

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED

May 12 2025

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DIONICIO NAVA ABARCA,

APPELLANT

APPELLATE CASE NO. 2024-000180

RECORD ON APPEAL

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**[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 2 (911 PHONE CALL), STATE’S EXHIBIT NO. 54
(SURVEILLANCE VIDEO), COURT’S EXHIBIT NO. 1 (UNREDACTED CD)]**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE GENERAL SESSIONS COURT

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Dionicio Nava Abarca,) 2021-GS-11-00148
6 Defendant.) January 22 - 26, 2024
7 Gaffney, South Carolina

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10 B E F O R E:

11 HONORABLE R. KEITH KELLY, JUDGE; and a jury
12
13

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10 Jury qualification

1 (Proceedings January 22, 2024)

2 THE COURT: Ladies and gentlemen, we are about to
3 begin the case of the trial of the State of South Carolina
4 vs. Dionicio Abarca. Am I correct?

5 MR. FARR: Yes, sir.

6 THE COURT: Dionicio Abarca?

7 MR. FARR: No, no. Dionicio.

8 THE COURT: Dionicio Abarca. The case number is
9 2021-GS-11-00148.

10 Ladies and gentlemen, the defendant is charged in a
11 two-count indictment, count one with murder.

12 It is alleged that he did in Cherokee County, South
13 Carolina, on or about July 18, 2020, feloniously, willfully
14 and with malice aforethought kill the victim committing the
15 crime of murder.

16 It is alleged in count two that on the same date in
17 the same county, County of Cherokee, that he possessed a
18 deadly weapon during the commission of a violent crime,
19 that being the murder in count one.

20 The indictment was sent to the grand jury, and the
21 grand jury returned a true-billed indictment.

22 I will say this more than once in this trial. The
23 indictment is a piece of paper. It is not evidence against
24 the defendant. It is a piece of paper that brings him
25 before this Court for trial.

1 out of my office with me. Through those conversations and
2 through my ability to prep for this case there was
3 conversations that my client was not going to cooperate
4 with me. And he told me that I am the attorney, do my job.
5 That was told to me many, many, many times.

6 I put that on the record so the Court is aware that he
7 is not participating with me to prepare me for this trial.
8 We're still moving forward.

9 Furthermore, I've offered my client discovery five
10 times through my visits. Each time he denied the request
11 to receive Rule 5 from me, all besides the videos. I
12 brought those to let him watch.

13 He told me he wanted discovery, which is Rule 5, after
14 this trial is done, so that the Court is aware that he has
15 not looked at any of the discovery in this case. So, the
16 Court is aware.

17 THE COURT: Okay. Anything else?

18 MR. FARR: Nothing from the defense at this time, Your
19 Honor.

20 MR. HANEY: It's my understanding there will be an
21 objection to the 9-1-1 call. I just wanted to make sure,
22 put it on the record now.

23 THE COURT: I thought that was agreed to.

24 MR. HANEY: I thought so too.

25 MR. FARR: Judge, I'm not -- I'm not just standing up

1 presenting evidence. I don't know what order the witnesses
2 are coming in from.

3 I do have objections of how stuff comes in and the
4 procedure, because I do have case law on that one point
5 about how things come in. I'm not telling the state how to
6 present their evidence.

7 I do have objections at the beginning if they present
8 9-1-1 at the beginning, but I don't know what they're doing
9 with it after opening or which witnesses. That's it,
10 Judge.

11 THE COURT: Okay. Well, I don't know how they're
12 going to put witnesses in either but --

13 MR. HANEY: The first witness will be the 9-1-1
14 director of communications. The first exhibit will be the
15 CAD sheet from 9-1-1 and the second exhibit will be the
16 9-1-1 call, the redacted version of the 9-1-1 call.

17 THE COURT: Okay. I understand that it's redacted,
18 and I understand that the children on there -- I -- or -- I
19 didn't listen to it last night because I understood it was
20 agreed to. So --

21 MR. HANEY: That's right, Your Honor.

22 THE COURT: I'm understanding, and I was told in
23 chambers, that people that are on there are going to be
24 testifying.

25 MR. HANEY: Because it seems that there is an

1 objection, it's been recommended that we go ahead and make
2 a court exhibit out of the unredacted just for the purpose
3 of this hearing, and then we'll later put the actual
4 redacted version and not reference it as redacted.

5 THE COURT: Any objection to the court exhibit for the
6 record?

7 MR. FARR: No.

8 THE COURT: Okay. No objection.

9 (Unredacted C.D. marked Court's Exhibit No. 1.)

10 THE COURT: Well, the Barrett case was about
11 bolstering testimony under a C.S.C. case.

12 MR. FARR: Correct. They -- in that case, Judge, they
13 allowed somebody to testify beforehand, and the Court in
14 that case said ordinarily when a witness has taken -- has
15 been -- has not been impeached, evidence of a prior
16 consistent statement is inadmissible.

17 If they plan to play the 9-1-1 call at the very
18 beginning and the kids are on there, then all they're doing
19 is re-putting them on the stand to re-question them the
20 exact same question they had for 9-1-1. It's a consistent
21 statement. That's what I'm arguing against. That's
22 bolstering and would fall under 403 as cumulative evidence
23 as well.

24 Judge, I understand the way the Barrett case is read
25 using C.S.C. as the Court is given leeway after the witness

1 testifies and then have somebody else come and testify that
2 she gave statements and stuff like that, but I'm arguing
3 that this is basically a consistent statement, them putting
4 them up. Why put the kids up there if it's going to be the
5 exact same testimony, Judge.

6 And then the other argument I have is that all we're
7 doing is making sure that they're credible witnesses.
8 That's what the whole plan of 9-1-1 is.

9 THE COURT: I'm not sure I read the Barrett case that
10 narrow.

11 Solicitor.

12 MR. HANEY: Your Honor, and the state doesn't either.

13 So, in this case there are not going to be separate
14 witnesses. It's going to be the same children that are on
15 the 9-1-1 call that will be played for the children.
16 They're going to testify and will be subject to
17 cross-examination and all of that.

18 In this case it's not bolstering because it's not a
19 separate witness, a distinct witness, come and say that
20 they're credible. It's their -- themselves coming in,
21 which goes to, I suppose, to cumulative evidence.

22 Before the recess exactly that it looks towards the
23 probative value of the evidence versus unfair prejudice and
24 things. It is cumulative evidence. This is not as
25 cumulative. This is different, distinct evidence and that

1 it should -- and the indictment shows time and the location
2 of the report. This happened three-and-a-half years ago.
3 The kids' memory may be a little fuzzy. So, the 9-1-1 call
4 is an exact record, business record, of what took place
5 that day. So, it is different. It's not cumulative.

6 MR. FARR: So, my argument to his argument, Judge, if
7 they're saying that they're fuzzy, then there's a proper
8 way to do that, is to play the 9-1-1 call to refresh their
9 mind.

10 I still think it's cumulative. If nothing's going to
11 change, I'm still going to make an objection to the Court
12 that I would still believe it's cumulative and it's just
13 bolstering their testimony in the same fact as to what they
14 gave and they haven't changed it until today. It's still
15 bolstering, and I think it's the same consistent statement
16 that the state's trying to prove.

17 THE COURT: Well, they aren't going to be in here to
18 listen to it anyway.

19 MR. HANEY: They won't, Your Honor.

20 THE COURT: Okay. I'm going to allow the 9-1-1 then
21 over objection.

22 Anything else?

23 MR. HANEY: Nothing further from the state.

24 THE COURT: We have everybody? We have everybody and
25 it's 9:31. Everybody ready?

1 MS. BARRY: Yes, sir, Your Honor.

2 THE COURT: Okay. Mr. Farr, do you want to talk to
3 your client for one minute or so, or would that help at
4 all?

5 MR. FARR: No, sir. We're good. We're ready to
6 start.

7 THE COURT: Okay. Okay. If everybody's ready, we'll
8 have the jury.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 Everybody good? Got some good coffee this morning?

13 Madam clerk, if you would, swear this jury to try this
14 case.

15 (Whereupon, the jury was duly sworn.)

16 THE COURT: Ladies and gentlemen, you are now the jury
17 in this case, and I will take a few moments to tell you
18 something about your duty as jurors and provide some
19 instruction.

20 At the end of this trial I will provide more detailed
21 instructions and they will control your deliberations.

22 This criminal case has been brought by the State of
23 South Carolina. Sometimes I refer to the state as the
24 prosecution or the government.

25 Now, the defendant has been charged by the state with

1 the offense -- two offenses known as murder and possession
2 of a weapon during the commission of a violent crime.

3 In the indictment, 2021-GS-11-00148, count one alleges
4 that he did in Cherokee County, South Carolina, on or about
5 July 18 of 2020 commit the offense known as murder.

6 Count two of the same indictment alleges that on the
7 same day and time and place he possessed a deadly weapon
8 during the commission of a violent crime, that being the
9 murder alleged in count one.

10 I tell you, once again, and I charge you, that this
11 indictment is a piece of paper. It is not evidence against
12 this defendant.

13 He has entered a plea of not guilty, and that puts the
14 burden on the State of South Carolina to prove his guilt
15 beyond a reasonable doubt. Under our system of law he is
16 presumed innocent of the allegations contained in this
17 indictment.

18 Now, South Carolina law makes you 12 the finders of
19 facts, and you 12 alone are the finders of facts. And it
20 will be your duty to decide from the evidence what the
21 facts are.

22 You will hear the evidence, decide what the facts are
23 and apply those facts to the law that I provide at the
24 close of this trial. And that is how you will reach a
25 verdict. In doing so you must follow the law whether you

1 agree with it or not.

2 Ladies and gentlemen, the evidence will consist of
3 testimony of witnesses, documents and other items received
4 into evidence as exhibits and any facts on which the
5 lawyers agree or stipulate.

6 The same law that makes you 12 the finder of facts
7 makes me the judge of the law. Our rules of evidence
8 control what can be received into evidence.

9 When a lawyer asks a question or offers an exhibit
10 into evidence, and a lawyer on the other side believes it
11 is not permitted by the rules of evidence, the lawyer may
12 object.

13 This simply means that the lawyer is requesting that I
14 make a decision on whether a particular rule of evidence
15 applies. And when I say rules of evidence, I have brought
16 my rule of evidence book with me. So, if I need to take up
17 a matter of law as to whether or not something comes in, I
18 would refer to my evidence book.

19 South Carolina law forbids a trial judge from making a
20 comment to you, the jury, about a fact in a case, and
21 because it may be necessary for me to comment on a fact in
22 applying the rules of evidence, it may be necessary for me
23 to speak with the lawyers outside of your hearing by having
24 what's known as a bench conference.

25 You have seen that already because I met with the

1 lawyers yesterday on this side, and that's my habit because
2 I would be walking away from the jury talking to the
3 lawyers outside of your hearing.

4 Now, sometimes I might have to take a little longer on
5 ruling on something and I would excuse you from the
6 courtroom while I discuss that with the lawyers.

7 Now, certain things are not evidence. Statements,
8 arguments, questions and comments by the lawyers
9 representing the parties are not -- is not evidence.

10 Objections are not evidence. Lawyers have a duty to
11 their client to object when they believe something is
12 improper under our rules of evidence. You should not be
13 influenced by an objection.

14 If I sustain an objection, you must ignore the
15 question or the exhibit, and you must not try to guess what
16 the answer might have been or what the exhibit might have
17 contained.

18 If I overrule an objection, the evidence will be
19 admitted, but do not give special attention to it because
20 it drew an objection.

21 Testimony that I order stricken from the record is not
22 evidence; and anything that you see or hear about this case
23 outside of this courtroom is not evidence.

24 Finally, some of you may have heard the term direct
25 evidence and circumstantial evidence.

1 Direct evidence is testimony by a witness about what
2 that witness personally saw, heard or did.

3 Circumstantial evidence is indirect evidence. It is
4 proof of one or more facts from which one can find or infer
5 another fact.

6 You may consider both direct and circumstantial
7 evidence. Our law permits you to give equal weight to
8 both, but it is for you to decide how much weight to give
9 any evidence.

10 Now, in deciding what the facts are you 12 will have
11 to decide what testimony you believe and what testimony you
12 do not believe.

13 You may believe everything that a witness says; you
14 may believe none of what a witness said; you may believe
15 part of what a witness says. You may believe one witness
16 over many, or many witnesses over one.

17 In deciding what to believe you may consider a
18 number -- a number of factors including, but certainly not
19 limited to, those witnesses' ability to see or hear the
20 things to which they testify, the quality of the witness'
21 memory, the witness' manner in testifying, whether the
22 witness has an interest in the outcome of the case, or any
23 motive, bias or prejudice, and whether or not that witness
24 is contradicted by something the witness said or wrote
25 prior to this trial.

1 It is my responsibility to rule as a matter of law as
2 to whether certain testimony is admissible.

3 But, ladies and gentlemen, once the testimony is
4 admitted, whether or not you believe it is up to you 12.

5 To ensure fairness you as jurors must not talk among
6 yourselves about this case or about anyone involved with
7 the case until it has ended and you go to a jury room to
8 decide your verdict.

9 Do not speak with anyone else about this case or about
10 anyone who has something to do with it until the trial has
11 ended and you have been discharged as a juror.

12 Ladies and gentlemen, anyone includes members of your
13 family and friends. You may tell them that you are a
14 juror, but do not tell them anything about the case until
15 you have been discharged as a juror.

16 Once this case is over with, you can talk to as many
17 people about it as you choose. Do not let anyone talk to
18 you about the case. If anyone should try to do so, please
19 report that to the foreperson, and that foreperson will
20 report that to me.

21 Do not -- during the trial do not speak with any of
22 the parties or witnesses, and it's important that you not
23 only do justice but you have the appearance of doing
24 justice.

