling away from the
21 crime scene it -- neither he nor Mary on -- on this diagram
22 here are in communication with each other.

23 A Correct.

24 Q All right. And the last time that you have here is
25 6:51 p.m. Is that the last call that shows up in the

Matthew wilde
Direct examination by Mr. Rhoden

1 records?

2 A It's the last call with cell site data that shows up
3 in the records. So, after that if there's an incoming or
4 outgoing -- if there's an incoming call to that device,
5 that incoming call will show in the records but it won't
6 show the cell safety S.O. It won't show me where the phone
7 is, and that's -- could be one or two reasons. Number one,
8 the phone is off, or the phone is -- number two, the phone
9 is somewhere where it can't get service.

10 Q Okay. All right. And -- and that's the last records
11 that the -- that's the last calls that AT&T records show.

12 A The last calls of cell site data that they show, yes.

13 Q Now, just to recap. Your report is showing that
14 Mr. Molina's phone was near Mary's house in the early
15 morning hours of June the 18th around, between 3:00 --
16 3:00 a.m. to 6:00 a.m.

17 A Yes, sir.

18 Q And then later in the day around the ten-ish eleven --
19 10:11 a.m. marked as near the catfish lake.

20 A Yes.

21 Q Fishing lake.

22 A About -- I believe it's like 11:40 or so.

23 Q Okay. And then as we get closer to the time that the
24 murder happened, that phone is in the vicinity of the crime
25 location shortly after 5:00 o'clock and remains somewhere

Matthew wilde
Direct examination by Mr. Rhoden

1 after 6:22 or thereabouts.

2 A Yes, sir. There's a last call at 6:15. That call is
3 about seven minutes long. And I'm pretty sure I remember
4 looking at those records to see if it used.

5 So, AT&T will give us like the ending tower sometimes
6 where they'll give us the -- the handovers. So, if the
7 phone is on the call, like, you're on a call and traveling
8 down the interstate, we'll get the initial, like, 20
9 handovers in the middle and then the final.

10 And, so, I think I remember looking at that specific
11 call and it was using the same tower and sector when the
12 call ended seven minutes later.

13 Q All right. So you -- based on your data, you
14 cannot -- you're not saying the phone left that location at
15 6:15 or 6:22. You can't tell that.

16 A I can't tell. I can tell if I -- if I am trying to
17 recall. And I can look at the records and doublecheck, but
18 I'm pretty sure it was using the same tower and sector when
19 it ended at 6:22.

20 Q Okay. All right. So, it could have been at the
21 location after 6:30.

22 A The crime scene?

23 Q Yes.

24 A After 6:30.

25 Q Right. Your next one is at 6:37. So, we know some --

Matthew wilde
Cross-examination by Mr. Brannon

1 it traveled to that sector at 6:37, correct?

2 A Yeah. I mean, I can't tell exactly where the phone is
3 between 6:22 and 6:37. But the phone has to be, you know,
4 by 6:22, it has to be somewhere still in the area of that
5 tower and sector.

6 So, between 6:22 and 6:37, not a hundred percent sure
7 where the phone is because there's no activity to tell me
8 that. But it could have stayed around the area of the
9 crime scene, you know, and then traveled, I guess, you
10 know, down the interstate by 6:37.

11 Q All right. Okay. Agent wilde, I do appreciate your
12 assistance in regard to this. And, once again, how --
13 based on your skill and expertise, how reliable is this
14 information that you're giving us?

15 A Again, it's reliable. If I was to go look for Mr.
16 Molina's phone today and I got that tower and sector, I
17 would look at the area from the crime scene north of there
18 to the next tower and slightly back inward. It would
19 somewhere in that general area between Duncan, Duncan-Lyman
20 and wellford.

21 Q All right. Okay. Thank you. That's all the
22 questions I have. Answer any questions that Mr. Brannon
23 may have for you.

24 A Yes, sir.

25 THE COURT: Mr. Brannon, let me see y'all just a

Matthew wilde
Cross-examination by Mr. Brannon

1 minute.

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 CROSS-EXAMINATION

5 BY MR. BRANNON

6 Q Agent Lindman, whose name is on the phone records that
7 you were looking at?

8 A I don't -- I can check and see. I'm not really a
9 hundred percent sure.

10 Q Please do.

11 A Yes, sir.

12 (Pause.)

13 A Not sure if this is the subscriber information that's
14 in here, sir.

15 Q So, how do you know that it, that phone, belongs to
16 Ms. Molina?

17 A I don't know that. I -- obviously, I wasn't there in
18 June of 2016. I didn't recover the phone from him. I'm
19 just going off the information that's being asked of me to
20 assist in the case.

21 Q In fact, have you ever seen the phone that was alleged
22 to be associated with that number?

23 A No, sir.

24 Q Do you know who had the phone, that phone, in his or
25 her possession on June the 17th or June the 18th of 2016?

1 A I can't tell who had the phone in their hand.

2 Again, what I can do is look at the records. And when
3 I do this to look at a fugitive or locate a missing person,
4 I look at the records and I see who they're in contact
5 with. And then, you know, I can make -- take a
6 common-sense approach on that, like if -- you know, if that
7 person's calling the other person multiple, multiple times,
8 it's probably somebody that person knows.

9 Q Like, maybe a son?

10 A I mean, I -- I have no idea who had the phone in their
11 hands.

12 Q In fact, as that phone traveled up and down Interstate
13 85, you don't know how many people were in the car or truck
14 that it was traveling in, do you?

15 A I don't know any of that, no, sir.

16 MR. BRANNON: One second, Your Honor.

17 (Pause.)

18 Q Some of those records indicate text messages, right?

19 A Yes, sir.

20 Q Thank you.

21 MR. BRANNON: Nothing further, Your Honor.

22 MR. RHODEN: No followup, Your Honor.

23 THE COURT: Thank you. You may step down.

24 THE WITNESS: Thank you, sir.

25 MR. RHODEN: Your Honor, we'd ask that this witness be

1 excused.

2 THE COURT: He may be.

3 (Whereupon, the witness was excused.)

4 MR. RHODEN: Your Honor, at this time the state would
5 rest.

6 THE COURT: All right. That is all of the testimony
7 or evidence to be offered by the state, at least in their
8 case in chief.

9 Before we go any further I've got some matters I'll
10 need to address with the lawyers. So, after I address
11 those, we'll come back to continue with the balance of the
12 trial.

13 So please retire to your jury room, but do not talk
14 about the case as of yet.

15 (The following takes place outside the presence of the
16 jury.)

17 THE COURT: We're going to take a 15-minute recess.

18 During that recess -- Mr. Molina, you and Mr. Brannon,
19 I'm sure, have discussed your right to testify or not to
20 testify during the trial of this case.

21 During this break you and he are going to discuss that
22 some more, and when I come back I'm going to have a
23 conversation with you about whether or not you want to
24 testify or not. So, you and Mr. Brannon discuss that
25 during the break, and then when we come back I'll have that

1 conversation with you.

2 I will also address any motions that need to be made.

3 MR. BRANNON: Thank you, Your Honor.

4 THE COURT: We'll be at ease for 15 minutes.

5 (Whereupon, a recess was taken.)

6 THE COURT: All right. Mr. Brannon, do you have
7 motions you would to address?

8 MR. BRANNON: Your Honor, for the purpose of creating
9 a record, at this point, Your Honor, I would move for a
10 directed verdict in this matter.

11 Your Honor, I believe the testimony in this case is
12 questionable at best implicating my client, and I would ask
13 the Court to direct a verdict of not guilty at this point.

14 THE COURT: Mr. Rhoden.

15 MR. RHODEN: May it please the Court.

16 Obviously, Your Honor, I oppose that motion. We've
17 got two eyewitnesses. We have cell phone data. We've got
18 an abundance of evidence that the defendant committed the
19 crime. So, I would ask the Court to deny Mr. Brannon's
20 motion.

21 THE COURT: All right. The evidence is more than
22 sufficient to submit it to the jury, so the motion is
23 denied.

24 MR. BRANNON: I understand, Your Honor. Thank you for
25 considering.

1 THE COURT: All right. Have you talked to Mr. Molina
2 about testifying or not?

3 MR. BRANNON: I have, Your Honor.

4 THE COURT: And has he indicated to you a preference?

5 MR. BRANNON: Your Honor, we've talked about that
6 issue on a number of occasions, most recently just moments
7 ago.

8 Your Honor, he has indicated to me that he does not
9 wish to testify. I would ask you to question him on that
10 yourself though, Your Honor.

11 THE COURT: All right. Mr. Molina, Mr. Brannon tells
12 me that you and he have talked about your right to testify,
13 as well as not testify, during the trial of this case. Is
14 that accurate?

15 THE INTERPRETER: Yes.

16 THE COURT: And has he discussed with you the
17 advantages and the disadvantages of testifying, as well as
18 not testifying?

19 THE INTERPRETER: Yes.

20 THE COURT: And do you appreciate and understand those
21 advantages and disadvantages?

22 THE INTERPRETER: Yes.

23 THE COURT: And do you understand that if you chose to
24 testify that you would have to answer not only your
25 lawyer's questions but you would have to answer the

1 questions asked of you by the prosecutor even if the
2 responses to those questions might tend to prove you guilty
3 of some crime the state claims you committed?

4 THE INTERPRETER: Yes.

5 THE COURT: Do you also understand that if you choose
6 not to testify that I will instruct the jury that they may
7 not consider that fact in any way whatsoever during their
8 deliberations or in their determination as to whether or
9 not your guilt has been proven beyond a reasonable doubt?

10 THE INTERPRETER: Yes.

11 THE COURT: Do you also understand if you choose not
12 to testify that you could still call other witnesses even
13 though you don't take the witness stand yourself?