25 If someone passes you in the hallway or in the parking

1 area and they do not speak to you, including me, we are not
2 being rude. It's just that you are jurors and we can have
3 no contact with you until the jury has -- you have been --
4 the case is ended and you've been discharged.

5 Do not read any news stories or articles about the
6 case or anyone involved in it. Do not listen to radio or
7 television if there is any report. Do not do any research
8 on the internet; do not consult a blog or a dictionary or
9 reference materials, and certainly do not make any
10 independent investigation.

11 Do not make up your mind about what the verdict should
12 be until you have gone to the jury room to discuss this
13 case with fellow jurors. We ask you to please keep an open
14 mind until doing so.

15 I am often asked about note-taking. Ladies and
16 gentlemen, you are not to take notes during the trial, and
17 the reason is that we want you to pay close attention to
18 each witness as he or she testifies and not be fixated on
19 making copious notes.

20 Now, the first step in the trial will be known as
21 opening statements. The state in opening statement will
22 tell you about the evidence that the state intends to put
23 before you so that you will have an idea about what the
24 case is about.

25 Just as the indictment is not evidence, neither is an

1 opening statement by a lawyer. Its purpose is to help you
2 understand what the evidence will be and what the state
3 will try to prove.

4 After the state's opening statement, the defense
5 lawyer may, if he chooses, make an opening statement. And
6 at this point, ladies and gentlemen, there is no evidence
7 before you.

8 Next the state will offer evidence that it says will
9 support the charge made against this defendant. The
10 evidence will consist of testimony, and it may include
11 documents, pictures or reports. I remind you that this
12 defendant is presumed innocent, and the state must prove
13 his guilt beyond a reasonable doubt. This defendant does
14 not have to prove his innocence.

15 And after you have heard all of the evidence, the
16 state and the defense will be given time for a final
17 argument. And just as the opening statements I told you
18 are not evidence, neither is the closing argument.

19 And the final part of the trial occurs when I instruct
20 you about the rules of law -- and the rules of law, and the
21 law, and that you should use in coming to your verdict.

22 Juror No. 33, Jessica Dawkins, ma'am, where are you?

23 Ms. Dawkins, this is not a -- this is a request, not a
24 directive. Would you serve as the forelady?

25 THE FOREPERSON: Yes.

24 opening statements

1 THE COURT: Thank you. Madam Forelady, you are hereby
2 officially appointed as the spokesperson for the jury.
3 Your vote counts no more or no less than anybody else's,
4 but we have to have someone who would be sort of in charge
5 of the jury.

6 You become the spokesperson. So, if a juror has an
7 issue or a car won't start, somebody sick, whatever it
8 might be, they would tell you, and you would send a note to
9 me, or we'd speak here in open court.

10 You and I will never talk privately. We will always
11 be either in this courtroom with everyone here, or if
12 there's an issue that I need to take up privately, you
13 would come in with my court reporter and the lawyers. So,
14 we will never have a private conversation. It would be on
15 the record here. Okay. But thank you for accepting.

16 I try very hard to alternate between a forelady and a
17 foreman, and I need a forelady this week.

18 With that, anything from the state?

19 MS. BARRY: Nothing from the state, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. FARR: No, Your Honor.

22 THE COURT: Madam Forelady and ladies and gentlemen,
23 oh, there's one final thing.

24 That is a seat right there. That is the foreperson's
25 seat. So, if you would, always sit right there. And the

1 alternate seats are right there. If you -- that's the
2 three assigned seats. Everyone else is free to move
3 around. You can sit on the front; you can sit on the back;
4 and you can change seats every time you come in and out of
5 the courtroom. It's fine with me.

6 You will also see that I stand a lot. It's because I
7 can't sit in this chair all day. And if I'm standing, it
8 only means that I'm tired of sitting. If I'm sitting, I'm
9 tired of standing. That's all it means. Okay. It does
10 not matter. I'm not believing or disbelieving what a
11 witness says just because I'm sitting or standing.

12 Okay. With that, give your attention to the state.

13 MS. BARRY: Thank you, Your Honor. May it please the
14 Court. Defense counsel.

15 Ladies and gentlemen of the jury, good morning. I
16 hope everyone is doing well and staying warm. I know it's
17 gotten a little bit warmer out there. But I just wanted to
18 start out by thanking each and every one of you for your
19 time in this matter. You serve a very important role, so I
20 just wanted to thank you.

21 So, why are we here today and why are we here
22 throughout the course of this week?

23 Well, on July 19th of 2020 the defendant, Dionicio
24 Abarca, and his wife, Alicia Garcia, were reported missing
25 by their two children, Daniel and Dulce A[REDACTED].

26 opening statements

1 The day before, July the 18th of 2020, their parents
2 told them that they were going to go to a field that they
3 owned at [REDACTED] Concord Heights here in Cherokee County.

4 They were going to go to a rental property that they
5 owned, [REDACTED] Small Farm Road, and then they were going to go
6 to Wal-Mart.

7 Well, I'm here to tell you that July the 18th of 2020
8 was the last day that Dulce and Daniel and their little
9 brother saw their mother alive, because when the defendant
10 and Alicia went to that field, only the defendant came out.
11 Alicia was found at [REDACTED] Concord Heights in a shallow grave
12 dead.

13 You'll hear a pathologist testify that she had
14 multiple chop wounds to her head and her neck. She had
15 cuts to her head and her neck, and she had a stab wound,
16 and those stab wounds to her head crushed her skull in two
17 places.

18 And one of the chop wounds to her neck cut her airway,
19 and Alicia Garcia bled out in that grave all alone leaving
20 her three children behind.

21 So, where was the defendant while she was bleeding
22 out? Well, it's the state's belief that he was fleeing the
23 state. He had just murdered his wife.

24 He then took his truck that the children will say that
25 they went to the field in. This is the truck that their

1 father drove. He took it to the rental property at [REDACTED]
2 Small Farm Road, and he left it there, and that's where it
3 was found by law enforcement.

4 And he was then able to get a ride from his nephew,
5 Luis Abarca, who had no clue that his uncle had just
6 murdered his aunt.

7 He gets to that location. He's going to drop off some
8 rent money. They have some people who are going to rent
9 that property, and the defendant asked for a ride. He
10 doesn't have anything with him. No clothes.

11 He gets in the back passenger seat, which is weird,
12 and just says drive, get on 85 and drive. So that's what
13 he does.

14 He leaves Cherokee County, goes into Spartanburg
15 County, goes into Greenville County. He starts to get a
16 little nervous. You know, it's getting a little dark.
17 He's not really driven this far before. And he asks to
18 turn around and his uncle says no, keep driving. So, he
19 does.

20 He leaves South Carolina and goes into Georgia. He
21 hits Atlanta. And, again, he asked to turn around. No.
22 Keep driving. Turn off your phone and put Houston, Texas,
23 in the G.P.S.

24 So they leave Georgia and they hit Alabama. Again,
25 Luis asked to turn around. Luis has a learner's permit.

28 opening statements

1 He doesn't even have a driver's license, and he is two
2 states over taking his uncle to what he thinks is Houston,
3 Texas. It's the farthest he's ever been. But, again, no,
4 keep driving.

5 well, finally Luis is able to stop because he has to
6 sleep. It's about 3:00 o'clock in the morning on the 19th.
7 So, they pull into a gas station.

8 Luis starts to fall asleep, but he is woken up by the
9 defendant shaking him awake. Hey, you gotta drive, you
10 gotta drive, because when Luis wakes up he sees an officer
11 with the Baldwin County Sheriff's Office parked right in
12 front of his car. And Luis will tell you he finally felt
13 safe. He was going to be able to say something's not
14 right.

15 So, he gets outta the car with Officer Cardwell with
16 the Baldwin County Sheriff's Office, and he does initially
17 tell him a story that does not line up, something about
18 maybe going to visit a family member with COVID. Remember
19 July of 2020, the height of COVID.

20 The officer doesn't think that's right. His wife is a
21 nurse. So, he knows that you can't visit anybody at this
22 time. So, like, hey, man, your story doesn't add up.

23 And Luis asks to be taken away from the car. He
24 doesn't want to be around the defendant when he tells him
25 what's going on, because while he doesn't speak English, he

1 can understand it.

2 So, he then tells Officer Cardwell when he's gotten
3 away from that car, listen, my uncle just told me to drive,
4 he told me to go to Houston, Texas, and he's not acting
5 right. I think he did something bad. Little did he know
6 how bad it actually was.

7 So, Luis is allowed to come back to South Carolina,
8 and officers searched the car before he leaves, and in the
9 back seat where the defendant is sitting are two passports.
10 What's the man going to go with two passports? He's going
11 to leave his kids behind?

12 Ladies and gentlemen, it is my job to prove to you
13 that the defendant committed murder. And what is murder?

14 Well, the judge is going to charge you on the law at
15 the end of this trial. If I say anything that's different,
16 believe him. He is the judge of the law.

17 But what is murder? Murder is the intentional killing
18 of someone else with malice aforethought, whether it's
19 expressed or implied. And what is malice? Malice is an
20 evil mind.

21 You're going to be able to see how evil that man's
22 mind was when he murdered Alicia Garcia. And why did he do
23 it? Well, children will testify that the night before they
24 go to the field they got into an argument. He had accused
25 her of cheating on him. Well, he made sure that that was

30 opening statements

1 the last argument that they were going to have.

2 So, ladies and gentlemen, as you're hearing all of
3 this evidence, as you're seeing evidence, I ask that you
4 pay close attention.

5 Use your common sense, because when you go back to
6 that deliberation room you go from a jury of 12 jurors,
7 plus two alternates, to one jury who has to render one
8 verdict. And I submit to you that after you hear
9 everything that that verdict should be and will be guilty.
10 Thank you.

11 THE COURT: Counsel.

12 MR. FARR: Your Honor, may it please the Court.

13 THE COURT: Yes, sir.

14 MR. FARR: Ms. Barry, Mr. Haney. I'm not going to get
15 that close. I'm going to speak over here.

16 Y'all heard the indictment before we started. It is
17 murder. Okay. Y'all have three elements to prove. Okay.

18 As the solicitor said, Judge Kelly is and will read
19 y'all what the law is on murder, but I break it down for
20 elements so that gives y'all a better idea of the facts as
21 y'all are the fact-finders to put it together with the
22 elements that make sure that they -- when I say they, the
23 solicitor, the state -- has to prove beyond a reasonable
24 doubt for murder.

25 The first element is killing; the second is of a

1 person; the third element is with malice aforethought.

2 Basically, malice -- and, again, if he reads it
3 different -- the judge -- please go along with what the
4 judge reads. It is the doing of a wrongful act
5 intentionally and without the just cause or excuse.

6 The solicitor is correct. I've always heard what
7 malice really means is pure evil. Okay. That is the
8 definition of what malice means. Aforethought is to refer
9 to the time when the evil is conceived.

10 Those are just definitions when the law is read to
11 give y'all a better idea of malice and aforethought. Okay.
12 Even attorneys -- we have to have some of these words
13 broken down and everything else to give us a better idea of
14 how facts apply to the case.

15 It is the state's job to prove beyond a reasonable
16 doubt. Okay. That is the highest standard in our court
17 system.

18 Okay. A reasonable doubt exists when a fact-finder --
19 the jury -- cannot say without moral certainty that a
20 person is guilty of a particular fact that exists.

21 It must be more than imaginary doubt and is often
22 defined additionally such doubt as would cause a reasonable
23 person to hesitate before acting in a matter of importance.
24 That's what doubt is.

25 Okay. They got -- the state has to prove beyond a

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Dennis Gardner
Direct examination by Mr. Haney

1 reasonable doubt, but if there's doubt, as what is read,
2 and that should be what is read to y'all whenever the jury
3 gets the law.

4 I'm telling y'all to listen to who is going to take
5 the stand. Listen to the facts. Okay. They are -- y'all
6 heard the long list of witnesses. They're going to present
7 a lot of witnesses. Please listen to the facts and see how
8 they do not match the elements. Okay. And at the end of
9 this, I'm asking y'all to find my client not guilty of
10 murder. Thank you.

11 THE COURT: Solicitor.

12 MR. HANEY: Thank you, Your Honor. May it please the
13 Court. The state calls Dennis Gardner to the stand.

14 DENNIS GARDNER, having been
15 first duly sworn, testified as follows:

16 MR. FARR: Judge, at this time I do have an objection.

17 THE COURT: What's the objection?

18 MR. FARR: Judge, I'm objecting. I know we talked
19 before, but I'm objecting with this witness under Crawford
20 vs. Washington, Judge, and how this doesn't apply under
21 Davis v. Washington and Michigan v. Bryant, because this is
22 not the person that actually took the call, and I'm
23 objecting to this individual at this time.

24 THE COURT: Solicitor.

25 MR. HANEY: Your Honor, he is the director of 9-1-1

1 communications. He is the custodian of records. He is the
2 person to testify about this.

3 THE COURT: Yes, sir. It's over your objection.

4 MR. FARR: Okay.

5 THE COURT: Sir, tell us who you are, and spell your
6 last name for madam court reporter, please.

7 THE WITNESS: Dennis Gardner. I am the director of
8 Cherokee County 9-1-1. My last name is G-A-R-D-N-E-R.

9 THE COURT: Solicitor.

10 MR. HANEY: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MR. HANEY

12 Q How long have you been employed by 9-1-1
13 communications?

14 A Thirteen years.

15 Q And what is your position, again?

16 A I'm the director.

17 Q How long have you been director?

18 A Since 2018. So, five years.

19 Q As the 9-1-1 director, what are your responsibilities
20 and duties?

21 A Overseeing all versions of the 9-1-1, all jobs, all
22 employment and all aspects of it.

23 Q Now, are all 9-1-1 calls recorded?

24 A Yes, sir. Every call is recorded -- telephone calls
25 and regular traffic.

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Dennis Gardner
Direct examination by Mr. Haney

1 Q And those are recorded in the ordinary course of
2 business, right?

3 A Yes, sir. Twenty-four hours a day.

4 Q All calls are saved and stored in the 9-1-1 areas?

5 A Yes, sir. They're recorded on what's called a voice
6 logger. The company we use is Carolina Recording.

7 Q Are the calls maintained and monitored by the
8 custodian of record?

9 A Yes, sir.

10 Q And why is it important to maintain these calls?

11 A For one, for purposes like today that's evidence in
12 court cases. We go back and review for training purposes
13 and all, but they are recorded on that voice logger.