14 THE INTERPRETER: Yes.

15 THE COURT: Have you had plenty of time to think about
16 your decision as to whether or not you will testify?

17 THE INTERPRETER: Yes.

18 THE COURT: And have you reached a decision?

19 THE DEFENDANT: Yes, sir.

20 THE INTERPRETER: Yes, sir.

21 THE COURT: And what is that decision?

22 THE INTERPRETER: I'm not going to testify. I'm not
23 going to speak.

24 THE COURT: All right. And is that a decision that
25 you reached of your own free will and accord?

Closing arguments

1 THE DEFENDANT: Yes, sir.

2 THE INTERPRETER: Yes, sir.

3 THE COURT: Are you satisfied with it?

4 THE DEFENDANT: Yes.

5 THE INTERPRETER: Yes.

6 THE COURT: Has anybody forced you or pressured you
7 into that decision?

8 THE DEFENDANT: No.

9 THE INTERPRETER: No.

10 THE COURT: You made that decision on your own?

11 THE DEFENDANT: Yes, sir.

12 THE INTERPRETER: Yes, sir.

13 THE COURT: Do you have any other witness that you
14 would like for Mr. Brannon to call?

15 THE DEFENDANT: No.

16 THE INTERPRETER: No.

17 THE COURT: All right. Anything further before the
18 jury is brought in?

19 MR. BRANNON: No, Your Honor. Not from the defense.

20 MR. RHODEN: Nothing from the state, Your Honor.

21 THE COURT: All right. Bring them in.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: All right. Ladies and gentlemen, as you
25 know, the state has rested in their presentation.

Closing arguments

1 Mr. Brannon, does the defense wish to present any
2 additional evidence?

3 MR. BRANNON: We do not, Your Honor.

4 THE COURT: The defense rests?

5 MR. BRANNON: The defense rests.

6 THE COURT: All right. That is all of the testimony
7 and other evidence to be received during the trial, and
8 therefore what remains to be done are the lawyers' final
9 summations, after which I'll provide you with the legal
10 instruction, and then you'll begin with your deliberations
11 in the case.

12 So please give the lawyers your attention now as they
13 give you their final summations. And the way that's
14 accomplished is the state will go forward first, followed
15 by the defense, and then the state is permitted a brief
16 reply argument.

17 Mr. Rhoden.

18 MR. RHODEN: May it please the Court, Your Honor.

19 Good afternoon, ladies and gentlemen. If you look at
20 the clock, it's a little bit past noon.

21 This is all the evidence in the case you have heard
22 that has come from this witness stand. This is now my
23 final argument. And, just as I said in my opening, what I
24 say to you now is not evidence. What Mr. Brannon says to
25 you in a few minutes is not evidence. You have heard all

Closing arguments

1 of the evidence in this case.

2 Now, I want to start by making amends here a little
3 bit. I failed when I got up here and gave my opening
4 statement to recognize my colleague, Matthew Henderson, who
5 has been helping me in this case. That's my fault. I
6 should have introduced him earlier. He's one of the
7 assistant solicitors in the office, one of our younger
8 assistant solicitors. But he's been very helpful. So, I
9 did want to introduce him.

10 As I told you on Monday, this is the case of the
11 jealous exhusband, and that's what this case is about and
12 that's what you have heard.

13 Now, it is a tragic case, and you've heard all of this
14 evidence. Mr. Molina is not only a jealous exhusband. He
15 is a jealous exhusband with a depraved heart, an evil man
16 who just could not move on with his life as his exwife had
17 gotten a boyfriend. He didn't like it, and so he committed
18 this crime.

19 That is his motivation. The state does not have to
20 prove motive in a case, but in this case we have proven the
21 motive. And Mr. Molina just could not stand the fact that
22 his wife had a boyfriend.

23 Now, we have all of this movement of him that day. As
24 I told you in the opening statement, what happened that
25 day -- and the evidence has shown it clearly -- is that in

closing arguments

1 the early morning hours of June 18th of 2016 he basically
2 shows up at Mary's house. She lives in the Anderson area,
3 the Middleton Road address.

4 He shows up, and it doesn't go well, and she leaves
5 with her youngest daughter TM and goes to her
6 boyfriend's house in Duncan, South Carolina. That's what
7 happened.

8 She gets over there to the boyfriend's house, and then
9 there's more contact between the two of them, because
10 Mr. Molina wants to go fishing with his children.

11 Can you imagine, ladies and gentlemen? I mean, here
12 he is on that morning around 11:30, thereabouts. And we
13 presented cell phone information that ties right in with
14 it. But can you imagine? He goes to that fishing lake
15 with his three children as in his mind this rage about his
16 exwife is building and he's going to later on go and kill
17 two people? He's fishing with his kids, and then he takes
18 them back home, and then he goes to Duncan.

19 Now, there's testimony in the record, or some
20 question, well, how did he find the place. If you'll
21 recall when Mary was on the body cam right after this
22 incident occurred, the officers asked her, well, how did he
23 know where you were. He said, and she said, well, he's
24 been stalking me. That's what she said on the body cam.

25 Now, just a few minutes ago we presented you this cell

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1 phone information, and the cell phone information shows
2 that he didn't just show up at [REDACTED] East Main Street at
3 6:28 or 6:25 p.m. He was in the area shortly after
4 5:00 o'clock. So, he's there in the vicinity for over an
5 hour before this happens.

6 Now, was he looking for her? Obviously, we know. He
7 found her. Her minivan was parked right out in front of
8 the house. The house is located on 292, the road that goes
9 right to the interstate. So, does it really matter how he
10 found her? He found her.

11 She says in her testimony that she was in that little
12 bedroom area. We showed you that on the diagrams. I'm
13 sure you remember that -- with her boyfriend. And she
14 hears something and then she hears gunshots. And then she
15 opens the door and looks out and there's Mr. Molina after
16 she hears the gunshots.

17 And as she sees him he's walking back toward her from
18 down the hallway. Remember that? Because he was looking
19 to see who else was in the house. And then as he's walking
20 back, he stops at Edilberto's body. He's already shot him
21 one time in the head and he's on the floor. And Mary says
22 he shoots him again. And then he walks toward Mr. Lopez.
23 And Mary intercedes, and he does not shoot Mr. Lopez again.
24 Thankful.

25 Edilberto was shot twice. Dr. Wren told you that in

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1 his testimony yesterday. One bullet was potentially fatal
2 and the other bullet was definitely fatal.

3 Mr. Lopez -- and Dr. Chittum told you yesterday -- was
4 shot one time in the head. I'm sure if Mr. Molina knew
5 that Mr. Lopez was going to survive, he would have shot him
6 twice in the head also. But, thankfully, he did not.

7 Ladies and gentlemen, the proof in this case comes
8 from two eye witnesses. One of those eye witnesses is
9 Mary. Mary has known Mr. Molina for years. They were
10 married. They had three children together. There is no
11 mistake in this identification. She knows him; she saw
12 him; she saw him shoot this weapon and kill two people.

13 We also presented eye witness testimony from
14 Mr. Lopez. Mr. Lopez sat on this witness stand after he
15 received a bullet in the head and recovered to tell you who
16 did that to him. Not only who did it to him, but he sees
17 his friend Edilberto get shot. And he told you that man
18 sitting over there at that table is the one who shot
19 Edilberto and shot him and changed his life forever.

20 Ladies and gentlemen, the state has the burden of
21 proof. We gladly accept the burden of proof in this case.
22 We have presented to you an abundance of proof.

23 The cell phone is just the icing on the cake. You
24 have the testimony from Mary; you have the testimony from
25 Mr. Lopez. And the cell phone information fits hand in

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1 hand with what you heard from two eye witnesses. Puts
2 Mr. Molina at the scene of the crime.

3 Now, the defense, I'm sure, is going to get up here
4 and argue, as they tried to argue already, well, this cell
5 phone, well, it wasn't in Mr. Molina's name.

6 well, remember. Go back to the body cam. And Mary
7 says right after this me don't have any papers. And she's
8 testified that he doesn't put anything in his name.

9 He drives off in this Toyota Tundra. Now, if you will
10 recall when Mr. Brannon got up here and made his opening
11 statement, he had a comment about how he got that wrong.

12 9-1-1 got that wrong. Mary got it right. If you
13 listen to the cell -- excuse me -- the 9-1-1 call, the
14 first words out of her mouth is the correct tag number to
15 that Toyota Tundra. And she testified that she gave that
16 number as she saw him leaving the scene in that car.

17 But, now, once again, ladies and gentlemen, we
18 presented you with the records from Dallas, Texas, when
19 that car got recovered in 2017.

20 well, it wasn't registered to Mr. Molina. Surprise,
21 surprise. But who was it registered to? It was registered
22 to his sister. But he wasn't found with that vehicle. He
23 was too savvy to be found in Dallas, Texas. So he's on the
24 run, and he stays on the run until the U.S. Marshal Service
25 starts getting information. They're looking for him, the

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1 fugitive task force, that takes them to Illinois.

2 And even then he's trying to deceive the U.S. Marshal
3 Service. They're given wrong information that -- but they
4 finally hone in on him. They surround his house. He peeks
5 out the door. Does he give up? You know, if he doesn't
6 know people are looking for him, he'll come out.

7 But he knows that the authorities are looking for him.
8 How does he know that? He knew that that very day that he
9 shot two people in the head because Mary called 9-1-1 while
10 he was still there, and he heard Mary call 9-1-1 and that's
11 when he leaves. So, he's on the run. He knows they're
12 looking for him.

13 And then when they finally catch up to him in
14 Illinois, Mary says there is another call while the
15 officers are outside. Remember that? That he wasn't going
16 to give up. He's got a weapon. And Mary says, no, think
17 of your children, don't do that.

18 The U.S. marshal was here this morning to tell you how
19 this happened, and it happened exactly that way.

20 They surrounded the house. He was back in the house.
21 In about 30 minutes he finally came out. And what did he
22 have? He was trying to make his getaway again. He's got
23 over \$50,000 with him and a gun. But he didn't make it
24 this time. The law finally caught up with Mr. Molina.

25 Ladies and gentlemen, this is the end of the road for

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1 Mr. Molina's wickedness, Mr. Molina's crimes. This is the
2 end of the road today.

3 He is charged with murder. He killed Edilberto. All
4 Edilberto wanted to do that day was sit at the table and
5 drink some beer with his colleague. They worked together
6 at the Mexican restaurant right down the street. And that
7 was Mr. Lopez. They are sitting at a table on a Saturday
8 afternoon.