14 Q In this case did you provide a record of a call to the
15 state?

16 A Yes. We did.

17 Q Are there any written records generated when a 9-1-1
18 call is made?

19 A Yes, sir. That's called our CAD sheet. It starts as
20 soon as a call comes in, as soon as the dispatcher starts
21 the call. It generates what we call a call for service.

22 Q You mentioned a CAD sheet. What is that? What is
23 CAD?

24 A CAD is computer aided dispatching.

25 Q What is the purpose of the CAD sheet?

1 A Our records, and we can supply those to anyone that
2 wants it through a FOIA request. It's the paper version of
3 the phone call or the transactions once the call starts and
4 deputies, law enforcement, E.M.S. goes en route.

5 Q So, every call gets a CAD sheet.

6 A Every call that comes in, as soon as we start the
7 call.

8 Q Are those CAD sheets maintained in the regular and
9 ordinary course of business?

10 A Yes, sir. They are stored in the computers.

11 MR. HANEY: May I approach the witness, Your Honor?

12 THE COURT: Sure.

13 Q Let me show you what's been premarked as State's
14 Exhibit No. 1. Do you recognize that?

15 A That's the CAD sheet that we provided for this call,
16 sir.

17 Q Is that a fair and accurate depiction of the CAD sheet
18 in this case?

19 A Yes, sir.

20 MR. HANEY: At this time, Your Honor, I'd like to
21 introduce State's Exhibit No. 1 into evidence.

22 MR. FARR: Your Honor, I want to make an objection. I
23 don't think the proper foundation has been laid.

24 The last question he asked is how they're stored. He
25 just said in a computer system. He didn't describe the

1 computer system, how they're stored, how long they're
2 stored for or how you receive them or get them back.

3 THE COURT: Do you want to lay a little bit of
4 foundation?

5 MR. HANEY: Sure.

6 BY MR. HANEY

7 Q How are the CAD sheets stored?

8 A They are stored in what -- the company's name is
9 CentralSquare, is our CAD program.

10 Every call that comes in is recorded in it, and it
11 stays in it until the end of the life of the CAD. Usually,
12 they run five years, and we'll renew. We just renewed
13 the -- all aspects of CentralSquare with that company.

14 It's stored on the database inside the computer, just
15 as everything is stored today inside of a computer.

16 Q Is there any way to manipulate a CAD sheet after the
17 fact?

18 A To manipulate, no. If we go in to add anything to it
19 or whatever, it is recorded. If you notice on that CAD
20 sheet everything is done and everything is timestamped on
21 the bottom of where the officers' things going into route,
22 whatever. That's on there. It is timestamped and dated if
23 anything is added.

24 After, I believe it's three days, we can't go back in
25 and add anything to it.

1 MR. HANEY: May I approach the witness again, Your
2 Honor?

3 Q what is the date on that CAD sheet again?

4 A 7/19.

5 Q of what year?

6 A 2020.

7 Q 2020?

8 A 2020, yes, sir. I'm sorry.

9 Q And that's the CAD sheet that was generated from this
10 9-1-1 call involving this case.

11 A Yes, sir.

12 MR. HANEY: Your Honor, at this time I'd like to
13 introduce that CAD sheet into evidence.

14 THE COURT: Any objection?

15 MR. FARR: Judge, my objection is still the foundation
16 is who -- who took the call.

17 I think he hasn't laid that. All it is is a piece of
18 paper. If there's information on there, he still needs to
19 lay a foundation for it.

20 THE COURT: I think sufficient foundation has been
21 laid.

22 Over objection, it's admitted.

23 MR. FARR: Yes, sir.

24 THE COURT: State's Exhibit No. 1.

25 MR. HANEY: State's Exhibit No. 1, yes, sir, Your

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Dennis Gardner
Direct examination by Mr. Haney

1 Honor.

2 (9-1-1 CAD sheet marked State's Exhibit No. 1.)

3 MR. HANEY: May the witness step down?

4 THE COURT: Certainly.

5 (Whereupon, the witness left the stand.)

6 Q Let's look at this CAD sheet together. Again, what is
7 the date on the CAD sheet? Point it out for the jury.

8 A 7/19 of 2020.

9 Q And what time?

10 A 11:24 and 19 seconds.

11 Q Is that the exact time that this call was made?

12 A Yes, sir.

13 Q What is the address located on the CAD sheet?

14 A That address was given us [REDACTED] Chesnee Highway.

15 Q Is that Cherokee County?

16 A Yes, sir.

17 Q Who is the call taker?

18 A Holly Thomas.

19 Q And what is the primary incident code?

20 A Here it is. What we list as a 10-81. We use all
21 codes for all law enforcement calls that come in and it
22 breaks down that to a missing person.

23 Q Looking further down the sheet, what other information
24 is on this CAD sheet?

25 A The phone number from which the call was made, and

1 then you come on down and there's a tag number on here KPV
2 ■■■. And then it comes down and gives us that's a 1995
3 Toyota Tacoma. And it gives the owner's name.

4 Q What is that -- the owner's name?

5 A I'm not good at pronunciations. Dionicio --

6 Q Could you spell the last name?

7 A A-B-A-R-C-A-N-A-V-A.

8 Q Have a seat, Mr. Gardner.

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

10 Q Mr. Gardner, have you had a chance to review the
11 actual phone call made in this case?

12 A Yes. I did.

13 MR. HANEY: May I approach the witness, Your Honor?

14 THE COURT: Yes, sir.

15 Q Let me show you what's been marked as State's Exhibit
16 No. 2 -- premarked. What is that?

17 A This is a disc that we made a copy of a recording of
18 the tape and presented it to you, and that's the disc that
19 we use to put them on.

20 Q And how do you recognize that is the disc?

21 A My initials are on it -- J.D.G.

22 Q So, you had an opportunity to review that phone call
23 prior to today?

24 A Yes, sir. I did.

25 Q And you confirmed by putting your initials on the

40 Dennis Gardner
Cross-examination by Mr. Farr

1 disc?

2 A Yes, sir.

3 MR. HANEY: Your Honor, at this time I would like to
4 introduce State's Exhibit No. 2 into evidence.

5 THE COURT: Any objection?

6 MR. FARR: I just renew my same objections, Judge.

7 State vs. Barrett, 403, as well. But, so.

8 THE COURT: Overruled. It's admitted.

9 (9-1-1 phone call marked State's Exhibit No. 2.)

10 MR. HANEY: Permission to publish.

11 THE COURT: Yes, sir.

12 (Whereupon, State's Exhibit No. 2 was played for the
13 jury.)

14 MR. HANEY: No further questions from the state, Your
15 Honor. No further questions, Your Honor.

16 MR. FARR: Your Honor, may it please the Court --
17 Ms. Barry, Mr. Haney.

18 CROSS-EXAMINATION

19 BY MR. FARR

20 Q How long did you say you'd been the director for?

21 A Since January of 2018.

22 Q And what company do y'all use to store these calls?

23 A Carolina Recording is the name of the company.

24 Q Okay.

25 A Eventide is the -- the recording or logger company.

1 Q Do you have access to that system?

2 A Do I have access to it?

3 Q Yes, sir.

4 A Yes, sir.

5 Q Okay. And does Holly Thomas still work for 9-1-1?

6 A Yes, sir.

7 Q How long has she been with 9-1-1?

8 A Probably getting close to five years.

9 Q Okay. And you stated earlier that these calls are
10 specifically used for court. That's what -- when he asked
11 you.

12 A For the main purpose, yes, sir.

13 Q Okay.

14 A We have no other use for them.

15 Q Okay. And when did you listen to that call?

16 A Thursday or Friday. I don't remember the date when he
17 called and said I needed to. I believe it was Friday.

18 Q Of last week?

19 A Yes, sir.

20 Q Okay.

21 MR. FARR: Thank you, Your Honor. That's all the
22 questions I have.

23 THE COURT: Thank you.

24 Anything at all?

25 MR. HANEY: Nothing further from the state, Your

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Juan Daniel Abarca
Direct examination by Ms. Barry

1 Honor.

2 THE COURT: Sir, you may step down. Please be
3 careful.

4 THE WITNESS: Thank you, sir.

5 MR. HANEY: May this witness be released?

6 THE COURT: Any objection to him being released?

7 MR. FARR: No, sir.

8 THE COURT: You may stay or go, whichever you choose.

9 THE WITNESS: Thank you, sir.

10 (Whereupon, the witness was excused.)

11 MS. BARRY: Your Honor, the state would call Daniel
12 Abarca to the stand.

13 JUAN DANIEL ABARCA, having
14 been first duly sworn, testified as follows:

15 THE COURT: Sir, tell us who you are, and spell your
16 last name, please.

17 THE WITNESS: I'm Juan Abarca. A-B-A-R-C-A.

18 THE COURT: Thank you.

19 Solicitor.

20 MS. BARRY: Thank you, Your Honor.

21 DIRECT EXAMINATION BY MS. BARRY

22 Q Juan, how old are you?

23 A Nineteen.

24 Q Nineteen. Are you in school anywhere?

25 A No.

1 Q Are you working anywhere?

2 A Yes.

3 Q Where do you work?

4 A At a company called D.M.S.

5 Q Okay. Where are you living right now?

6 A With my aunt.

7 Q And where does your aunt live?

8 A In Seffner, Florida.

9 Q Now, is that your aunt on your mom's side or your
10 dad's side?

11 A Mom's side.

12 Q Okay. And who is Dionicio Abarca to you?

13 A He is my dad.

14 Q Okay. And who is Alicia Garcia?

15 A She is my mom.

16 Q Do you remember the day that you and your sister
17 reported your parents missing?

18 A It was in July 2022, I believe -- no. 2020.

19 Q Twenty. Okay. What do you remember about that day?

20 A It was the previous night. My mom and dad fought.
21 And then on that day during midday my dad and my mom went
22 off. They talked about how they were going to go to a
23 field -- to the field, to a rental home and also a -- to
24 Wal-Mart, I believe.

25 Q Okay. So, let me back you up a little bit. So, you

1 reported them missing one day. Did they go missing on that
2 day?

3 A They went missing that day or the previous night.

4 Q Okay. Previous day. So, they go missing the previous
5 day, and then they fight the day before that?

6 A Yes.

7 Q Okay. Do you remember what they fought about?

8 A Not the specifically what they were fighting about,
9 no, ma'am.

10 Q Okay. So, when they left to go to these locations --
11 you said the field, the rental property and wal-Mart -- did
12 they leave together?

13 A Yes.

14 Q Do you remember what they left in?

15 A It was a brown pickup truck. A small one, I believe.

16 Q Okay. And who did that pickup truck belong to?

17 A My dad.

18 Q And when they said that they were going to go to these
19 places, were they going to go to each place together?

20 A I believe so.

21 Q Okay. So, they weren't going to separate?

22 MR. FARR: Objection, Your Honor. Speculation.

23 THE COURT: well, Solicitor.

24 MS. BARRY: I asked if they said if they were going to
25 go together.

1 MR. FARR: He said he didn't know.

2 THE COURT: Okay. Go ahead.

3 BY MS. BARRY

4 Q Did you guys ask to go with them?

5 A No. I didn't ask to go with them.

6 Q You didn't. Did anybody else?

7 MR. FARR: Objection. Hearsay, Your Honor.

8 MS. BARRY: I'll move on, Your Honor.

9 THE COURT: Okay.

10 BY MS. BARRY

11 Q So, let's talk about this field a little bit. Do you
12 know who the field belonged to?

13 A I believe it was my dad.

14 Q Okay. When you guys would go to the field, what would
15 you do?

16 A We would just -- it was my dad's garden, and we would
17 usually work on it or whatever we needed to do for the
18 plants growing there.

19 Q Okay. So, it was your dad's personal garden?

20 A Yes.

21 Q What kind of plants were growing there?

22 A I believe it was watermelons, peppers and corn.

23 Q Okay. So, when you guys would go help, what would you
24 guys help do?

25 A It was usually helping with the planting process,

1 watering them, pulling out any weeds or kudzu or anything
2 and, you know, just tending to the plants.

3 Q Okay. would you use any kind of tools to garden?

4 A Yes.

5 Q what kind of tools would you use?

6 A It was shovels, hoes. There was a machete to killing
7 out some of the kudzu. I don't know. And then my dad had
8 a tractor in there, and I don't remember much else.

9 Q Okay. would you guys use these tools as well?

10 A Yes.

11 Q Okay. where were these tools normally stored?

12 A They were stored either in my dad's truck, whenever he
13 took them out, or -- or inside our shed that was in our
14 house, near our house.

15 Q Okay. what would you guys do with these crops that
16 your dad grew?

17 A He would usually, you know, just give them out to
18 friends and family, and sometimes sell them.

19 Q Okay. So, you -- they go to these locations. When do
20 you realize that something is wrong?

21 A It was that previous -- that night, the previous
22 night, when that we started to call them and they wouldn't
23 answer the phone.

24 Q Okay. Do you know about how many times you would have
25 called them?

1 A We called them about four times for my dad and about
2 five times for my mom. I did.

3 Q Okay. So, you called both of your parents.

4 A Yes.

5 Q Or you tried to and nobody answered.

6 A Yes.

7 Q Yes? Nobody answered?

8 A Yes. Nobody answered.

9 Q Who all was left at the house when your parents left
10 to go to those locations?

11 A It was me, my sister and my little brother.

12 Q And how old were you at the time?

13 A I was 16.

14 Q How old was your sister?

15 A Thirteen. I'm not sure.

16 Q Okay. And what's her name?

17 A Dulce A[REDACTED].

18 Q And your little brother, how old was he, do you
19 remember?

20 A He would have been three, four, somewhere around
21 there.

22 Q Okay. And what's his name?

23 A Emmanuel A[REDACTED].

24 Q Okay. So, the day that you report them missing did
25 you try and look for them?

1 A Yes.

2 Q where did you go trying to look for them?

3 A We went to the field first, and we found nothing
4 there, and then from there went to the rental property.
5 That's where his brown pickup truck was.

6 And then from there we went to go check with my
7 uncle -- house -- and my uncle's house, and he told us that
8 to call, to go try to call the police.

9 MR. FARR: Objection, Your Honor. Hearsay.

10 THE COURT: Hold on, sir.

11 That's hearsay, sir. Don't answer what somebody said.

12 BY MR. BARRY

13 Q Okay. So, you go to the field. You don't see
14 anything. You go to the rental property and you find your
15 dad's brown truck, right?

16 A Yeah.

17 Q And then you go and you look for your uncle.

18 A Yes.

19 Q Okay. But you eventually go back home.

20 A Yes.

21 Q And that's when you called 9-1-1.

22 A Yeah.

23 Q Okay. Do you remember where your dad was working at
24 the time? I may have asked. I'm sorry.

25 A I believe it was a pallet shop.

1 Q Okay. So he worked at this pallet shop, and he just
2 did gardening of his own, like on his own?

3 A Yes.

4 Q Kind of like a separate job?

5 A Yeah.

6 Q Okay. When you went to the rental property looking
7 for your parents was anybody there?

8 A No.

9 Q Okay. Did you knock on the door?

10 A Of the rental property, no.

11 Q Okay. Did you just go on in?

12 A Yes.

13 Q Okay. So you went into the trailer that's there, and
14 nobody was there.

15 A Yes.

16 Q Okay.

17 MS. BARRY: Your Honor, I have no further questions.

18 Q Mr. Abarca, please answer any questions that Mr. Farr
19 may have for you.

20 A All right.

21 MR. FARR: Your Honor, may it please the Court.

22 Ms. Barry, Mr. Haney.

23

24

25

1 CROSS-EXAMINATION

2 BY MR. FARR

3 Q Daniel, have myself and you met before?

4 A I don't believe so.

5 Q Okay. Have you ever met with the solicitor before?

6 A The solicitor, yes.

7 Q Yes. That just asked you questions.

8 A Yes.

9 Q And how many times have you met with her?

10 A Twice, I believe.

11 Q And that was to prepare you for trial today.

12 A Huh?

13 Q Was that to prepare you for trial today?

14 A Yes.

15 Q Okay. And you're 19 now, correct, Daniel?

16 A Correct.

17 Q Okay. Do you have a driver's license?

18 A Yes.

19 Q Okay. When did you get your driver's license?

20 A When I was 18.

21 Q Eighteen. You talked earlier that your parents were
22 going to three places -- the field, the rental and
23 Wal-Mart.

24 A Yeah.

25 Q Which Wal-Mart, do you know?

1 A No.

2 Q Okay. You said brown truck. Do you actually know the
3 model and make of the truck?

4 A I believe it was a Ford -- Toyota. I don't know which
5 one it was.

6 Q Okay.

7 A I don't know.

8 Q And you talked earlier. The solicitor asked you a
9 question about tools, and you said you placed those tools
10 in a shed on a property.

11 A No. On that field property. It was at our house, our
12 home.

13 Q Okay. So, you have a shed at your house, which is the
14 Chesnee Highway house.

15 A Yes.

16 Q Okay. And that's where he would put all of his tools.

17 A Yes.

18 Q Okay. And just to make sure I go over the ones you
19 stated -- a shovel, a hoe and a machete, is that correct?

20 A There might have been more tools, but that's the ones
21 I can remember.

22 Q Okay. When law enforcement showed up at your house on
23 July 19th of 2020, did you tell them about the shed?

24 A The shed?

25 Q Yes, sir.

1 A No.

2 Q Okay. Do you have -- did you have a cell phone in
3 2020?

4 A Yes.

5 Q Okay. Did you give law enforcement your cell phone
6 number?

7 A I don't believe so.

8 Q Okay. You said you went to the rental property. Is
9 that the [REDACTED] Small Farm Road?

10 A I'm not sure. I just knew there was a rental property
11 around there. I don't know the specific location of that.

12 Q Okay. So, I want to make sure I get this correct.

13 The solicitor asked you did you go looking for your
14 parents, and what you said was we went to the field first,
15 then the rental, and then we went looking for our uncle.
16 Did you drive or did you have somebody else drive you?

17 A I drove.

18 Q Okay. So, you did it by yourself.

19 Okay. And Ms. Barry asked you. Did you go into the
20 rental property?

21 A Yes.

22 Q Okay. Did your other siblings go into the rental
23 property?

24 A I believe -- I believe no, no.

25 Q Just you.

1 A Yeah.

2 Q Okay. What vehicles does your mother drive?

3 A She had a Nissan Armada, the one that I'm driving
4 right now. And I think that was it.

5 Q Just a Nissan S.U.V.?

6 A Yeah.

7 MR. FARR: Give me one second, Your Honor.

8 (Pause.)

9 Q What car did you drive on July 19th of 2020 to these
10 properties?

11 A The Armada.

12 Q Okay.

13 MR. FARR: Your Honor, that's all the questions I
14 have.

15 THE COURT: Anything at all?

16 MS. BARRY: Just a few, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. BARRY

19 Q You said that the tools were stored in the shed and
20 your dad's truck, right?

21 A Correct.

22 Q Okay. And you drove your mom's car looking for your
23 parents, right?

24 A Correct.

25 Q So, you were so worried about them that you drove when

1 you didn't even have a license, right?

2 A Right.

3 MS. BARRY: No more questions, Your Honor.

4 THE COURT: Anything at all?

5 MR. FARR: Nothing from the defense, Your Honor.

6 THE COURT: Sir, you may step down. Please be

7 careful.

8 MS. BARRY: Your Honor, may this witness be excused?

9 THE COURT: Any objection?

10 MR. FARR: No, sir.

11 THE COURT: Sir, you can stay or go, whichever you
12 choose.

13 (Whereupon, the witness was excused.)

14 THE COURT: Madam Forelady and ladies and gentlemen of
15 the jury, as I promised, we run about 90 minutes before we
16 take a break. And you've been in here about an hour and
17 five minutes, but we've been in here since 9:00 or just a
18 couple of minutes till.

19 So, we're going to take a break. I want some more
20 coffee. So, don't talk about the case. It certainly is
21 not over and it's not proper to talk about it. Beside,
22 you're at work, and the last thing you want to do on break
23 is talk about work.

24 Let me ask you this. Is there a member of the jury
25 who smokes and wants to smoke? If so, I have to send you

1 DULCE A [REDACTED], having been
2 first duly sworn, testified as follows:

3 THE COURT: Ma'am, if you would, tell us who you are,
4 and spell your last name, please.

5 THE WITNESS: My name is Dulce A [REDACTED]. A [REDACTED].

6 THE COURT: Thank you.

7 Solicitor.

8 MS. BARRY: Thank you, Your Honor.

9 DIRECT EXAMINATION BY MS. BARRY

10 Q How are you?

11 A I'm good.

12 Q Good. How old are you?

13 A I am 16 years old.

14 Q And are you in school anywhere?

15 A Yeah. I attend Armwood High School.

16 Q Okay. What grade are you in?

17 A I'm in the tenth grade.

18 Q Where do you live?

19 A I live in Seffner, Florida.

20 Q Okay. Who do you live with?

21 A I live with my aunt.

22 Q Who all lives there with you?

23 A I live with my aunt, my three cousins and my two
24 brothers.

25 Q Okay. Who are -- what are the names of your two

56

Dulce A [REDACTED]
Direct examination by Ms. Barry

1 brothers?

2 A My older brother's name is Juan Abarca and my younger
3 brother's name is Emmanuel A [REDACTED].

4 Q Okay. Who is Alicia Garcia to you?

5 A She is my mom.

6 Q And who is Dionicio Abarca?

7 A He is my dad.

8 Q Do you remember the day that you and your brother
9 reported your parents missing?

10 A It was in June, on a Sunday, I believe.

11 Q Okay. Was it June or July?

12 A I don't remember.

13 Q Okay. So you report your parents missing. You called
14 9-1-1.

15 A Yeah.

16 Q Okay. In your 9-1-1 call, do you remember telling
17 dispatchers that your dad ran away you think to Alabama?

18 A No. I don't remember that.

19 Q Okay. Had your dad ever mentioned Alabama before?

20 A Yes. Like a couple of months prior.

21 Q Okay. So, a couple of months prior to you calling
22 9-1-1, he mentioned Alabama.

23 A Yeah. He mentions that he wants to move over there.

24 Q To move there.

25 A Yeah.

1 Q Okay. And all of you guys would move with him.

2 A Yeah.

3 Q Okay. So, do your parents go missing the day that you
4 call 9-1-1, or a different day?

5 A The day before.

6 Q The day before. Do you remember what they were going
7 to do that day?

8 A Yeah. They were going to go to the field, the store
9 and their rental property.

10 Q Okay. Do you remember the address of any of those
11 locations?

12 A I know the field was in Concord Heights and the -- one
13 of the rental properties was in Chesnee.

14 Q Okay. So, did they leave to go to those locations?

15 A Yeah.

16 Q What did they leave in?

17 A In a brown small pickup truck.

18 Q Okay. Who did that truck belong to?

19 A My dad.

20 Q Did they say if they were going to split up?

21 A No.

22 Q Okay. Did they say if they were going to stay
23 together?

24 A I don't remember.

25 Q Okay. So, do you remember about what time they left?

1 A I think around 3:00.

2 Q Okay. The truck that they lived -- or excuse me --
3 that they left in, is that the truck that was always taken
4 to the field?

5 A Most of the time.

6 Q Okay. Would you guys go to the field?

7 A Yes.

8 Q Would you guys go in the truck?

9 A Yes.

10 Q Okay. Do you remember what your parents were wearing?

11 A Only I believe my mom was wearing a pink shirt.

12 Q Okay. What kind of things would you wear to the
13 field?

14 A Just regular clothes, like jeans and T-shirts.

15 Q Okay. What kind of shoes would you wear?

16 A Tennis shoes.

17 Q Okay. Did you ask to go that day?

18 A Yeah, I did ask to go, and my father said I can't go.

19 Q Okay. So, you asked to go and your dad said no.

20 A Yeah.

21 Q When do you realize something's not right?

22 A At 6:00 p.m. I started to get worried, and because
23 usually they call and say they're going to get home late.
24 And when I called my mom, she didn't answer.

25 Q Okay. Did you try calling your dad?

- 1 A Yes.
- 2 Q Did he answer?
- 3 A No.
- 4 Q Okay. So, if they were going to be late, they would
- 5 let you know.
- 6 A Yes.
- 7 Q But they didn't let you know on this day, did they?
- 8 A No.
- 9 Q Okay. Who all was left at the house when your parents
- 10 left?
- 11 A Me, my -- and my two brothers.
- 12 Q So, Daniel and your younger brother.
- 13 A Yeah.
- 14 Q Did anybody come and stay with you?
- 15 A No.
- 16 Q So you were left at that trailer overnight with just
- 17 you and your two brothers.
- 18 A Yeah.
- 19 Q This field, that is on Concord Heights, right?
- 20 A Yes.
- 21 Q Okay. What kind of tools would you use on this field?
- 22 A Shovels, hoes, machetes. But I wouldn't use those.
- 23 Q Okay. You wouldn't use those?
- 24 A No.
- 25 Q Who would use those?

Dulce A [REDACTED]
Direct examination by Ms. Barry

1 A My parents and my older brother.

2 Q Okay. Where were those tools stored?

3 A Either at their shed or in my dad's tools, box, in his
4 truck.

5 Q Okay. This field, is it within walking distance to
6 your house?

7 A No.

8 Q You would have to drive there?

9 A Yeah.

10 Q What about in relation to the rental property? Could
11 you walk there?

12 A No.

13 Q You'd have to drive.

14 A Yes.

15 Q Okay. So, you tried calling your parents. They don't
16 answer. The next day, what do you do?

17 A We check the properties, and then we call after we
18 realize they were nowhere to be found.

19 Q Okay. So, you checked the field. How far into the
20 field did you go, do you remember?

21 A I did not go. It was just my older brother. I just
22 stayed in the car with my little brother.

23 Q Okay. And then the rental property. Did you go in
24 the rental property?

25 A No.

1 Q Okay. Your brother went in?

2 A Yeah.

3 Q Okay. Don't say -- is that day the last day you saw
4 your mom?

5 A The day before, yeah.

6 Q Okay. Is your dad here in the courtroom today?

7 A Yes.

8 Q Can you point him out for us?

9 A He's right there.

10 Q Okay. Can you tell us what he's wearing?

11 A He's wearing a black jacket and a red shirt.

12 MS. BARRY: Your Honor, let the record reflect that
13 she's pointed out the defendant as her dad.

14 THE COURT: So noted.

15 BY MS. BARRY

16 Q I do have a couple of more questions.

17 How were your parents acting before they left?

18 A The day before they left, they had a fight.

19 Q Okay. What did they fight about?

20 A I believe because he thought she was cheating.

21 Q Okay. Did anything happen as a result of that fight?

22 A I don't remember.

23 Q Okay. Did he leave; did he stay?

24 A He left.

25 Q Okay. What did your mom do?

Dulce A [REDACTED]
Cross-examination by Mr. Farr

1 A She stayed on and she tried calling my aunt.

2 Q Okay. Did she do anything with any of his belongings?

3 A I don't remember.

4 Q Okay.

5 MS. BARRY: Your Honor, I have no further questions at
6 this time.

7 THE COURT: Okay.

8 MR. BARR: Your Honor, may it please the Court --
9 Ms. Barry, Mr. Haney.

10 CROSS-EXAMINATION

11 BY MR. FARR

12 Q Dulce --

13 A Yeah.

14 Q -- have we met before?

15 A I don't think so.

16 Q Okay. Have you met with the solicitor that just asked
17 the questions?

18 A Yes.

19 Q And how many times have you met with her?

20 A I think once.

21 Q Once. And that was to prepare you for trial --

22 A Yes.

23 Q -- for today?

24 A Yeah.

25 Q Okay. And go over questions with you?

1 A Yes.

2 Q Okay. And you said you're 16, correct?

3 A Yeah.

4 Q Do you have a driver's license yet?

5 A No.

6 Q Okay. When do y'all -- I know it used to be 15. When
7 can you get your permit?

8 A Fifteen.

9 Q Okay. And how many vehicles does your parents have?
10 Talking about your dad and mom.

11 A My mom has one car; my dad has one, like, another car.
12 And I think they had another car for my older brother, but
13 he never got to use it.