9 We've got pictures of the house that day. Looks like
10 it was a beautiful day, June the 18th of 2016. Probably
11 the furthest thing from Mr. Lopez and Edilberto's mind was
12 somebody coming in the house and shooting them that day.

13 And why -- why? Edilberto and Mr. Lopez had nothing
14 to do with any of this. They're just home in their house,
15 the place that you think you are the safest.

16 And this man comes in. Mr. Lopez told you this. He
17 comes in the door. Never seen him before. He paces around
18 briefly, and then what does he do? He pulls out a gun.

19 Mr. Lopez and Edilberto had done nothing, to try to
20 live their life, work in the Mexican restaurant, put food
21 on the table. And they're enjoying a Saturday afternoon.

22 This evil, wicked man sitting right there ended the
23 life of Edilberto that day and tried to end the life of
24 Mr. Lopez. The murder is Edilberto. The attempted murder
25 is trying to kill Mr. Lopez.

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1 we also have the charge of burglary. Burglary simply
2 means entering a dwelling. This is clearly a dwelling. A
3 dwelling means a house where you live, where you sleep. No
4 question about that.

5 Entering a house without consent. Nobody's invited
6 Mr. Molina to that house that day. He just came in.
7 Burglary does not require kicking down the door,
8 breaking -- breaking into a house. Simply coming in
9 without being invited with the intent to commit a crime
10 therein. And what did Mr. Molina do? He committed a
11 crime. He shot two people.

12 Now, the indictment in burglary, to be guilty of
13 burglary you've got to a enter a house. Burglary first
14 degree, enter a house without consent and commit a crime,
15 show a weapon, use a weapon. Any of those things
16 constitutes burglary in the first degree.

17 He's also charged with possession of a weapon during a
18 violent crime. He had a handgun. He shot two people.

19 Now, the defense is probably going to get up here and
20 argue about, yeah, the caliber and they didn't test this
21 and they didn't test that. They didn't need to. We've got
22 two eye witnesses. They've got Mary telling them who did
23 it, and then later on they've got Mr. Lopez, thankfully,
24 who survived.

25 Ladies and gentlemen, this is the case of the jealous

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1 exhusband. This is Mr. Molina's end of his wicked road.

2 You 12 people are the judges of the facts, the jury.

3 That's how we do it in our legal system. The state has the
4 burden of proof.

5 I submit to you, ladies and gentlemen, that the state
6 has presented not only evidence beyond a reasonable doubt
7 but absolutely overwhelming evidence that Mr. Molina
8 committed these crimes.

9 Now, I'm sure the defense is going to say, well, I
10 guess Mary was mistaken. I don't know. How could she be
11 mistaken? But I want to end this closing in this way.
12 Mary calling 9-1-1.

13 (Whereupon, the exhibit was played for the jury.)

14 MR. RHODEN: I could talk to you for another 30
15 minutes about the evidence against Mr. Molina, but you've
16 heard it. It's clear. I wanted to play that 9-1-1 call
17 again because it's so abundantly clear that this shooting
18 had just occurred.

19 Mary is distraught. She's telling 9-1-1 what she has
20 just witnessed. It is absolutely clear she identified her
21 exhusband as the perpetrator right after this happened.

22 We have two men on the ground that were shot. The
23 investigation focuses in on Mr. Molina. They track him.
24 They get the cell phone information that ties hand in hand
25 with what you've heard. And, finally, we have Mr. Lopez

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1 who identifies Mr. Molina also.

2 Ladies and gentlemen, I submit to you that the state
3 has proven its case beyond a reasonable doubt. I ask you
4 to put an end to Mr. Molina's crimes by finding him guilty
5 of murder, guilty of attempted murder, guilty of burglary
6 in the first degree and guilty of possession of a weapon
7 during a violent crime.

8 Now, Mr. Brannon is going to get up here and give his
9 closing, and then I'll briefly have an opportunity to talk
10 to you one more time.

11 But let me thank you right now for your patience, your
12 attention. I've watched you during the trial. I know you
13 paid close attention to all of the evidence, and I
14 appreciate that. And I'll be back in just a few minutes.
15 Thank you.

16 MR. BRANNON: May it please the Court.

17 THE COURT: Mr. Brannon.

18 MR. BRANNON: Ladies and gentlemen, I know this
19 probably sounds absurd, but I would like to thank you.
20 Thank you for your time and your attention, because I know
21 that some of this has been ridiculously boring and some of
22 it has been excruciatingly intense and emotional. I'm
23 sorry -- I'm sorry. But I do thank for your attention.

24 I think in pictures. I don't know why. That's just
25 the way I think. And the judge is going to tell you at the

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1 end of this what the law in this case is.

2 One of the things that he's going tell you that he has
3 already told you is that the state has to prove each and
4 every element of these four crimes beyond a reasonable
5 doubt. And a reasonable doubt is a doubt that would make a
6 reasonable person hesitate to act.

7 You 13 people are reasonable people. That's why we
8 picked you. The kind of doubt that I'm talking about is
9 simply the kind of doubt that makes you go hum.

10 The picture I think about when I think of reasonable
11 doubt is the mirror in your bathroom in the morning after
12 you've taken a shower, particularly for those of us who
13 have to shave when that mirror is all fogged up. Sometimes
14 you have to wipe that fog off the window so we can see to
15 shave.

16 So, you take that towel or that napkin or whatever you
17 use and wipe that mirror off. The fog stays in the
18 corners, is reasonable doubt.

19 And so the state has to prove beyond a reasonable
20 doubt. They have to wipe all of that fog off that my
21 client is guilty.

22 But I want to talk to you about what didn't happen.
23 So, law enforcement is called. You heard that 9-1-1 call,
24 and you know that the first officer that showed up is the
25 Duncan police officer. And then Officer Brown, Deputy

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1 Brown, shows up. But what each and every officer heard as
2 they approached that scene was that the person who did this
3 is Francisco Molina. Mary told them Francisco Molina.

4 There wasn't an investigation in this case, ladies and
5 gentlemen. There wasn't. You could have potentially had
6 fingerprint evidence, but they didn't look for it. You
7 could have had caliber classification of a projectile, but
8 you didn't get it.

9 Ladies and gentlemen, you could have had text
10 messages, but you didn't get them. And, you know, you got
11 a bunch of phone records. You got phone records from a
12 number that starts with 770. You got all of those records.

13 But you know what you didn't get? You didn't get
14 Mary's telephone records. You know what they would have
15 told you? That's just, one example. She testified that on
16 the day they apprehended my client that she made a phone
17 call or there was a phone call. And in that phone call she
18 said don't do it, think of your children. But you got to
19 believe her, because they didn't get the police records.
20 The phone records, excuse me.

21 There was no investigation. Law enforcement showed
22 up, Mary says it's him and they stop. That's it.

23 Just a few minutes ago Mr. Rhoden said this is an
24 eyewitness case. There are two eyewitnesses. That's all
25 you need, two eyewitnesses.

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1 Let's talk about the witnesses, and I want to go in
2 reverse order. I want to talk about Mr. Lopez. He was
3 tragically injured in a situation that he had no cause in
4 whatsoever. His life is forever changed. But on June the
5 18th of 2016 he was sitting at a table in a house and he
6 was drunk. This man, you've seen him. He's a tiny little
7 dude.

8 MR. RHODEN: Objection. There's no evidence of that
9 in the record, Your Honor.

10 THE COURT: Okay. Confine your argument to the
11 record.

12 MR. BRANNON: There were beer cans all over that
13 floor. You've seen him. He's a tiny little man, and he
14 said I don't know if it was 2:00 or 5:00 o'clock. I don't
15 know. He was clearly drinking beer that day. He told you
16 I was drinking with my friend.

17 He also said to you I had never seen this man before,
18 he didn't say a word, we didn't talk, and that I didn't see
19 him again until he got arrested and that's where I learned
20 his name.

21 Ladies and gentlemen, I submit to you that Mr. Lopez
22 doesn't know how long the shooter was in the house. He
23 didn't know him. He could not recognize him, but law
24 enforcement arrested Francisco Molina, so that must be him.

25 When he testified I asked him do you remember telling

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1 the guy with the shiny head that you didn't see him again
2 until you saw his picture in the paper, and he said I
3 didn't say that. I asked him to play it again. They
4 played it again and he said exactly what I said.

5 Now, I want to talk about Mary. You know, the cool
6 thing about deliberation for you guys is you don't have to
7 rely on your memory. All of these exhibits are right here.
8 You're going to have your hands on them. You can see them;
9 you can look at them; you can read them.

10 And one of the things you can do is you can listen to
11 testimony again. You can listen to that body-cam video,
12 because, you know, Mary made three statements in this case,
13 three of them. Two of them are written. You don't got
14 [sic] those, but you do have that body-cam video. On that
15 body-cam video one of the things she made clear is he
16 pointed the gun at me. Now she doesn't remember if that
17 happened.

18 In that video she never says to you one word about
19 having gotten down and protected Mr. Lopez. She doesn't
20 say that in that statement, but she told you that sitting
21 on this witness stand. And I want you to look at the
22 video, because that lady had on a white shirt.

23 There was blood everywhere. Just in the few pictures
24 you've seen there's blood everywhere. And, by the way,
25 Mr. Lopez is -- he's flailing around. And she's on the

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1 ground with a white shirt. That white shirt doesn't have a
2 spot of blood on it nowhere.

3 Mr. Rhoden wants you to believe that this is the
4 jealous, angry husband. He said that in his opening and he
5 said it two or three times in his closing.

6 But, ladies and gentlemen, Mary sat right here and
7 told you Francisco had moved on. Yocinitie is his wife.
8 He's got three children with her. He moved on. She said
9 he's not mad at me, he wasn't mad at me.

10 Then I said what did you mean by it when you said you
11 were acting ridiculous or something like that. She said I
12 should have been at home. I wanted to hurt him. Those
13 words came out of her mouth. Hurt him, she did. Hurt him,
14 she has.