14 Q So, is that a total of three?

15 A I think so.

16 Q Okay. Was any of those cars red?

17 A No.

18 Q On the property you live, there's your property and
19 there's a trailer behind it, correct?

20 A Yeah.

21 Q Okay. Does anybody in that trailer drive a red car?

22 A I don't think so.

23 Q Okay. You talked about a shed. The solicitor,
24 Ms. Barry, asked you a question about a shed. Is that on
25 the property, y'all's main property in Chesnee?

Dulce A [REDACTED]
Redirect examination by Ms. Barry

1 A Yeah.

2 Q Okay. And how far is that from your property, do you
3 know?

4 A which property?

5 Q The one that you mainly live at, the one in Chesnee.

6 A Yeah. It's right there.

7 Q Okay. Is it behind the trailer, or to the right?

8 A To the right, yeah.

9 Q Okay. When law enforcement came to your property did
10 you tell them about the shed?

11 A No.

12 Q Okay. You talked about three tools -- shovel, hoe and
13 a machete. And you said you weren't allowed to use those
14 tools?

15 A I probably just used the shovel. The other ones, I
16 didn't.

17 Q Okay. And the shovel, hoe and machete, they're not
18 left at the field property.

19 A No.

20 Q Okay.

21 MR. FARR: Give me one second, Your Honor.

22 THE COURT: Yes, sir.

23 (Pause.)

24 MR. FARR: I have no further questions, Your Honor.

25 THE COURT: Thank you.

1 Anything at all?

2 MS. BARRY: Just briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. BARRY

5 Q Dulce, you're 16 now. How old were you when your mom
6 went missing?

7 A Twelve.

8 Q why weren't you allowed to use the machetes?

9 A I guess because I wasn't old enough.

10 Q You weren't old enough?

11 A Yeah.

12 Q Okay. Was anything ever left at the property?

13 A Which property?

14 Q I'm sorry. The field.

15 A No.

16 Q Okay. There weren't any extra cars there?

17 A No.

18 Q Okay. Tools weren't left there?

19 A No.

20 MS. BARRY: I have no further questions, Your Honor.

21 THE COURT: Anything from that?

22 MR. FARR: No, Your Honor.

23 THE COURT: Thank you.

24 Ma'am, you may step down. Please be careful.

25 MS. BARRY: Your Honor, may this witness be excused?

1 MR. FARR: No objection, Your Honor.

2 THE COURT: Ma'am, you may stay or go, whichever you
3 choose.

4 (Whereupon, the witness was excused.)

5 MS. BARRY: Your Honor may we approach?

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

8 THE COURT: Ladies and gentlemen, we are going to take
9 another break, and the reason is the next witness, I'm
10 told, is a law enforcement officer who is en route but is
11 not yet here, but he is en route. I don't want you just
12 sitting here.

13 So we're going to take a break until that officer can
14 get with us.

15 So, Madam Forelady, take your jury out. I don't know
16 if it's going to be five or six minutes, might be ten
17 minutes, but as soon as he gets here.

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

20 THE COURT: We'll stand at ease until the officer gets
21 here.

22 MS. BARRY: Thank you, Your Honor.

23 THE COURT: Yes, ma'am.

24 (Whereupon, a recess was taken.)

25 THE COURT: Is everybody ready?

1 MR. FARR: Yes, Your Honor.

2 THE COURT: We'll have the jury.

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

5 THE COURT: Thank you for your patience.

6 Everything good, Madam Forelady?

7 THE FOREPERSON: Yes.

8 THE COURT: Okay. Solicitor.

9 MR. HANEY: The state calls Mark Hutchens to the
10 stand.

11 MARK HUTCHENS, having been
12 first duly sworn, testified as follows:

13 THE COURT: Sir, tell us who you are, and spell your
14 last name for madam court reporter, please.

15 THE WITNESS: Mark Hutchens. H-U-T-C-H-E-N-S.

16 THE COURT: Thank you.

17 Solicitor.

18 MR. HANEY: Thank you, Your Honor.

19 DIRECT EXAMINATION BY MR. HANEY

20 Q Mr. Hutchens, where are you currently employed?

21 A Cherokee County Sheriff's Office.

22 Q And how long have you been employed there?

23 A Approximately 13 years.

24 Q Thirteen years?

25 A Yes, sir.

1 Q what is your current position at the Cherokee County
2 Sheriff's Office?

3 A I'm a lieutenant on the road.

4 Q what are your duties as a lieutenant on the road?

5 A Oversee five other people on the road. We answer
6 calls for service.

7 Q And how long have you been in that position?

8 A Probably about two years, three years, something like
9 that. Maybe four years.

10 Q what was your position in the summer of 2020?

11 A I was a lieutenant.

12 Q On the road?

13 A Yes, sir.

14 Q Were you working on July 19th of 2020?

15 A Yes, sir.

16 Q Mr. Hutchens, Lieutenant, how did you get involved in
17 this case?

18 A One of my deputies -- Deputy Singleton.

19 MR. FARR: Objection, Your Honor. Hearsay.

20 THE COURT: well, Solicitor.

21 MR. HANEY: Your Honor, there was no hearsay -- how
22 did this officer get involved. He's going to tell that.

23 THE COURT: Overruled.

24 Go ahead.

25 A Deputy Singleton give me a call and let me --

1 MR. FARR: Objection. Hearsay again, Your Honor.

2 THE COURT: Don't tell what he said, just you received
3 the call.

4 A Deputy Singleton give me a call, phone call.

5 Q And he also works for the Cherokee Sheriff's Office?

6 A Yes, sir, at the time.

7 Q And did you respond to the field in this case?

8 A Yes, sir.

9 Q Where? What road is that field on?

10 A Concord Heights Road here in Cherokee County.

11 Q South Carolina?

12 A Yes, sir.

13 Q When you got there, would you describe the field for
14 the jury?

15 A It was at the end of the Cherokee, I mean -- Concord
16 Heights is a dead-end road. At the very end of the
17 dead-end road is a field surrounded by woods. I guess they
18 used to use it as -- as a garden spot for the family.

19 Q In your estimation, how big is that field?

20 A Probably two or two-and-a-half acres.

21 Q You said there might have been something growing in
22 the field. Can you describe that?

23 A Yeah. There was some corn and some watermelon, maybe
24 some other kind of vegetables.

25 Q If you could, Lieutenant, tell the jury what you saw

1 in that field.

2 A When we entered the field there was a -- you have to
3 walk through a little path to go to the field. It's
4 probably about as wide as a car maybe to get to the field.

5 Once we entered the field, Deputy Singleton went up
6 around, towards the top of the field, and I was down
7 towards the bottom of the field looking to see if we could
8 locate anything.

9 After maybe five or ten minutes after being in the
10 field, Deputy Singleton hollered at me and said they had
11 located --

12 MR. FARR: Objection, Your Honor. Hearsay.

13 THE COURT: Don't say what he said.

14 THE WITNESS: Okay.

15 A Deputy Singleton hollered at me.

16 Q Okay. And what did you observe in that field after he
17 hollered at you?

18 A A partial foot covered. Appeared to be a body in a
19 shallow grave.

20 Q What do you remember about the body?

21 A It was covered up with dirt except for maybe a little
22 bit of the shoe, tennis shoe, that she had on.

23 Q You mentioned just a few minutes ago that this field
24 was surrounded by trees.

25 A Yes, sir.

1 Q would you describe the field as being isolated?

2 A Yes, sir.

3 Q After you and Officer Singleton discovered a body,
4 what did you do next?

5 A Contacted Detective K.P.

6 Q who is K.P.?

7 A Parnell, Detective Parnell.

8 Q And he's in investigations?

9 A Yes, sir.

10 Q Did you do anything else on scene?

11 A Roped off the scene, secured the scene, and waited for
12 crime scene and detectives to arrive.

13 Q And what's the point of roping off the scene?

14 A Just secure it to make sure nothing else, nobody else,
15 comes into the scene or nothing can get into the scene.

16 Q Please answer any questions Mr. Farr may have.

17 A Yes, sir.

18 MR. FARR: Your Honor, may it please the Court --
19 Ms. Barry, Mr. Haney.

20 CROSS-EXAMINATION

21 BY MR. FARR

22 Q You've been a lieutenant for almost four years?

23 A Yes, sir.

24 Q Okay. So, you became a lieutenant in 2019?

25 A Somewhere in about that, yes, sir.

1 Q And part of your duties are that you supervise five
2 other individuals.

3 A Correct.

4 Q Do you still have five other individuals right now?

5 A Yes, sir.

6 Q Okay. And are you actually on the road or are you
7 actually down there at the office?

8 A No. I'm actually on the road answering calls.

9 Q Okay. And you talked about this Concord Heights house
10 or land. You said it's a dead-end road.

11 A Yes, sir.

12 Q Is it the only house at the dead end?

13 A There's no houses all the way at the dead end. It's a
14 series of houses going all the way down, yes, sir.

15 Q How many houses do you remember are actually down this
16 road?

17 A If I had to guess right off the top of my head, maybe
18 15 or 16, maybe.

19 Q About 15 or 16 houses.

20 A Yeah.

21 Q Okay. Did you go to any of these houses?

22 A The best I can remember, I think we went to maybe one
23 house --

24 Q Okay.

25 A -- and spoke to somebody about a camera.

1 Q Okay.

2 A This was early in the morning as best I can recall.

3 Q Okay. Did you do a report?

4 A No, sir. Deputy Singleton did.

5 Q Okay. Do you do reports?

6 A Yes, sir.

7 Q Just not in this case, right?

8 A Right, because he was the responding officer.

9 Q Okay. And you said that you believe, not actually but
10 you believe, this property is two or two-and-a-half acres.

11 A Yes, sir, approximately, two and a half -- two or
12 two-and-a-half acres.

13 Q Okay.

14 MR. FARR: That's all the questions I have, Your
15 Honor.

16 THE COURT: Anything?

17 MR. HANEY: Just briefly, Your Honor.

18 REDIRECT EXAMINATION

19 BY MR. HANEY

20 Q Mr. Farr asked you about the houses and the proximity
21 of the houses to the fields.

22 A Yes, sir.

23 Q Tell the jury where the body was found in relation to
24 those houses.

25 A You couldn't see a house from the -- from the field.

1 I don't know how far it was in proximity, but where the
2 road stops is where the last houses are, and then the field
3 is -- it's a good ways off the -- off the road. It's not
4 like right up by the house.

5 Q And you're not an investigator, are you?

6 A No, sir.

7 Q Thank you.

8 A Yes, sir.

9 THE COURT: Anything at all?

10 MR. FARR: No, Your Honor.

11 THE COURT: Sir, you may step down. Please be
12 careful.

13 THE WITNESS: Thank you, sir.

14 MR. HANEY: May this witnessed be relieved?

15 MR. FARR: No objection, Your Honor.

16 THE COURT: Without objection. Sir, you may stay or
17 go, whichever you please.

18 THE WITNESS: Thank you, sir.

19 (Whereupon, the witness was excused.)

20 THE COURT: Let me see the lawyers please.

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

23 THE COURT: Madam forelady, and ladies and gentlemen,
24 we're going to break for lunch now. As I told you, we
25 break somewhere around 12:00 noon. We're going to take --

1 I'm going to give you an hour and a half. So that'll bring
2 you back at 1:30 -- at 1:30. Please be ready to work.

3 Don't talk about the case, don't try to learn anything
4 about the case whatsoever. Enjoy your lunch.

5 Madam Forelady.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: We'll be in recess until 1:30.

9 MR. FARR: Thank you, Your Honor.

10 MS. BARRY: Thank you, Your Honor.

11 (Whereupon, a recess was taken.)

12 MS. BARRY: Your Honor, I've referenced this several
13 times.

14 There is a machete in evidence that has unknown D.N.A.
15 on it. It was tested against the defendant's D.N.A. and it
16 was tested against the victim's D.N.A., and it did not
17 match either one of them.

18 Now, this machete was found in the defendant's truck
19 on the defendant's property and it did test negative for
20 blood when it was tested by Lieutenant Mullinax at the time
21 and at SLED. So, we do not believe that this is the murder
22 weapon.