15 Mr. Rhoden said there's no mistake here in the
16 identity of the shooter. I submit to you that Mr. Lopez is
17 absolutely mistaken. Mary's statement is intentional.
18 Mary's statement is intentionally intended to hurt him.

19 I was watching the news this morning and I'm getting
20 dressed and -- and the nice lady on Channel Seven was
21 giving the traffic, and she said it's clear between
22 Anderson and Spartanburg, it'll take you 47 minutes to
23 drive that distance.

24 But if you listen to Mary -- if you listen to Mary --
25 and we talked to -- or we think about Investigator Brown.

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1 He told me it was less than five minutes from the 9-1-1
2 call until he was on the scene.

3 I submit to you one of these discs is his body-cam
4 video, and if you ask to look at it, if you look at it
5 again, six minutes and 17 seconds into it she says he's
6 there, he's in Anderson County, he's at my house.

7 Eleven minutes and 17 seconds is enough to drive from
8 Duncan, South Carolina, to Anderson? But then, again, we
9 learned he never went there. She wanted you to think that
10 he was going to go and hurt his children. He was never
11 there.

12 You have to believe Mary to find my client guilty, and
13 I submit to you that there's a white shirt that says it
14 wasn't him. I submit to you that there's an appearance in
15 Anderson, South Carolina, about 13 minutes later that
16 wasn't him.

17 You know, she wants you to believe that he was leaving
18 flowers for her trying to woo her back to him. She wants
19 you to believe that they were communicating all of these
20 times on this phone. And there are text messages. There's
21 evidence in those records that the state put in where it
22 shows text messages. But you didn't see them. If I want
23 my wife back I'm going to text I love you, baby, come home.
24 If I'm going to kill you, I'm threatening you in text
25 messaging.

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1 You don't have any of those records. If they can tell
2 you where a phone is at any given minute, they can tell you
3 what the text message said, but they didn't give it to you.
4 They could have shown you one text, and that text would
5 have proved that it was Francisco Molina that she was
6 talking to, but they didn't do that.

7 You've got to believe Mary who told the police he
8 pointed a gun at her and then told the police that didn't
9 happen. You've got to believe Mary who wants you to
10 believe she laid down over a man who had been shot but
11 didn't get blood on her white shirt. And you've got to
12 believe Mr. Lopez who said I'd never seen him before, never
13 heard him say a word, but when I saw the picture in the
14 newspaper, that's when I saw him next.

15 Just a couple of things I want to clear up. You know,
16 my client did have a gun when they apprehended him in
17 Peoria, Illinois, but that gun was not the gun that shot
18 Mr. Lopez or the other gentleman.

19 And you know how you can be sure of that? Because law
20 enforcement took possession of that gun, but they didn't
21 bring it into this courtroom and say this is the weapon.

22 My client had a gun. So what? They couldn't tell you
23 how long that my client had been in Peoria, Illinois. Mr.
24 Rhoden wants you to think that he was running from the law.
25 He had a job. He was working in Peoria, Illinois.

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1 I thank you for your time and attention. And you
2 could have had a lot more evidence, but you don't.
3 Ms. Mary Martin lied to the police. Mr. Lopez is mistaken.
4 And my client is not guilty. Thank you.

5 MR. RHODEN: May it please the Court.

6 THE COURT: Mr. Rhoden.

7 MR. RHODEN: If you don't go home, everyone in the
8 house will die. That's what Mary said Mr. Molina said in
9 that last call, the seven-minute phone call that was the
10 last phone call in the records.

11 As soon as Mary hung up that call Mr. Molina starts to
12 slaughter people in that house. He told her he was going
13 to do it and he did it. The only reason her boyfriend was
14 not killed was because he jumped out of a window.

15 Now, Mr. Brannon makes a big deal out of no text
16 messages, etc., etc. He says Mr. Lopez must have been
17 mistaken. He says Mary must have been mistaken. Nobody is
18 mistaken that two people were shot.

19 No, we don't have a gun. It would've been nice for
20 Mr. Lopez, I mean, excuse me, Mr. Molina to have left his
21 gun at the scene. That would have been very nice of him,
22 but he did not do that. He took it away. Do we know where
23 he took it? No. We don't.

24 We don't have a gun to prepare -- to compare the
25 projectiles to. We don't. But that doesn't matter in this

Jury charge

1 case, does it? I mean, he wasn't caught until several
2 years later. No. The gun he had in Peoria was not the gun
3 he used after all of that time.

4 But Mary said to you in that last phone call that
5 Mr. Molina promised to kill everyone in the house if she
6 did not go home.

7 I submit to you that that is the only truthful thing
8 that the defense has here, is that Mr. Molina told the
9 truth about that. He told the truth to Mary that if you
10 don't go home everyone dies. It's only because Mr. Molina
11 did not put a bullet, a second bullet, in Mr. Lopez's head
12 that he survived. Poor Edilberto didn't.

13 Once again, ladies and gentlemen, Mr. Brannon wants to
14 talk about the fog on the mirror. I'm not sure I followed
15 that analysis, but, anyway, the state has to prove its case
16 beyond a reasonable doubt. We accept that; we've done
17 that.

18 We don't have to prove the case beyond any and all
19 doubt. You can have a doubt about everything. You can
20 have a doubt that the sun is going to come up tomorrow.

21 The state has to prove the case beyond a reasonable
22 doubt, a reasonable doubt that you can give a reason to,
23 not any and all doubt.

24 Two eye witnesses. And one thing, ladies and
25 gentlemen, I just don't understand from the defense, the

Jury charge

1 records of the cell phone, that he was there and then he
2 ran away.

3 Thank you for your time, and I ask that justice be
4 done in this case for Edilberto, for Mr. Lopez, and I ask
5 that you find the defendant Mr. Molina guilty of all
6 charges. Thank you.

7 THE COURT: Does any juror need a short break before I
8 provide you with the instruction?

9 (No response.)

10 THE COURT: All right. Ladies and gentlemen, you of
11 course have heard and seen all the evidence in the case.
12 You've now heard the final summations of the lawyers, and
13 therefore it now becomes my duty and obligation to instruct
14 you on the law that's applicable in this case.

15 Then you'll be asked to go back and to begin with your
16 deliberations. And through that process and through the
17 examination of all of the evidence in the case and the
18 exercise of good judgment and common sense, you're simply
19 called upon to arrive at a fair and impartial decision
20 based upon the evidence presented and the law that's
21 applicable.

22 Now, as you know, in this case the defendant is
23 Francisco Maldonado-Molina, and he's been charged with four
24 separate and distinct offenses, although they are alleged
25 to have arisen out of one particular event or a course of

Jury charge

1 events which the state alleges occurred back on June the
2 18th of 2016. But there are four separate charges.

3 You'll be called upon to render four separate and
4 distinct verdicts. Those verdicts may be the same; they
5 may be different. That just depends upon your
6 determination of fact as it relates to that particular
7 charge and then your application of the law as it relates
8 to that particular charge.

9 But Mr. Molina has been charged in one indictment with
10 the crime of burglary in the first degree alleging that he
11 entered a dwelling, a residence, of another person without
12 consent and the intent to commit a crime therein, and that
13 also he did, or was armed with a deadly weapon, and/or
14 caused physical injury to another person, and/or used or
15 threatened the use of a dangerous instrument, and/or
16 displayed what appeared to be a pistol or revolver.

17 He's also charged in a second indictment. It has two
18 counts. That indictment alleges murder and possession of a
19 weapon during the commission of a violent crime, the
20 violent crime being murder.

21 They allege on the same date and time as the burglary,
22 that he did wilfully and with malice aforethought kill one
23 Edilberto Flores-Palacio by shooting him and that he died
24 as a proximate result of that gunshot wound.

25 And in count two they allege the defendant did visibly

Jury charge

1 display a firearm during the commission of that violent
2 crime, the violent crime being murder in count one.

3 And the remaining indictment charges the defendant
4 with attempted murder alleging again on June 18th of 2016
5 that Mr. Molina did with malice aforethought attempt to
6 kill Edgar Ruben Cojon-Lopez by shooting at him or shooting
7 him with intent to kill Mr. Lopez.

8 Now, as to those allegations and as to each of the
9 charges contained in those indictments the defendant has
10 entered a plea of not guilty.

11 As I've already told you, that plea of not guilty has
12 placed upon the state the burden of proving the allegations
13 contained in each of the separate indictments, the burden
14 of proving each of the essential elements of each of those
15 crimes that are alleged against the defendant; and
16 therefore the burden is upon the state to establish the
17 defendant's guilt to the satisfaction of you 12 jurors
18 beyond a reasonable doubt before any verdict of guilty
19 could be returned as to a particular charge.

20 The burden is never upon a defendant or a person
21 accused of a crime to prove that they are not guilty or to
22 prove that they are innocent, because in some cases that
23 might not be possible.

24 The burden is always upon the state because they
25 brought the charge to prove the defendant guilty beyond a

Jury charge

1 reasonable doubt.

2 As I told you, it is a vital, cardinal and important
3 rule of law that every defendant in a criminal trial, no
4 matter how serious the offense might be for which that
5 person stands charged, that person shall always be presumed
6 innocent of that charge.

7 That presumption of innocence remains with any
8 defendant, as it does with this defendant, from the time
9 that he is placed under arrest, throughout the course of
10 the criminal process and even throughout the course of the
11 trial.

12 As I told you, that presumption of innocence will be
13 with Mr. Molina even as you go back into your jury room to
14 begin with your deliberations in the case.

15 That presumption of innocence will be with him there,
16 and it'll be with him forever unless you 12 jurors
17 determine that he's no longer entitled to the presumption
18 of innocence as it relates to a particular charge.

19 In other words, after you have carefully examined all
20 of the evidence presented during the trial, and you've been
21 able to determine the facts as they relate to the material
22 allegations contained in each of the indictments, and upon
23 deciding those facts as it relates to that charge you apply
24 the law that relates to it as I will have provided it to
25 you, if you 12 jurors unanimously determine that the

Jury charge

1 defendant has been proven guilty of a particular charge
2 beyond a reasonable doubt, then he's no longer entitled to
3 the presumption of innocence as it relates to that
4 particular charge. But it is only if, unless and until you
5 are satisfied of his guilt as to a charge beyond a
6 reasonable doubt that the presumption of innocence would no
7 longer be applicable.

8 Now, the same law that provides that you are the
9 judges of the facts also provides that I am the judge of
10 the law, and that just simply means that nobody's going to
11 tell you how to arrive at your determination of fact in
12 this case.

13 You do that, as I've already stated, through the
14 exercise of good judgment and common sense conscientiously
15 applied to the testimony and the evidence received during
16 the course of the trial.

17 You must however under your oath as a juror accept the
18 law as I provide it to you as being the law that you are to
19 apply in the case. In other words, you're never to concern
20 yourself with what you thought the law was before you came
21 to serve as a juror this week or what you think it ought to
22 be.

23 Under your oath as a juror you must accept the law as
24 I provide it to you as being the law that you are to apply
25 in the case. And then you simply take that law and you

Jury charge

1 apply it to the facts as you 12 jurors determine those
2 facts to be based upon your examination of the evidence in
3 order to render a fair and impartial decision in the case.

4 Now, as you know, the state has the burden of proving
5 the defendant's guilt to your satisfaction beyond a
6 reasonable doubt. That doesn't mean that the state has to
7 prove his guilt beyond all doubt or beyond any possible
8 doubt, but it does require the state to prove his guilt to
9 your satisfaction beyond a reasonable doubt.

10 The term reasonable doubt should be given its plain
11 and ordinary meaning. A reasonable doubt is the kind of
12 doubt that would cause a reasonable person to hesitate to
13 act upon the information that's been provided.

14 The defendant is entitled to any reasonable doubt that
15 arises from the evidence or lack of evidence in a case, and
16 if, upon any factual issue essential to a finding of a
17 verdict of guilty, you have some reasonable doubt as to how
18 that issue should be resolved, it would be your duty to
19 resolve that reasonable doubt in favor of the defendant.

20 Now, while there are various forms of evidence such as
21 testimony, photographs, documents, charts and other types
22 of physical exhibits, there are really only two types of
23 evidence, and either or both of those types of evidence may
24 be used to prove any fact in issue. But the two types of
25 evidence are direct evidence and circumstantial evidence.

Jury charge

1 Direct evidence is the testimony of a person who
2 testifies from actual knowledge of that fact. It is the
3 testimony by a person who has perceived the existence of
4 some fact by use of his or her senses, and then they come
5 into court and they testify as what they have previously
6 perceived.

7 Direct evidence proves the existence of a fact
8 directly, and it does not require any deduction or
9 inference in order to establish that fact.

10 Circumstantial evidence, on the other hand, is the
11 proof of some other fact or set of facts which taken either
12 singly or collectively may prove the existence of a fact in
13 question as a necessary consequence. That is through a
14 deduction or through an inference. And an inference is
15 simply a deduction of fact that may logically and
16 reasonably be drawn from the proof of some other fact or
17 set of facts.

18 It is a fact not proven by the direct testimony of a
19 witness based upon their personal perception, but it is a
20 conclusion which might reasonably be drawn from the proof
21 of other facts.

22 In other words, you may infer that a particular event
23 occurred or that a particular fact exists based upon the
24 proof of sufficient factual circumstances which would
25 reasonably warrant your arriving at a particular

Jury charge

1 conclusion.

2 And the commission of a crime, as well as any
3 particular element necessary to prove that crime, may be
4 proven by direct evidence or by circumstantial evidence or
5 by a combination of both direct and circumstantial
6 evidence.

7 The law makes no distinction between the weight or the
8 value to be given to direct evidence or circumstantial
9 evidence. However, to the extent that the state relies
10 upon circumstantial evidence in order to establish a
11 particular crime or a particular element of a crime, all of
12 those circumstances proven must be consistent with each
13 other and when taken together point conclusively to the
14 guilt of the accused beyond a reasonable doubt.

15 If these circumstances merely portray the defendant's
16 behavior as suspicious, then that proof is insufficient and
17 it fails. The burden rests with the state, regardless of
18 whether the state relies upon direct evidence or
19 circumstantial evidence or a combination of the two to
20 prove a defendant guilty beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is proof that leaves
22 you firmly convinced of the defendant's guilt. There are
23 very few things in life that we know with absolute
24 certainty, and in criminal cases the law does not require
25 proof that overcomes every possible doubt.

Jury charge

1 If, based upon your consideration of the evidence in
2 this case and in the exercise of good judgment and common
3 sense you are firmly convinced that the defendant is guilty
4 of a crime for which he stands charged, then it would be
5 your duty to find the defendant guilty of that particular
6 crime.

7 If, on the other hand, you think that there is a real
8 possibility that the defendant is not guilty of the crime
9 for which he stands charged, then you must give him the
10 benefit of that doubt and find him not guilty of that
11 particular charge.

12 Now, as I told you, you are the judges of the facts in
13 this case. You decide the facts based upon the evidence,
14 and therefore you are necessarily the sole judges of the
15 credibility or the believability of each witness that has
16 testified during the course of this trial.

17 You 12 jurors alone will decide what weight, value and
18 effect to give to any particular witness' testimony or any
19 portions of it. But there are a number of factors which
20 you should consider in arriving at your assessment as to a
21 particular witness' credibility, and I'm going to list
22 those factors for you.

23 You should consider the demeanor of the witness, that
24 is how the witness appeared to you while the witness was
25 testifying from that witness stand, was the witness

Jury charge

1 hesitant or evasive in responding to questions, or was the
2 witness straightforward in responding to questions that
3 were posed of the witness. Simply put, did the witness
4 appear to you to be telling the truth and to have knowledge
5 of the facts to which that witness has testified.

6 You should also consider whether or not the testimony
7 of a witness is consistent, or is it inconsistent, with
8 that witness' testimony provided here in court, or is it
9 inconsistent or consistent with other statements made by
10 that same witness, whether it be in court or outside of
11 court. And you should also consider whether or not the
12 testimony of a witness is consistent or inconsistent with
13 other testimony or other evidence received during the
14 course of the trial.

15 You should also consider how the witness came to know
16 the facts to which that witness has testified. In other
17 words, what was that particular witness' opportunity and
18 ability to perceive the existence of those facts to which
19 that witness has testified by having previously used his or
20 her senses, and then what is the ability of that witness to
21 be able to come into court and to accurately recollect to
22 you as to what they have previously perceived.

23 You should also consider any bias or prejudice or
24 interest that a witness might have with regard to the case.
25 In other words, do you find some reason that a particular

Jury charge

1 witness would come into court and would testify one way or
2 another to help or hurt one side or the other. And you
3 should consider whether or not the testimony of the witness
4 is strengthened, or is it weakened by other testimony or
5 other evidence received during the course of the trial.

6 Now, during the course of this trial you have heard
7 certain testimony that was provided by witnesses that were
8 qualified as experts in a particular field.

9 Lay witnesses are generally limited to testifying only
10 to facts within their own personal knowledge, experience or
11 perception, and they're not allowed to give opinions
12 regarding any matter.

13 But certain witnesses who have some special education,
14 training and experience in relation to a particular event
15 or a particular subject matter may be considered as an
16 expert in that field.

17 And when that person is qualified as an expert in
18 court, then that person may give testimony in the form of
19 an opinion as it relates to the facts of the matter which
20 is the subject of this particular case. And those
21 conclusions and opinions of those experts are evidence to
22 be considered by the jury along with all of the other
23 testimony and other evidence received during the course of
24 the trial.

25 If you were to find that the opinions of an expert

Jury charge

1 witness are not based upon sufficient education or training
2 or experience or a proper consideration of the facts that
3 relate to this particular case, then you could reject those
4 opinions in their entirety or believe them only in part
5 just like you do with any other witness.

6 In other words, you're going to judge the credibility
7 of expert witnesses, just as you do any other witness who
8 has testified during the course of the trial, and it is for
9 you 12 jurors to determine what is the most credible and
10 believable testimony, and that's the testimony that you
11 should accept, and reject any other testimony or evidence
12 that you find not to be credible or believable.

13 Again, your sole objective is to simply render a fair
14 and impartial decision based upon the evidence presented
15 and the law that's applicable.

16 Now, there are four separate, distinct crimes that you
17 will be called upon to render decisions with respect to,
18 and those are burglary in the first degree, murder,
19 possession of a weapon during the commission of that crime,
20 being murder, and attempted murder.

21 So, I'm going to instruct you on the law as it relates
22 to each of those offenses. I'm going to begin with
23 burglary in the first degree. Then I'll instruct you on
24 the law as it relates to murder, possession of a weapon
25 during the commission of that violent crime and then

Jury charge

1 attempted murder.

2 These are all statutory offenses, and statutory
3 offenses are all contained in those blue volumes.

4 Every year the legislature meets between January and
5 June, and during the course of those sessions they enact
6 certain laws, regulations and so forth that govern our
7 conduct in a variety of ways.

8 Sometimes the laws that they pass are criminal or
9 penal statutes, and they provide for penalties if a person
10 engages in certain conduct that is prohibited by the
11 statute.

12 Please understand that you are never to be concerned
13 with any sort of punishment or penalty that results from
14 any decision you make.

15 Your sole obligation and duty as a juror is to
16 determine whether or not a person has been proven guilty of
17 a crime beyond a reasonable doubt, and you're to make that
18 decision without any regard or consideration of any
19 consequence of that decision. As I say, these are all
20 statutory offenses.

21 Burglary in the first degree is set forth in section
22 16-11-311 of the South Carolina Code of Laws, and I'll read
23 to you the pertinent parts of that particular statute.
24 Then I'll define those terms for you.