23 So, I would ask that that particular machete be kept
24 out under the third-party-guilt argument. We don't know
25 who that D.N.A. belongs to. We can't tell you when that

1 D.N.A. got there. So, I think it's just going to confuse
2 the jury, it's going to mislead the jury, and that it needs
3 to be kept out.

4 THE COURT: Okay. Mr. Farr.

5 MR. FARR: Judge, I do not think -- I do not believe
6 it needs to be kept out.

7 Judge, as, again as, I told the Court very early this
8 morning, I don't have a specific name or anything else but
9 I'm allowed to ask questions on cross-examination and stuff
10 like that. And if I'm limited on what I can do on cross,
11 that eliminates my ability to have a full defense in this
12 case. Judge, again, it's the same arguments as this
13 morning.

14 THE COURT: Okay. Let me ask you this, and I
15 understand that the rule about relevant evidence is it's a
16 very low threshold.

17 what's the relevant -- what's the -- what's the
18 relevance to this?

19 MR. FARR: To be honest with you, Judge, I was going
20 to ask questions when an investigator got on the stand to
21 see if anybody else's D.N.A. was taken or anything else,
22 just ask him those general questions to see if he
23 eliminated anybody else. That's how I was going to go down
24 that road. That's it.

25 THE COURT: well, do you want to proffer that now?

1 MR. FARR: I mean, in discovery, I'm assuming in
2 discovery he didn't take anybody else's D.N.A., because he
3 had his -- the way I'm looking at this, his mind was
4 focused on one person, which was my client, and that was
5 the only person he focused on. And I was going to bring
6 that out through testimony.

7 THE COURT: That he didn't -- probably didn't
8 investigate anybody else?

9 MR. FARR: Correct.

10 THE COURT: Well, that's fine, but back to the -- to
11 this particular weapon, it's not even a weapon. It's a
12 machete.

13 MR. FARR: Yes, sir.

14 THE COURT: How -- how is that relevant? It doesn't
15 match your client; it doesn't match even the victim. I
16 mean, it could be --

17 MR. FARR: Correct. It could be anybody's.

18 THE COURT: It could be anybody, yes.

19 MR. FARR: Right.

20 THE COURT: Yes. But if it -- you don't have anything
21 to say that that's the murder weapon.

22 MR. FARR: If that's the case, then I don't want any
23 of the weapons to be introduced because none of them are
24 the murder weapons. They're not saying that.

25 If you eliminate one weapon, then you eliminate all

1 the weapons that they want to produce. You can't eliminate
2 one and not all of them.

3 THE COURT: Well, what about the other weapon? None
4 of them have blood on them?

5 MS. BARRY: None of them have blood on them.

6 A couple of them have D.N.A. on them but not enough to
7 be compared to the standards that were sent down.

8 So, what I'm trying to do is keep out the unknown
9 D.N.A. under third-party guilt because we can't say exactly
10 who that is.

11 We can't just tell the jury, well, there's this
12 unknown, you know unknown, person out there, maybe they did
13 it. We can't do that.

14 But what I'm doing is I'm trying to put -- he's the
15 one who's going to be asking the question was D.N.A.
16 testing done, and I'm fine putting the other machetes in,
17 but this particular machete has unknown D.N.A. on it. So,
18 it's going to violate third-party guilt, because I think
19 that's why Mr. Farr is trying to put it in.

20 THE COURT: Mr. Farr, do you want to be heard on that?

21 MR. FARR: Judge, it's the same thing she just
22 tested -- I mean, just told the Court.

23 Some of the D.N.A. couldn't be taken down there and
24 they couldn't match because they didn't have enough or
25 whatever. That's for SLED to testify.

1 But, Judge, the argument is if these aren't the murder
2 weapons, and she's saying that, then none of them should
3 come in.

4 You can't -- you can't take one away from me that I
5 can't have the ability to cross-examine, but she has
6 ability as the state to enter in whatever she wants and --
7 and have her theory about the case and then limit my
8 ability to defend my client. I just don't think that's
9 right.

10 Either don't put them all -- you don't put any in
11 and/or you can't limit my ability to defend my client,
12 Judge.

13 MS. BARRY: Well, number one, Judge, I'm not putting
14 these in to say that they're the murder weapons.

15 I'm putting them in to show that the access that he
16 had to weapons that are consistent with the wounds that the
17 victim had. And if he is going to ask about D.N.A., then
18 I've got to put machetes in. But he shouldn't be allowed
19 to ask about D.N.A. that comes back to an unknown person.

20 MR. FARR: But then I would argue, Judge, that's
21 speculation. She's saying these aren't the murder weapons
22 but I want them to have the ability to have them present.
23 That's speculation of what he has access to. He had access
24 to a gun, but they didn't go get the gun and put it in.

25 MS. BARRY: Well, she wasn't shot, Your Honor. She

1 was chopped up.

2 THE COURT: But you don't have anything tying any of
3 these to --

4 MR. FARR: Right.

5 MS. BARRY: To the murder, no, sir, just that he had
6 access to these types of weapons. But if we can't put them
7 in, then I don't think Mr. Farr gets to go into the D.N.A.
8 argument at all.

9 MR. FARR: Correct.

10 MS. BARRY: So, we can't ask Jacob Mullinax were these
11 sent to SLED for D.N.A. testing.

12 MR. FARR: She's a hundred percent correct, Judge.

13 THE COURT: So you don't --

14 MR. FARR: She doesn't bring anything else, but she's
15 already had people testify to tools and everything else.
16 So, it's already been in that they have machetes and
17 everything else.

18 THE COURT: So --

19 MS. BARRY: Yes, they have machetes, but they were
20 found in his truck.

21 So, I have pictures of the machetes that I was going
22 to put in, but I don't have to put in the actual machetes
23 if we are going to keep D.N.A. out altogether.

24 THE COURT: Mr. Farr.

25 MR. FARR: Judge, the only other issue I have is that

1 she had two people testify to machetes and stuff like that,
2 and she's already put in her opening about machetes as that
3 was one of the weapons that was used to kill the
4 individual.

5 I mean, she's already put it out there. And now
6 eliminating them would just -- I mean, I'm not sure what
7 else putting a picture in, because then I think that if she
8 puts a picture in, then I still get the ability to ask
9 questions about those pictures that you're going to put a
10 picture in about the machete, I still get to ask the
11 question.

12 Then it goes on to 403. I think it's prejudicial to
13 the point of your introducing something that would be
14 confusing as she's trying to argue about me that's
15 confusing that you have these murder weapons but I'm really
16 limited about what I can ask them but show pictures. And
17 all of a sudden I don't get to ask questions about pictures
18 she's trying to introduce, which is, again, she's going
19 to -- I don't know what she's going to do on closing, but I
20 would assume she's going to try to post those pictures in
21 closing about these machetes and items and stuff like that,
22 which would insinuate what's --

23 THE COURT: Okay. Here's what I'm going to do. I
24 think under 403 they all come in.

25 MR. FARR: Yes, sir.

1 THE COURT: Okay. But there's not going to be any
2 reference to in closing or even in the questions about it
3 could have been somebody else, because that is third-party
4 guilt.

5 MR. FARR: Correct. I said from the get-go my
6 client's always said that he was going to Alabama, and
7 that's what's been testified.

8 THE COURT: I understand that, but we're not going --
9 there's not going to be any questions. I'm going to allow
10 all three of them in -- three or four or whatever they are.
11 Okay. It is what it is, and about the D.N.A. doesn't match
12 him and it doesn't match her, okay, but we are not going to
13 step past that where it could have been somebody else.

14 MR. FARR: Correct.

15 THE COURT: We're not going there.

16 MR. FARR: Yes, sir.

17 MS. BARRY: So, he's going to be allowed to ask if the
18 D.N.A. came back to --

19 MR. FARR: I'm asking if it came back to my client.

20 MS. BARRY: I'm sorry. I'm just trying to --

21 THE COURT: SLED can testify it didn't come back to
22 either one of them.

23 MS. BARRY: Okay.

24 THE COURT: They don't know who it is.

25 MS. BARRY: Okay.

1 THE COURT: It's -- it's somebody else's.

2 MS. BARRY: Okay.

3 THE COURT: That's -- that's -- but -- but he's not
4 going to be able to say to in closing or even in a
5 question, so somebody else could have killed her.

6 MR. FARR: Correct.

7 THE COURT: We're not going there, because that is
8 third-party guilt.

9 MR. FARR: Right.

10 THE COURT: Okay.

11 MR. FARR: Because I don't have a name or anybody
12 else, yes, sir.

13 THE COURT: Don't know.

14 MR. FARR: I -- yes, sir.

15 THE COURT: All right. Under 403, they're in if you
16 want to put them in. I mean, you don't have to put them
17 in. It's up to you, whatever you do. I'm not telling you
18 to put them in. I'm just saying that if you do -- if one
19 comes in, they all come in.

20 MS. BARRY: Right.

21 THE COURT: Okay. All right. Anything else?

22 MR. FARR: No, sir, no, sir.

23 THE COURT: Everybody ready?

24 MS. BARRY: Yes, sir.

25 THE COURT: We've got the jury.

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Direct examination by Ms. Barry

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

3 THE COURT: Madam Forelady, everybody good?

4 THE FOREPERSON: Yes.

5 THE COURT: Thank you. Give your attention to the
6 solicitor.

7 MS. BARRY: Thank you, Your Honor.

8 Your Honor, the state would call Jacob Mullinax to the
9 stand.

10 JACOB MULLINAX, having been
11 first duly sworn, testified as follows:

12 THE COURT: Sir, tell us who you are, and spell your
13 last name for madam court reporter, please.

14 THE WITNESS: Yes, sir. My name is Jacob Mullinax.
15 M-U-L-L-I-N-A-X.

16 THE COURT: Solicitor.

17 MS. BARRY: Thank you, Your Honor.

18 DIRECT EXAMINATION BY MS. BARRY

19 Q Good afternoon, Mr. Mullinax. Where are you currently
20 employed?

21 A I'm currently employed with the South Carolina State
22 Fire Marshal's Office.

23 Q How long have you been employed there?

24 A I'm just over two years.

25 Q What is your role there?

1 A I am a senior deputy state fire marshal.

2 Q Okay. Where were you employed in July of 2020?

3 A I was employed at the Cherokee County Sheriff's
4 Office.

5 Q What did you do at the sheriff's office?

6 A I was a crime scene investigator for the sheriff's
7 office.

8 Q And how long had you been a crime scene investigator?

9 A I went into crime scene in November of 2015.

10 Q Okay. Prior to crime scene, what did you do?

11 A I was a patrol officer for Blacksburg Police
12 Department, as well as the sheriff's office.

13 Q And how long have you been involved in law
14 enforcement?

15 A This year will be 13 years, this year.

16 Q Okay. So when you were a crime scene investigator,
17 what were your duties?

18 A As a crime scene investigator we would respond to
19 calls that we were requested to to process the scene for
20 any evidence, collect photographs and then take that
21 evidence back to be processed.

22 Q Okay. Were you the crime scene investigator who was
23 involved in the investigation against this defendant?

24 A Yes. I was.

25 Q How did you become involved in the investigation?

1 A On the -- on the date in question I was requested to
2 the scene by Captain Parnell and responded to the scene
3 that day.

4 Q And what scene did you respond to?

5 A I responded to the scene that was located at [REDACTED]
6 Concord Heights Road in Gaffney, which is in Cherokee
7 County.

8 Q Okay. And when you got there, what did do?

9 A Upon arrival on the scene I met with the patrol
10 officers that were on the scene -- Lieutenant Hutchens --
11 and I waited the arrival of Captain Parnell with the search
12 warrant.

13 Q Okay. And did he arrive with the search warrant?

14 A Yes. He did.

15 Q And when he got there, what did you do?

16 A After Captain Parnell arrived with the search warrant,
17 I reviewed the search warrant and then executed the search
18 warrant on the property.

19 Q And when you execute a search warrant, what do you
20 start doing?

21 A Once we execute the search warrant, I begin to take
22 photographs of the scene as it is presented initially and
23 also photographed the scene as we moved into the scene.

24 MS. BARRY: Permission to approach the witness, Your
25 Honor.

1 THE COURT: Yes, ma'am.

2 Q I'm going to show you what's been marked or premarked
3 as State's Exhibits 3, 4, 5 and 6 and 7. Do you recognize
4 those?

5 A Yes, ma'am.

6 Q Are those the photographs that you took?

7 A Yes, ma'am.

8 Q Have they been altered or changed in any way?

9 A No, ma'am.

10 Q They fairly reflect what you took pictures of that
11 day?

12 A Yes, ma'am.

13 MS. BARRY: Your Honor, at this time I'd like to admit
14 State's Exhibits 3 through 7 into evidence.

15 MR. FARR: No objection, Your Honor.

16 THE COURT: Without objection.

17 (Photographs marked State's Exhibits Nos. 3 through 7.)

18 MS. BARRY: Permission to publish, Your Honor.

19 THE COURT: Yes, ma'am.

20 Q Is it still Lieutenant Mullinax?

21 A Whatever you want to call me.

22 Q Okay. Let me show you State's Exhibit 3. What is
23 that?

24 THE WITNESS: Permission to step down, Your Honor.

25 THE COURT: Yes, sir.

1 (Whereupon, the witness left the stand.)

2 A Yes, ma'am. This is a picture that I took initially
3 walking into the field of the area we had responded to.

4 Q And if I showed an aerial map of the area that you
5 processed, would that aid in your testimony?

6 A Yes, ma'am.

7 Q Okay.

8 MS. BARRY: Your Honor, at this time I'd like to admit
9 State's Exhibit 20 for demonstrative purposes.

10 MR. FARR: No objection, Your Honor.

11 THE COURT: Without objection, State's 20.

12 (Poster marked State's Exhibit No. 20.)