25 But that section of law provides that a person is

Jury charge

1 guilty of burglary in the first degree if the person enters
2 a dwelling without consent and with the intent to commit a
3 crime therein, and either when in effecting entry or while
4 in the dwelling or in immediate flight therefrom he is
5 armed with a deadly weapon, and/or causes physical injury
6 to a person who is not a participant in the crime, and/or
7 threatens the use of a dangerous instrument, and/or
8 displays what appears to be a pistol or revolver or other
9 firearm. It only takes one of those enhancing factors, not
10 all. Any one or more is sufficient to establish burglary
11 in the first degree.

12 So, burglary in the first degree has four essential
13 elements.

14 Number one, there has to be an entry of a dwelling.
15 Entry is an indispensable element, and entry just means the
16 act of going into a structure or building that is normally
17 used for lodging by any person.

18 It's not necessary that actual physical force be used
19 in order to effect an entry, nor does it require any door,
20 window or other barrier have to be actually opened or
21 removed in order to effect an entry. The entry of a
22 dwelling is sufficient to constitute the entry.

23 As I said, a dwelling -- it has to be a dwelling.
24 That's a -- a dwelling is a structure that's normally used
25 for living, lodging, sleeping of any person.

Jury charge

1 Secondly, the entry of the dwelling has to be without
2 the consent of the owner or person in possession of the
3 property. And entering without consent means to enter the
4 dwelling without consent of the owner or someone otherwise
5 in lawful possession.

6 Thirdly, there's got to be an entry of a dwelling
7 without consent and with the intent to commit a crime
8 therein. And a crime of any grade or severity is
9 sufficient to satisfy that particular element of burglary.

10 And the fourth element, as I've read from the statute,
11 is that in the commission of a crime of burglary --
12 entering a dwelling without consent and with the intent to
13 commit a crime therein -- there has to be an additional
14 element, and that is that person has to be armed with a
15 deadly weapon, and/or cause physical injury to a person not
16 participating in a crime, and/or uses a dangerous
17 instrument, and/or displays what appears to be a knife or
18 firearm.

19 In this particular case the state is alleging that the
20 crime is a burglary in the first degree, alleging that the
21 defendant did commit the crime of burglary and at the time
22 he committed that crime of burglary he was armed with a
23 deadly weapon, caused physical injury to a person who is
24 not a participant and used or threatened the use of a
25 dangerous instrument and he displayed what appeared to be a

Jury charge

1 pistol, revolver or firearm. Any one of those is
2 sufficient to establish the crime of burglary.

3 The second indictment that I will reference is the one
4 that charges murder and possession of a firearm during the
5 commission of a violent crime.

6 Murder is also a statutory offense. That's set forth
7 in 16-3-10 of the Code of Laws, and that particular section
8 provides murder is the killing of any person with malice
9 aforethought, either expressed or implied.

10 In order for the defendant to be found guilty of the
11 crime of murder it would be necessary that the evidence in
12 this case establishes to your satisfaction beyond a
13 reasonable doubt that Francisco Maldonado-Molina did commit
14 some act or acts which proximately caused -- that is
15 directly caused -- the death of Edilberto Flores-Palacio
16 and that the killing was done with malice aforethought.

17 Malice aforethought is an essential element of the
18 crime of murder. So, what is malice aforethought? well,
19 malice as an essential element of the crime of murder is a
20 state of mind connoting an ill will and having the intent
21 to do harm.

22 Malice is a technical term importing wickedness and
23 excluding just cause or legal excuse. It is something
24 which springs from depravity, from a heart devoid of social
25 duty and fatally bent on mischief.

Jury charge

1 It is a state of mind indicating an extreme disregard
2 for or an extreme indifference to human life. Malice may
3 be likewise defined as a state of mind which indicates a
4 formed purpose and a design to do a wrongful act under
5 circumstances that exclude any legal right to do it.

6 And the words expressed or implied malice do not mean
7 different kinds of malice but merely the manner in which
8 malice may be shown to have existed. That is to say being
9 proved by either direct evidence or by circumstantial
10 evidence which -- from which you can infer or imply the
11 existence of malice.

12 Malice may be expressed as where there is an expressed
13 threat to kill or a lying in wait or where the
14 circumstances show directly that the intent to kill was
15 entertained by the killer.

16 Malice may be inferred, but no expressed intent to
17 kill is proven by direct evidence, where the facts and
18 circumstances which have been proven by the evidence in
19 this case satisfy you beyond a reasonable doubt that malice
20 was present in the mind of the killer at the time any
21 killing took place.

22 And the existence of malice may be inferred from acts,
23 declarations and conduct of the killer, as well as from any
24 other circumstances shown to have existed at the time of
25 the event from which you might reasonably infer the

Jury charge

1 existence of malice, as often the state of a person's mind
2 can only be proven by circumstantial evidence.

3 Malice as an essential element of the crime of murder
4 does not necessarily require proof of an ill will or a
5 hatred towards a particular individual who is killed, nor
6 does it necessarily require proof of an actual or specific
7 intent to take human life, even though there may be
8 evidence tending to prove that fact introduced during the
9 trial.

10 Malice necessary to establish the crime of murder
11 refers to a state of mind accompanying conduct signifying a
12 general malignant recklessness and an extreme disregard for
13 or an extreme indifference to human life.

14 As I've stated, it also must be malice aforethought.
15 The law does not require that malice must exist for any
16 appreciable length of time before the commission of an act
17 proximately causing a fatal result. In fact, it may be
18 conceived at the very moment that the fatal act is
19 committed.

20 It is sufficient in the law so long as the state
21 proves beyond a reasonable doubt both the existence of
22 malice and the commission of an act or acts by the
23 defendant which proximately caused the fatal result.

24 You must determine whether or not malice aforethought
25 existed based upon your consideration of all of the

Jury charge

1 evidence introduced during the trial and any reasonable
2 inferences that might be drawn from that evidence.

3 while the state must prove beyond a reasonable doubt
4 that a killing did occur accompanied by malice aforethought
5 in order to establish the crime of murder, it is not
6 necessary that the state prove any motive for the killing,
7 although there may be some evidence relating to such fact
8 introduced during the trial of the case.

9 Count two of that indictment charges possession of a
10 weapon during the commission of a violent crime, the
11 violent alleged to be the murder alleged in count one. And
12 possession of a firearm during the commission of a violent
13 crime is set forth in section 16-23-490 of the Code of
14 Laws. And that statute provides that it shall be unlawful
15 to possess a firearm during the commission of a violent
16 crime.

17 Section 16-1-60 of the Code of Laws of South Carolina
18 provides that the crime of murder is classified as a
19 violent crime under the law of this state.

20 Therefore in order to be found guilty of a violation
21 of this particular section of law it would be necessary
22 that the state has established to your satisfaction beyond
23 a reasonable doubt that the defendant did commit the crime
24 of murder and that during the commission of that crime he
25 did possess a firearm.

Jury charge

1 And the remaining indictment charges the crime of
2 attempted murder. Again, that's a statutory crime set
3 forth in section 16-3-29 of the Code of Laws, and that
4 particular section provides that a person who with intent
5 to kill attempts to kill another person with malice
6 aforethought, either expressed or implied, commits the
7 offense of attempted murder.

8 In order for you to find the defendant guilty of the
9 crime of attempted murder it will be necessary that the
10 evidence in this case has established to your satisfaction
11 beyond a reasonable doubt that the defendant Francisco
12 Maldonado-Molina did with malice aforethought, and a
13 specific intent to kill, commit some overt act or acts in
14 the attempt to kill Edgar Cojon-Lopez.

15 The term attempt refers to the commission of an overt
16 act or acts done in furtherance of the attempt to do a
17 specific thing which tends toward the accomplishment of the
18 intended goal but falls short of completion.

19 An attempt to commit a crime means making an effort
20 towards or the doing of an act or acts which directly move
21 toward the completion of the commission of the crime which
22 is intended. In this case it is alleged to be the crime of
23 murder.

24 And the term malice -- the terms malice and malice
25 aforethought apply equally to the crime of attempted murder

Jury charge

1 as it does to the crime of murder.

2 Now, with regard to the crime of attempted murder, a
3 specific intent to kill must be proven as an essential
4 element of that crime.

5 A specific intent to kill means that the defendant
6 consciously intended the commission of the acts that
7 constitute the attempt to murder another person, in this
8 case Mr. Lopez. A specific intent refers to the state of a
9 person's mind which directs his actions towards a specific
10 object or goal or result. In this case that would be to
11 kill Edgar Ruben Cojon-Lopez.

12 And, again, the elements of malice aforethought and a
13 specific intent to kill may be inferred from acts,
14 declarations and conduct of the defendant, as well as from
15 any other circumstances established by the evidence in this
16 case from which you may reasonably infer such malice and
17 intent to kill. As I say, often a person's intent or state
18 of mind can only be established by circumstantial evidence.

19 In order to establish the crime of attempted murder it
20 is necessary that the evidence in this case establishes
21 that the defendant Francisco Molina did with malice
22 aforethought and a specific intent to kill commit some
23 overt act or acts in the attempt to kill Edgar Ruben
24 Cojon-Lopez without justification or legal excuse.

25 As I told you at the beginning of the trial, and I'll

Jury charge

1 instruct you again and emphasize to you, that the fact that
2 a defendant does not testify during the course of a
3 criminal trial is not a circumstance that may be considered
4 by the jury in any way against the defendant or in your
5 deliberations or in your consideration as to whether or not
6 the evidence in this case establishes his guilt beyond a
7 reasonable doubt.

8 You are not to allow that fact to weigh in the
9 slightest degree against the defendant because, as I've
10 told you, the burden is on the state because they brought
11 the charge, they made the accusations, to prove the
12 defendant guilty beyond a reasonable doubt.

13 There is no burden upon a person accused of a crime to
14 prove that they are not guilty or to prove that they are
15 innocent because in some cases that might not be possible;
16 and therefore you are not to draw any inference nor reach
17 any conclusion from the fact that a defendant does not
18 testify during the trial of the case, nor may that fact
19 even be discussed by you while you are in the jury room and
20 engaged in your deliberations.

21 Now, I am not in any way concerned with what your
22 decisions are. However, as I've told you, the verdicts of
23 the jury have to be unanimous. All 12 of you must be in
24 agreement before any decision may be reached as to a
25 particular charge. And, as you know, you have four

Jury charge

1 separate charges.

2 The indictments, as I told out at the outset, are the
3 charging papers. The indictments aren't evidence of
4 anything. They don't prove anything. But they are going
5 to be in the jury room with you.

6 Because, Mr. Foreman, these indictments are going to
7 serve as the verdict forms. So whatever your decision
8 is -- and your fellow jurors' decision -- is as to a
9 particular charge, you'll see on the back of the indictment
10 in the lower left-hand corner the word verdict. And it's
11 beneath that word that you will indicate the jury's
12 unanimous decision as it relates to that particular charge
13 and that particular indictment.

14 The indictment alleging murder in count one and
15 possession of a firearm during the commission thereof in
16 count two will require two verdicts. And I've written on
17 the back count one and count two. You can insert those
18 decisions as it relates to each of those separate offenses.

19 Now, with regard to that indictment, as I've told you,
20 in order to be found guilty of possession of a firearm
21 during the commission of a violent crime, you would
22 necessarily have to have been proven guilty of having
23 committed that violent crime.

24 So, with regard to that particular indictment, count
25 one and count two, if the defendant is found guilty in

Jury charge

1 count one, then you may consider count two. If the
2 defendant is found not guilty in count one, then he must be
3 found not guilty in count two.

4 And as to the other indictments, burglary and
5 attempted murder, you have two potential verdict forms.
6 Those verdict forms are guilty and not guilty. whichever
7 that is, insert it in the space provided, sign your name as
8 the foreperson. You're the only person that signs the
9 verdict form. And place the appropriate date. Today is
10 the 20th of December.

11 Now, during your deliberations and as you go through
12 all the evidence in the case, there may come a time where
13 you have a question about the facts or about the evidence.
14 I'm not ever permitted to comment upon the facts or the
15 evidence. So, I cannot answer evidentiary questions for
16 you.

17 Also, all of the evidence that's going to be
18 introduced during the trial of this case has been
19 introduced. And myself and the court reporter and the
20 lawyers will verify all of the exhibits which were actually
21 introduced during the trial to be certain that they're all
22 present and are sent back to you to use in your
23 deliberations.

24 No additional evidence can be received now that you're
25 going back to deliberate, and so don't ask me about some

Jury charge

1 other evidence that you -- if you think it might be helpful
2 to assist you, because there's not more evidence that can
3 be introduced. And so even if it exists, I can't provide
4 it to you because it wasn't introduced during the trial.

5 However, if you have a question about a witness'
6 testimony, I can bring you back to have that testimony
7 replayed in whole or in part. And so if you need to have
8 testimony replayed, just let me know through the bailiff
9 that you need it, and we'll bring you back and play it all
10 or play just some portion if that's all you need.

11 If you ever have a question about the law that's
12 applicable, I am permitted to answer those questions. And,
13 so, if you need a complete re-instruction, I can do that.
14 If you just need a particular clarification or explanation
15 of a particular point of law, I can provide you with that.
16 I'm happy to do so.

17 So, during deliberations if you have any question or
18 matter that needs to be addressed to me, Mr. Foreman, if
19 you'll write it on a piece of paper, give it to the
20 bailiff, he or she will provide that to me and I'll respond
21 accordingly.

22 Now, after you have decided the case and rendered
23 decisions and you've inserted those in the verdict form,
24 notify the bailiff that you've reached your decisions and
25 we'll bring you back to receive the verdicts.

Jury charge

1 When you notify the bailiff, Mr. Foreman, of your
2 decisions, you can allow the bailiff to pick up the
3 evidence. You will hold onto the verdict forms. I'll get
4 those from you after you and your fellow jurors return to
5 the courtroom for us to receive your decisions.

6 I don't know if we have smokers on the jury, but if we
7 do, you can't smoke in the courthouse. But if you want to
8 smoke, you can smoke during deliberations, but you have to
9 go outside. We'll have a place for you to do that if you
10 want to.

11 But understand that if any juror is absent from the
12 jury room for any authorized purpose, the deliberations
13 have to stop, and deliberations may only resume and be
14 engaged in when all 12 jurors are present so that all may
15 participate.

16 Now, I assume that all of you do eat lunch, and I
17 assume all of you have ordered lunch. And I'm hoping it's
18 going to be here now or shortly.

19 So, if it is, it'll be brought to you as soon as we
20 have it. And when your lunches come, I'll leave that up to
21 you as to what you want to do. You can stop deliberations
22 and have lunch or you can eat lunch while you deliberate.
23 That's up to you. You have that however you wish to.

24 I think that covers everything, but if it doesn't I'm
25 sure one of these lawyers will let me know I've neglected

Verdict

1 to provide you with some information. And if I have and I
2 need to, I'll bring you back.

3 If I don't need to bring you back for any reason, I'll
4 simply send word by way of the bailiff that you may begin
5 your deliberations.

6 In that event he or she will bring to the courtroom
7 [sic] all of the exhibits which have been introduced, also
8 a computer so that you can play the videos or audios. And
9 you should be able to figure it out. But if you can't work
10 it, let me know. We'll provide you with the instruction.

11 And also, Mr. Foreman, you'll get the indictments
12 which serve as the verdict forms.

13 Mr. Gregory is the lone alternate. So, you'll stay in
14 the courtroom with me.

15 I'll ask these 12 jurors to please retire to your jury
16 room, but do not begin deliberations until I send you word
17 to do so.

18 (Whereupon, the jury retired to deliberate at
19 1:45 p.m.)

20 (Whereupon, the alternate juror was excused.)

21 THE COURT: Are there any objections taken to the
22 instruction or requests for additions to the instruction by
23 the state?

24 MR. RHODEN: No, sir, Your Honor.

25 THE COURT: By the defendant?

Verdict

1 MR. BRANNON: None, Your Honor.

2 THE COURT: All right. Let me ask y'all to verify the
3 exhibits.

4 (Pause.)

5 THE COURT: All right. All of the exhibits are
6 accounted for?

7 MR. BRANNON: Yes, Your Honor.

8 THE COURT: All right. Send them back. Tell the jury
9 to begin their deliberations and notify us when they've
10 concluded.

11 We'll be at ease while the jury is deliberating.

12 (Whereupon, a recess was taken.)

13 THE COURT: I'm told the jury has reached a decision.
14 Are we ready to receive it?

15 MR. RHODEN: The state's ready, Your Honor.

16 MR. BRANNON: Yes, Your Honor.

17 THE COURT: Okay. Bring them in.

18 (Whereupon, the jury returned to the courtroom at
19 5:07 p.m. to report its verdict.)

20 THE COURT: Mr. Foreman, have you and your fellow
21 jurors reached unanimous decisions on the indictments?

22 THE FOREMAN: Yes, Your Honor.

23 THE COURT: And did you reflect those decisions on the
24 back as requested?

25 THE FOREMAN: Yes, Your Honor.

Verdict

1 THE COURT: You signed your name and dated it?

2 THE FOREMAN: Yes, Your Honor.

3 THE COURT: If you will, please hand those up by way
4 of the bailiff.

5 You may publish the verdicts.

6 THE CLERK: In the State of South Carolina, in the
7 Court of General Sessions, Indictment No. 2021-GS-42-0697,
8 the State vs. Francisco Maldaleno [sic] Molina, indictment
9 for burglary first degree, guilty.

10 Signed by the foreperson this 20th day of December
11 2023.

12 Indictment No. 2021-GS-42-0696, an indictment for,
13 count one, murder, guilty.

14 Signed by the foreperson this 20th day of December of
15 2023.

16 Count two, possession of a weapon during a violent
17 crime, guilty.

18 Signed by the foreperson this 20th day of December of
19 2023.

20 Indictment No. 2021-GS-42-0695, indictment for
21 attempted murder, verdict, guilty.

22 Signed by the foreperson this 20th day of December of
23 2023.

24 Ladies and gentlemen of the jury, is this your verdict
25 and still your verdict? If so, please raise your right

Verdict

1 hand.

2 (Whereupon, all responded in the affirmative.)

3 THE CLERK: So say you all.

4 THE COURT: All jurors responded in the affirmative.

5 Does the defendant wish to have the jury polled?

6 MR. BRANNON: Yes, Your Honor.

7 THE COURT: All right. Poll the jury, please, ma'am.

8 THE CLERK: Ladies and gentlemen of the jury, at this
9 time I will pose a question, my question being is this your
10 verdict and still your verdict. When your juror number and
11 name is called, please stand and respond to the question.

12 Juror No. 126, Rajani Pudipeddi.

13 THE JUROR: Yes. It is still my verdict.

14 THE CLERK: Thank you.

15 159, Joseph Sullivan.

16 THE JUROR: Yes.

17 THE CLERK: Thank you.

18 145, Tracey Sewell.

19 THE JUROR: Yes.

20 THE CLERK: 150, Faith Smith.

21 THE JUROR: Yes.

22 THE CLERK: Fifty, Mark Ejere.

23 THE JUROR: Yes.

24 THE CLERK: Seventy-one, Robert Hammett.

25 THE JUROR: Yes.

Sentence

1 THE CLERK: 185, Stacey Childers.
2 THE JUROR: Yes.
3 THE CLERK: 130, William Reynolds.
4 THE JUROR: Yes.
5 THE CLERK: 107, Brittany Millwood.
6 THE JUROR: Yes.
7 THE CLERK: Sixty-seven, Kimberly Grace.
8 THE JUROR: Yes.
9 THE CLERK: 156, Cathy Lancaster.
10 THE COURT: 156 is Curtis Stacey.
11 THE CLERK: I'm sorry.
12 85, Cathy Lancaster.
13 THE JUROR: Yes.
14 THE COURT: Curtis Stacey also, 156.
15 THE CLERK: 156, Curtis Stacey.
16 THE JUROR: Yes.
17 THE CLERK: Thank you.
18 THE COURT: All right. All jurors have responded in
19 the affirmative.
20 Any other any matters we need to address with the jury
21 present?
22 MR. RHODEN: Nothing from the state.
23 MR. BRANNON: No, Your Honor.
24 (Whereupon, the trial jury was excused.)
25 THE COURT: All right. Any matters to address prior

Sentence

1 to the imposition of sentence?