13 Q Let me get this set up for you.

14 Okay. So, when we are looking at this photo, State's
15 Exhibit 3, where are you on State's Exhibit 20?

16 A Yes, ma'am. This photo here was actually taken -- if
17 you're coming in from the roadway of Concord Heights, once
18 you enter into this area, this is a photograph here as we
19 entered into the property to move along that wood line.

20 Q And then State's Exhibit 4.

21 A That's actually turned back toward the roadway just to
22 show directionality and where we were as we were moving in
23 taking pictures.

24 Q State's Exhibit 5.

25 A Again, this was as we were moving into the field area

1 along that wood line there that you see.

2 Q Okay. And then State's Exhibit 6.

3 A Again, just another photograph of moving into the
4 field.

5 Q Okay. And what -- what is all of this throughout
6 here?

7 A That was -- that was overgrowth that was in the area
8 leading into where the crops were.

9 Q Okay. And then State's Exhibit 7.

10 A Again, moving -- moving up into that area with that
11 wood line to your left, moving up toward where the field
12 was actually located.

13 Q And when you were taking pictures were you -- how were
14 you traveling through? Were you going this way -- were you
15 going this way?

16 A Yes, ma'am. As we entered into -- to the field here,
17 we came in from the roadway and traveled along this wood
18 line here to circle back up into where the crops were
19 actually located.

20 Q And what kind of crops were in there?

21 A Corn.

22 Q Okay. I'm now going to show you what's been marked
23 as -- premarked as State's Exhibits 8, 9, 10, 11, 12, 13,
24 14, 15, 16, 17, 18 and 19.

25 MR. FARR: Judge, just before we start, I do have an

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1 objection to 12, 14, 15, 16, 17 and 18.

2 THE COURT: What's the objection?

3 MR. FARR: Give me one second, Judge.

4 One is under 403 but it's the -- trying to get the
5 case, Judge. Under State vs. Collins, 398 South Carolina
6 197.

7 Under that case law, Judge, it's -- those pictures are
8 more for emotional standpoint.

9 As the charge is for murder, those don't apply to
10 murder, and it'd be under that case law, Judge, which was
11 back down in the Fourth Circuit, Chesterfield area, where
12 the pictures arose more gruesome and stuff but did meet the
13 breakdown under 403, Judge, which they in that case said
14 outweigh -- it was unfair prejudice to the individual
15 because those pictures didn't do anything or anything else
16 towards the element of the actual crime.

17 THE COURT: Do you want to be heard, Solicitor?

18 MS. BARRY: Yes, sir, Your Honor.

19 I believe that that case law that he is quoting, that
20 was actually overturned by the Supreme Court where those
21 were allowed, and those are autopsy photos.

22 Your Honor, these are crime scene photos, and that was
23 actually addressed in a new case that came out by the
24 Supreme Court stating that crime scene photos should be
25 allowed. They lay out the scene as officers are finding

1 things so that they are highly relevant.

2 This is how they found the scene and this is how they
3 found Alicia Garcia. So, I would ask that they be
4 admitted.

5 THE COURT: Is that Paul Burch's case?

6 MR. FARR: Yes, sir.

7 THE COURT: The Supreme Court --

8 MR. FARR: Yes, sir.

9 THE COURT: -- heard that.

10 MR. FARR: Full crime scene. I'm still arguing for
11 the same thing that those aren't used to meet the elements
12 of the crime itself. I still think it's a burden from the
13 emotional standpoint and everything else. I still make the
14 same argument, Judge.

15 THE COURT: Okay. All right. You're protected on the
16 record --

17 MR. FARR: Yes, sir.

18 THE COURT: -- but you're overruled. They're in.

19 (Photographs marked State's Exhibits Nos. 8 through
20 19.)

21 MR. FARR: Yes, sir.

22 MS. BARRY: May he step down, Your Honor?

23 THE COURT: Yes, ma'am.

24 MS. BARRY: And permission to publish.

25 THE COURT: Yes, ma'am.

1 (Whereupon, the witness left the stand.)

2 Q Okay. State's Exhibit 8. What are we looking at?

3 A Yes, ma'am. This was along the wood line on this side
4 of the field. You could see the table that is there. You
5 can faintly make it out on this, on this map, here as well.
6 And this was just leading up to the area where we located
7 the victims.

8 Q Okay. And are these crops back in here as well?

9 A Yes.

10 Q Okay. Is this a secluded area of the field?

11 A Yes, ma'am.

12 Q When you're back there -- and I'll direct you over
13 here -- when you're back there can you see any of these
14 houses that are along the road?

15 A No.

16 Q Okay. So, we're back in here somewhere?

17 A Yes, ma'am.

18 Q Okay. State's Exhibit 9.

19 A Yes, ma'am. This is pointing back toward the crops.
20 As you can see, there's a wooden stake there. This was
21 pointing into the area where the victim's body was located.

22 Q And can you see her body in this picture? If you need
23 to step over here, you can.

24 A Yes. I can see where I believe that she's located,
25 but I can't make out.

1 Q Okay. State's Exhibit 10.

2 A Yes, ma'am. This was as we were moving into the --
3 into the field there, into the crops, where the victim was
4 located.

5 Q Okay. State's Exhibit 11.

6 A Again, just a closer-up view of where -- where and how
7 the victim was located.

8 Q Okay. What was this right here?

9 A I believe that that is the victim's shoes.

10 Q And then is there -- what is this laying on -- on top?

11 A Can't make it out from -- from that angle.

12 Q State's Exhibit 12.

13 A Again, just from another angle of where the victim's
14 body was located.

15 Q Okay. What is -- what is this right here?

16 A Yes, ma'am. That's just the crops that were around
17 where she was at that were placed over -- over where her
18 body was.

19 Q Okay. So, she had crops placed on top of her.

20 A Yes, ma'am.

21 Q State's Exhibit 13.

22 A Yes, ma'am.

23 Q You have 13?

24 A Yes, ma'am. Again, just another angle.

25 Q Okay. Is this the back angle of her?

1 A Yes, ma'am.

2 Q State's Exhibit 14.

3 A Again, just another angle showing how the victim's
4 body was located.

5 Q She was pretty well hidden.

6 A Yes, ma'am.

7 Q State's Exhibit 15.

8 A This is as we began to remove some of the items that
9 were covering her body as we began to excavate her out of
10 the -- the area.

11 Q Is -- what is this?

12 A It's a straw hat that was located on top of her --

13 Q Okay.

14 A -- body.

15 Q State's Exhibit 16.

16 A Yes, ma'am. Again, just as we were removing items
17 from over -- from on top of her body we just continually
18 photographed to show as we de-laid her things off the top
19 of her body.

20 Q And what is this on her shirt?

21 A Yes, ma'am. Those are blood-like stains that were on
22 her shirt.

23 Q Okay. State's Exhibit 17.

24 A This is as we were examining the victim's body. I
25 began to start seeing some injuries, which were scaled and

1 photographed.

2 Q Okay. And what type of injury was this?

3 A It's a laceration.

4 Q And that's to her face?

5 A Yes, ma'am.

6 Q State's Exhibit 18.

7 A Again, another injury to the victim's face that we
8 scaled and photographed.

9 Q Okay. So, she had two lacerations to her face.

10 A Yes, ma'am.

11 Q And then State's Exhibit 19.

12 A Yes, ma'am. This was as we rolled her body over, we
13 observed this deep gash that was in the back of her neck.

14 Q Okay. Thank you very much.

15 So, once you saw these types of injuries, what do
16 you -- what do you do? What do you start looking for.

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

18 A With these types of injuries we would -- which is
19 consistent with a sharp object, we would start looking for
20 items that would cause such an injury.

21 Q Okay. So, once you photograph the victim, what do you
22 do from there?

23 A Once we photographed the victim and photographed her
24 injuries, the victim's body was turned over to the coroner,
25 and they removed the body from the scene.

1 Q And did you go anywhere from the field?

2 A Yes, ma'am. After we left from the field we responded
3 to what was identified to us as a rental property of the
4 victim and the defendant.

5 Q Okay.

6 A And responded to that location.

7 Q And what is the address of that location?

8 A Yes, ma'am. It's [REDACTED] Small Farm Road in Gaffney,
9 South Carolina, in Cherokee County.

10 Q Okay. And when you get there, what do you do?

11 A Once we got there, there was already a deputy on
12 scene. Captain Parnell arrived with a search warrant and
13 executed the search warrant on that property. And just as
14 with the initial scene, we began to take photographs of the
15 area as we found it.

16 Q I'm going to show you what's been premarked as State's
17 Exhibits 22, 23 and 24. Do you recognize those?

18 A Yes, ma'am. These are photographs I obtained of the
19 residence there at [REDACTED] Small Farm.

20 Q Okay. And you took those photos?

21 A Yes, ma'am.

22 Q Have they been changed in any way?

23 A No, ma'am.

24 Q And do they fairly and accurately represent what you
25 saw that day?

1 A Yes, ma'am.

2 MS. BARRY: Your Honor, at this time I'd like to admit
3 State's Exhibits 22, 23 and 24 into evidence.

4 MR. FARR: Just those photos?

5 MS. BARRY: Yeah.

6 MR. FARR: No objection, Your Honor.

7 THE COURT: Without objection.

8 (Photographs marked State's Exhibits No. 22, 23 and
9 24.)

10 MS. BARRY: Permission to publish, Your Honor.

11 THE COURT: Yes, ma'am.

12 (Whereupon, the witness left the stand.)

13 Q State's Exhibit 22. What are we looking at here?

14 A Yes, ma'am. This is the residence that was located
15 there at ■■■ Small Farm.

16 Q Okay. Was anybody in the residence?

17 A No.

18 Q Okay. And then State's Exhibit 23.

19 A This is just the address marker for the residence
20 where it was written on the side of the residence. We
21 always take pictures of those to establish where we are.
22 So, that's a reference point for us to know exactly where
23 we were when we executed the warrant.

24 Q And, so, you eventually go inside, correct?

25 A Yes.

1 Q Okay. Can you describe the trailer?

2 A It was essentially empty. I mean, there -- there were
3 some items inside of the -- the mobile home. And as we
4 began to go through we entered into the bathroom area and
5 we took some photographs in there as well.

6 Q Okay. So, State's Exhibit 24. What are we looking at
7 here?

8 A Yes, ma'am. This is mud or dirt, if you will, in the
9 bathtub of this -- of this residence.

10 Q And did it appear to be fresh?

11 A Yes, ma'am. It -- it was still, had some consistency
12 of being wet and appeared to be fresh at the time.

13 Q Like somebody had just used it.

14 A Yes, ma'am.

15 Q Did you photograph the trailer first or did you
16 photograph anything else on the property?

17 A Yes, ma'am. We --

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

19 A -- photographed the inside -- inside of the mobile
20 home first. And after -- after completing the photographs
21 in there, we moved to the exterior of the home. And there
22 was a pickup truck that was located behind the residence.

23 Q Do you remember what color that pickup truck was?

24 A Yes, ma'am. It was brown.

25 Q It was a little brown pickup truck?

1 A Yes, ma'am.

2 Q I'm going to show you what's been marked as State's
3 Exhibits 25 through 36. Do you recognize these?

4 A Yes, ma'am. These are photographs of the truck that
5 was on the property.

6 Q And do they fairly and accurately represent what was
7 found?

8 A Yes.

9 Q Have they been altered or changed in any way?

10 A No.

11 MS. BARRY: Your Honor, at this time I'd like to admit
12 State's Exhibits 25 through 36 into evidence.

13 MR. FARR: No objection.

14 THE COURT: Without objection.

15 (Photographs marked State's Exhibits Nos. 25 through
16 36.)

17 Q And you can step down if you need to.

18 (Whereupon, the witness left the stand.)

19 Q State's Exhibit 25.

20 A Yes, ma'am. This is the truck that was located on the
21 property that was located behind the residence and parked
22 as you see it.

23 Q And I've referenced it several times. Do you know
24 what type of truck it was?

25 A Toyota.

1 Q And then State's Exhibit 26.

2 A Just another angle of that truck where it was on the
3 property.

4 Q And I know it's hard to tell in these photographs. It
5 looks a little gold up there, but it was brown, right?

6 A Yes, ma'am.

7 Q A light brown color?

8 A Yes, ma'am.

9 Q State's Exhibit 28.

10 A Yes, ma'am. This is a photograph of the bed of the
11 pickup truck and the contents that were found therein.

12 Q What is State's Exhibit 29?

13 A This is the interior of the toolbox that was located
14 on the back of that pickup truck.

15 Q State's Exhibit 30.

16 A Again, another photograph of the interior of that
17 toolbox.

18 Q And what is this right here?

19 A It is a machete.

20 Q Next is State's Exhibit 31.

21 A Yes, ma'am. Just another angle of that toolbox that
22 was found with a machete there on the top, just showing
23 where it came from inside of the toolbox.

24 Q I'm not noticing water right here. Was it raining by
25 this time?

1 A It -- I believe it had been at some point in time, but
2 I do not recall whether it had started raining then or not.

3 Q Okay. State's Exhibit 32.

4 A Another machete that was found inside of the toolbox.

5 Q So, you found more than one machete.

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

7 Q State's Exhibit 33.

8 A An additional machete that was found in the toolbox of
9 the truck.

10 Q State's Exhibit 34.

11 A An additional machete that was found.

12 Q So, this -- this little toolbox was loaded with
13 machetes.

14 A Yes, ma'am.

15 Q Thirty-five.

16 A This was a handsaw that was found also in the truck.

17 Q And 36.

18 A This is a hat that was found in the passenger
19 compartment of the truck.

20 Q Was that hat similar to the one that you had found on
21 Alicia's body in the field?

22 A Yes, ma'am.

23 Q Now, you collected these machetes, is that correct?

24 A Yes, ma'am. I did.

25 (Pause.)