2 MR. RHODEN: Nothing from the state.

3 MR. BRANNON: No, Your Honor.

4 Approach, Your Honor.

5 THE COURT: All right. Anything else from the state?

6 MR. RHODEN: No, sir, Your Honor.

7 MR. BRANNON: Nothing, Your Honor.

8 THE COURT: Mr. Molina, do you have anything you'd
9 like to tell me before I impose a sentence?

10 THE INTERPRETER: No.

11 THE COURT: All right. On Indictment
12 2021-GS-42-00695, that's the indictment for attempted
13 murder, wherein you have been found guilty by a jury of
14 that offense, the Sentence of the Court is you, Francisco
15 Maldonado-Molina, be confined to the South Carolina
16 Department of Corrections for a period of 30 years.

17 Credit is to be given for any time he's entitled to
18 pursuant to 24-13-40.

19 Indictment 2021-GS-42-00696, an indictment for murder
20 and possession of a weapon during the commission of a
21 violent crime, wherein you have been found guilty of each
22 of those offenses, as to count one, the conviction for
23 murder, the Sentence of the Court is you, Francisco
24 Maldonado-Molina, be confined to the South Carolina
25 Department of Corrections for the period of your natural

1 life.

2 As to count two, possession of a weapon, no sentence
3 is imposed as it's not applicable pursuant to 16-23-490(A).

4 Indictment 2021-GS-42-00697, burglary in the first
5 degree, wherein you have been found guilty by a jury of
6 that offense, the Sentence of the Court is you be confined
7 to the South Carolina Department of Corrections for a
8 period of 15 years.

9 The defendant to be given credit for any time he's
10 entitled to pursuant to 24-13-40.

11 Mr. Molina, you have a right to appeal the verdicts of
12 the jury and the Sentence of the Court. You must file your
13 notice of your intent to appeal those decisions within ten
14 days of today's date.

15 Mr. Brannon will assist you in that regard.

16 Do you understand the sentence?

17 THE INTERPRETER: Yes.

18 THE COURT: All right. Any other matters we need to
19 address?

20 MR. RHODEN: Nothing from the state.

21 MR. BRANNON: None, Your Honor.

22 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 18th, 19th, 20th days of December 2023.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 21, 2024

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

DOCKET # **21-GS-42-0695**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

APR 12 2021

TERM

THE STATE

vs.

Francisco Maldonado-Molina

Indictment for

ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

WITNESSES

SCSO

ARREST WARRANT NUMBER

2016A4210202200

ACTION OF GRAND JURY

APR 02 2021

True Bill

Foreperson of Grand Jury

Date:

VERDICT

GUILTY

Foreperson of Petit Jury

Date:

12/20/23

FILED

APR 12 2021

CLERK OF COURT

SPARTANBURG COUNTY

AMY V. GUY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 3 1 2001, the
Grand Jurors of Spartanburg County present upon their oath:

ATTEMPTED MURDER

That Francisco Maldonado-Molina did in Spartanburg County on or about June 18, 2016, with malice aforethought attempt to kill Edgar Ruben Cojon-Lopez, by shooting at him, with the intent to kill the said victim, in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

D. R. B. Bullock
DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

STATE

VS.

INDICTMENT/CASE#: 2021-GS-42-00695

Francisco Maldonado-Molina

A/W#: 2016A4210202200

AKA:

Date of Offense: 6/18/2016Race: Hispanic Sex: Male Age: _____S.C. Code §: 16-03-0029DOB: [REDACTED] SS#: _____CDR Code #: 3410

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

SENTENCE SHEET

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault / Attempted Murder (NMT 30 yrs.)In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor
Bill Rhoden

SC Bar #

Defendant

Francisco Maldonado-Molina

Attorney for Defendant
N. Douglas Brannon

68798

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 30 days/months/years/Time Served ☐ Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; ~~provided that upon the service of~~ — days/months/years/Time Served and or paymentof \$ —; plus costs and assessments as applicable*; ~~the balance is suspended with~~ probation for —~~months/years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.— days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Francisco Maldonado-MolinaINDICTMENT/CASE#: 2021-GS-42-00695**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____ Beginning	
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>132.75</u>

 Clerk of Court/Deputy Clerk: T. Camp
 Court Reporter: Linda Moffitt

 Presiding Judge: _____
 Judge Code: _____
 Sentence Date: December 20, 2023

WITNESSES

SCSO

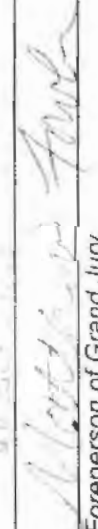


ARREST WARRANT NUMBER

2016A4210202202 (Count One)

2016A4210202203 (Count Two)

ACTION OF GRAND JURY



Foreperson of Grand Jury

Date:

VERDICT

COUNT ONE: Guilty

COUNT TWO: Guilty

Foreperson of Petit Jury

Date: 12/20/23

DOCKET 21-GS-42-0696

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

APR 12 2021

TERM

THE STATE

vs.

Francisco Maldonado-Molina

Indictment for

COUNT ONE-MURDER, COUNT TWO-
POSSESSION OF WEAPON DURING
VIOLENT CRIME

SC Code 16-03-0010, 0020, 16-23-490

CDR Code 116, 549

Class FEL-EXM

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAR 3 1 7321

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

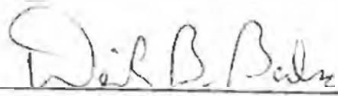
COUNT ONE-MURDER

The Defendant, Francisco Maldonado-Molina did in Spartanburg County on or about June 18, 2016, feloniously, willfully, and with malice aforethought, kill one Edilberto Flores-Palacio, by shooting the victim and the victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020, Code of Laws of South Carolina, (1976, as amended).

COUNT TWO- POSSESSION OF WEAPON DURING VIOLENT CRIME

That the defendant, Francisco Maldonado-Molina did in Spartanburg County on or about June 18, 2016, visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Murder, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Deputy Solicitor

OF GENERAL S
16-GS-42-00696
2 (Count One)

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

STATE

VS.

INDICTMENT/CASE#: 2021-GS-42-00696Francisco Maldonado-MolinaA/W#: 2016A4210202202 (Count One)

AKA:

Date of Offense: 6/18/2016Race: Hispanic Sex: Male Age: _____S.C. Code §: 16-03-0010; 20DOB: [REDACTED] SS#: _____CDR Code #: 116

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

SENTENCE SHEET

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Murder / Murder (Minimum of 30 yrs. to Life)In violation of § 16-03-0010; 20 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor
Bill RhodenSC Bar # 4692890Defendant
Francisco Maldonado-MolinaAttorney for Defendant
N. Douglas Brannon68798
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of Life days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

_____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Francisco Maldonado-MolinaINDICTMENT/CASE#: 2021-GS-42-00696**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPS

Recipient: _____

***Fine:**

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

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

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender FundTOTAL \$ 1287.50Clerk of Court/Deputy Clerk: T. Camp
Court Reporter: Lash M. FairPresiding Judge: _____
Judge Code: _____
Sentence Date: December 20, 2023

DOCKET NO. **21-GS-42-0697**

The State of South Carolina
County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

APR 12 2021

TERM

THE STATE
vs.

Francisco Maldonado-Molina

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

WITNESSES

SCSO

ARREST WARRANT NUMBER

2016A4210202201

ACTION OF GRAND JURY

APR 12 2021

Foreperson of Grand Jury

Date:

VERDICT

Guilty

Foreperson of Petit Jury

Date:

12/20/23

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

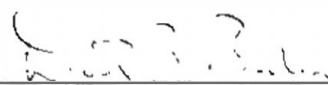
(DWELLING)

That the Defendant, Francisco Maldonado-Molina, did in Spartanburg County, on or about June 18, 2016, willfully and intentionally enter the residence located at [REDACTED] East Main Street, Duncan, Spartanburg, South Carolina without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling either:

- (1) the Defendant did enter in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Spartanburg

STATE

VS.

INDICTMENT/CASE#: 2021-GS-42-00697Francisco Maldonado-Molina

AKA:

Race: Hispanic Sex: Male Age: _____DOB: [REDACTED] SS#: _____

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

AW#: 2016A4210202201Date of Offense: 6/18/2016S.C. Code §: 16-11-0311CDR Code #: 0079

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Burglary / Burglary (After June 20, 1985) - First degree (Minimum 15 yrs. to Life)In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Bill Rhoden
Solicitor
Bill Rhoden4697
SC Bar #

Defendant

Francisco Maldonado-Molina

Attorney for Defendant

N. Douglas Brannon

68798

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 19 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

_____ days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

STATE VS. Francisco Maldonado-MolinaINDICTMENT/CASE#: 2021-GS-42-00697**SPECIAL CONDITIONS:**☐ PTUP after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning		\$ _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ _____
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ _____
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ _____
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>132.75</u>

Clerk of Court/Deputy Clerk: T. Camp
Court Reporter: R. [Signature]Presiding Judge: _____
Judge Code: _____
Sentence Date: December 20, 2022

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Apr 18 2025

SC Court of Appeals


Kathrine H. Hudgins
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2025.

RECEIVED

Apr 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County

Honorable J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

FRANCISCO MALDANADO-MOLINA,

APPELLANT

APPELLATE CASE NO. 2023-001995

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 18th day of April, 2025.



Kathrine H. Hudgins
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

From: [Stock, Chris](#)
To: [SC - MULLER AMBREE](#)
Cc: [Grace Sommer](#); [Hudgins, Kathrine](#)
Subject: 2023-001995 - Maldonado-Malina, F. - Record on Appeal
Date: Friday, April 18, 2025 11:14:00 AM
Attachments: [2023-001995 - Maldonado-Malina, F. - Record on Appeal.pdf](#)

Ms. Muller,

Please find attached for service the Record on Appeal for Francisco Maldonado-Molina's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris Stock
Administrative Coordinator
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