Jacob Mullinax
Direct examination by Ms. Barry

1 (Machete marked State's Exhibit No. 40 for
2 Identification; machete marked State's Exhibit No. 41 for
3 Identification; Machete marked State's Exhibit No. 42 for
4 Identification; knife marked State's Exhibit No. 43 for
5 Identification; machete marked State's Exhibit No. 44 for
6 Identification; machete marked State's Exhibit No. 45 for
7 Identification.)

8 Q Lieutenant Mullinax, I'm going to show you State's
9 Exhibits 43, 44, 45, 40, 41 and 42. If you will, look at
10 these and let me know if you recognize these.

11 A Yes, ma'am.

12 (Pause.)

13 A Yes, ma'am.

14 Q Are these the machetes that you collected from the
15 scene --

16 A Yes, ma'am.

17 Q -- that you photographed --

18 A Yes, ma'am.

19 Q -- that we just saw?

20 A Yes, ma'am.

21 Q Have these been changed in any way?

22 A No, ma'am.

23 MS. BARRY: Your Honor, at this time I'd like to admit
24 State's Exhibits 40 through 45 into evidence.

25 MR. FARR: No objection, Your Honor.

1 THE COURT: Without objection.

2 (Machete marked State's Exhibit No. 40; machete marked
3 State's Exhibit No. 41; machete marked State's Exhibit No.
4 42; knife marked State's Exhibit No. 43; machete marked
5 State's Exhibit No. 44; machete marked State's Exhibit No.
6 45.)

7 MS. BARRY: Your Honor, at this time may Lieutenant
8 Mullinax step down and publish the machetes?

9 THE COURT: Yes, ma'am.

10 (Whereupon, the witness left the stand.)

11 Q So, that's State's Exhibit 45.

12 (Whereupon, the exhibit was published to the jury.)

13 Q State's Exhibit 44.

14 (Whereupon, the exhibit was published to the jury.)

15 Q State's Exhibit 42.

16 (Whereupon, the exhibit was published to the jury.)

17 Q State's Exhibit 40.

18 (Whereupon, the exhibit was published to the jury.)

19 Q And State's Exhibit 41.

20 (Whereupon, the exhibit was published to the jury.)

21 Q And State's Exhibit 43.

22 (Whereupon, the exhibit was published to the jury.)

23 Q So, the pictures don't really do them justice, do
24 they?

25 A No, ma'am.

Jacob Mullinax
Direct examination by Ms. Barry

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

2 Q Now, when you also -- what else did you find in the
3 truck?

4 A Also, located within the truck were several items of
5 mail.

6 Q Let me show you what's been marked as State's Exhibits
7 37, 38 and 39. Do you recognize those?

8 A Yes, ma'am.

9 Q And are those the photos that you took?

10 A Yes, ma'am. They are.

11 Q Do they fairly and accurately represent the mail that
12 you found?

13 A Yes, ma'am.

14 Q And they haven't been changed in any way?

15 A No, ma'am.

16 MS. BARRY: Your Honor, at this time I'd like to admit
17 State's Exhibits 37, 38 and 39 into evidence.

18 THE COURT: Any objection?

19 MR. FARR: No objection.

20 THE COURT: Without objection, they're admitted.

21 (Photographs marked State's Exhibits Nos. 37, 38 and
22 39.)

23 MS. BARRY: Permission to publish, Your Honor.

24 THE COURT: Yes, ma'am.

25 Q State's Exhibit 37.

1 (Whereupon, the witness left the stand.)

2 A Yes, ma'am. This was a [sic] item of mail that was
3 located in the truck. Had the victim's name on it.

4 Q Okay. And then this is State's Exhibit 39.

5 A Another item of mail that was located in the truck.

6 Q And it has whose name on it?

7 A Mr. Abarca.

8 Q So, we know that this is the truck belonging to
9 Mr. Abarca.

10 A Correct.

11 Q Do you ever respond back to the field at any point?

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

13 A Yes, ma'am. We did.

14 Q And what was the reason for that?

15 A We responded to execute a secondary search warrant on
16 the property to conduct a canine search.

17 Q Okay. Anything found through the canine search?

18 A No, ma'am.

19 Q Were any other weapons located at the field?

20 A Not as of that point.

21 Q Okay. At a later point is a weapon located?

22 A Yes, ma'am. There was.

23 Q Okay. What's located later?

24 A At the -- additionally later -- later there was a
25 machete that was located on the property that we executed a

1 third search warrant on -- on the property on Concord
2 Heights and located a machete there.

3 Q Do you remember what kind of machete that was?

4 A I do not, no. Not -- photographed.

5 Q But you collected that as well.

6 A Yes.

7 Q Okay. I believe it's going to be State's Exhibit 40.

8 A Okay. Yes, ma'am.

9 Q Okay. Now, as a crime scene investigator did you do
10 any testing on these weapons?

11 A Yes, ma'am. Initially, once we received these weapons
12 into our -- into our lab at the sheriff's office, we
13 conducted a presumptive test on them with phenolphthalein
14 to detect the presence of blood.

15 Q And did you do that on every single machete that you
16 found?

17 A It was collected from the ones located on Small Farm.

18 Q Okay. On Small Farm Road. So, do you didn't do a
19 presumptive blood test for the one that was found in the
20 field later.

21 A Not that I recall.

22 Q Okay. So, the -- you said the phenolphthalein?

23 A Phenolphthalein.

24 Q Okay. What is that?

25 A It is a chemical that reacts with the presence of

1 blood. If there is blood presence, it will turn a bright
2 pink color to indicate the presence of blood on -- on an
3 item.

4 Q Did any of these machetes that you tested indicate for
5 a presence of blood?

6 A No. They did not.

7 Q So, you're thinking you don't have the murder weapon
8 at this time.

9 MR. FARR: Objection. Speculation, Your Honor.

10 THE COURT: Rephrase it.

11 Q Did these appear to be the murder weapon?

12 A No, ma'am.

13 Q Okay.

14 MS. BARRY: Your Honor, at this time I have no more
15 questions for Mullinax.

16 Q Mr. Mullinax, please answer any that Mr. Farr may
17 have.

18 MR. FARR: Your Honor, may it please the Court -- Ms.
19 Barry, Mr. Haney.

20 CROSS-EXAMINATION

21 BY MR. FARR

22 Q Sir, you're a senior deputy? Is that your title?

23 A Yes, sir.

24 Q Okay. And where is the state fire office located at?

25 A I am the regional supervisor for the Upstate for the

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Cross-examination by Mr. Farr

1 South Carolina State Fire Marshal's Office, but our office
2 is located in Columbia.

3 Q Okay. And when did you stop working for the sheriff's
4 office?

5 A I left full time in the sheriff -- for the sheriff's
6 office in 2021.

7 Q Okay. And, again, describe your duties as a crime
8 scene investigator.

9 A Yes, sir. Whenever we responded to crime scenes, we
10 documented the scenes, obtained photographs and collected
11 evidence.

12 Q Okay. Are you a chemist?

13 A No, sir.

14 Q You're not. Okay. The reason I ask is you do a test
15 at a lab. Who actually does that test?

16 A Not sure I understand your question, sir.

17 Q The solicitor asked you about a test, whether or not
18 there's blood on those objects over there. And you said
19 you take them to a lab at the sheriff's office?

20 A Yes, sir. We have -- we have our -- our office at the
21 -- at the sheriff's office. We do have a lab-type area for
22 fingerprinting and for collecting D.N.A.

23 Q So, are you certified in testing those machetes?

24 A There's not a specific certification for
25 phenolphthalein. It is a presumptive test that we use to

1 detect the presence of blood to guide us in our
2 investigation going forward.

3 Q So, I'm asking again. Is there something you had to
4 be certified on how to do the proper steps when you test
5 those objects?

6 A If -- if you're referring to -- are -- I'm trying to
7 understand your question here. As far as are you asking
8 for D.N.A. or --

9 Q No, sir. I'm asking is there training on those
10 objects to say whether or not there's blood like a chemist
11 would do.

12 A There -- there is a test that a chemist would do that
13 is more in-depth than what we do with a presumptive test.

14 Q Is a presumptive test just, say, a piece of paper?
15 I'm just going to go dab it on that and then hopefully it
16 turns pink or it doesn't turn pink.

17 A It's using a cotton swab, and if it turns pink we know
18 that -- that there's a presumptive evidence that there is
19 possible -- that there is blood located on it.

20 Q So, when you do that test are you touching every part
21 of the machete or just parts of it?

22 A It would be a swab of -- of the blade of the machete,
23 just the surface area of it as a whole.

24 Q So, the blade is just the sharp part.

25 A Correct, yes, sir.

1 Q So, nothing else on there you tested.

2 A No, sir.

3 Q Okay. The only properties you went to is [REDACTED] Concord
4 and [REDACTED] State Farm Road.

5 A Small Farm Road.

6 Q Small Farm Road, yes, sir.

7 A Yes, sir. That's correct.

8 Q Okay. Did you ever go to the kids' house where my
9 client lived, and their mother?

10 A Not that I recall.

11 Q Okay. Did you ever get a call to go there?

12 A Not that I recall.

13 Q Okay. Did you ever go to that -- the main residence
14 and go to the shed that's located on the property?

15 A Not that I recall.

16 Q Okay. Did you have a search warrant for the Chesnee
17 Highway main house?

18 A No, sir. I did not.

19 MR. FARR: Judge, may I approach?

20 THE COURT: Sure.

21 Q Giving you State's Exhibit No. 24.

22 A Yes, sir.

23 Q You said it was wet, correct, with mud?

24 A Yes, sir.

25 Q Okay. How much mud did you collect?

1 A I did not.

2 Q So, you didn't collect any of the mud in that shower?

3 A No, sir. I did not.

4 Q Okay. How many people were in that house when you
5 arrived?

6 A The Small Farm?

7 Q Yeah. The Small Farm.

8 A No one was in the house when I arrived on scene.

9 Q So, when you had the search warrant, you are the only
10 one into the house.

11 A Once -- once I entered in, that's when people came in
12 behind me as I was photographing.

13 Q Okay. Did you photograph first before somebody
14 entered that room, or were there other people entered those
15 rooms and then you photographed after the fact?

16 A I don't recall specifically, but I photographed as I
17 was moving through.

18 Q Okay. When you were inside the truck, the brown
19 truck, what did it smell like?

20 A I -- I don't recall, sir.

21 Q Okay. What size were the boots?

22 A I -- I'm not sure. I would have to see the photograph
23 if there was a -- if there was a photograph of the size.

24 Q Okay. When you took photographs of the boots, you
25 didn't write down what size they were?

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Cross-examination by Mr. Farr

1 A If I did, it would be located on the property sheet if
2 it was collected.

3 Q Okay. And do you have the property sheet with you?

4 A I -- I do not.

5 Q Okay. Is there any chemical agent while you are on
6 scene that you do?

7 A No, sir.

8 Q Okay. So, everything that you collect that you
9 believe is a part of this case, you take back to the lab of
10 the sheriff's office.

11 A Yes, sir. That's correct.

12 Q Okay. And the only one -- only -- I think it was
13 No. 44 -- is the only one you did not do a blood test.

14 A That's correct.

15 Q Okay. Is blood the only thing that you did on
16 those -- testing?

17 A Yes, sir.

18 Q Okay. No D.N.A. testing?

19 A No, sir.

20 Q Okay. The only thing you collected were machetes and
21 that little handsaw and a little knife as well.

22 A I -- I would have to look at my property sheets to
23 know, but yes, sir.

24 Q Okay. Because are there any more machetes that aren't
25 over there?

1 A Not that I'm aware of.

2 Q Okay. And just to be clear, you didn't take any
3 D.N.A. -- you personally take any D.N.A. off those machetes
4 or handsaws.

5 A That's correct.

6 Q The only thing was blood that you did.

7 A Yes, sir. That's correct.

8 MR. FARR: That's all the questions I have, Your
9 Honor.

10 THE COURT: Anything?

11 MS. BARRY: Yes, sir, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. BARRY

14 Q Lieutenant Mullinax, if I showed you your property
15 sheet would it refresh your memory on all you collected?

16 A Yes, ma'am.

17 Q So, you did collect the boots, correct?

18 A Yes, ma'am.

19 Q Let me ask you this. Did you guys look for -- look
20 for any stuff in that field?

21 A Yes, ma'am. We did.

22 Q But before you arrived other law enforcement officers
23 had been in that field, right?

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

25 Q Okay. And the reason that you collect -- what's the

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Direct examination by Ms. Barry

1 reason for collecting the machetes?

2 A It's for elimination processes to be able to collect
3 them to obtain any type of D.N.A. evidence or blood
4 evidence or fingerprint evidence.

5 Q And the reason, or would the reason be, that you're
6 looking for this type of weapon, be because of State's
7 Exhibit 19?

8 A Yes, ma'am.

9 MS. BARRY: Your Honor, I have no further questions.

10 THE COURT: Anything?

11 MR. FARR: No, Your Honor.

12 THE COURT: You may step down. Please be careful.

13 MS. BARRY: Your Honor, the state would call Brian
14 Burrell to the stand.

15 BRIAN BURRELL, having been
16 first duly sworn, testified as follows:

17 THE COURT: Sir, tell us who you are, and spell your
18 last name for my court reporter, please.

19 THE WITNESS: My name is Brian Burrell. Last name,
20 B-U-R-R-E-L-L.

21 THE COURT: Thank you.
22 Solicitor.

23 MS. BARRY: Thank you, Your Honor. May I approach the
24 witness?

25 THE COURT: Sure.

1 DIRECT EXAMINATION BY MS. BARRY

2 Q I believe you brought...

3 MS. BARRY: Beg the Court's indulgence, Your Honor.

4 (Buccal swab marked State's Exhibit No. 46 for
5 Identification.)

6 Q what is your rank?

7 A My rank is a lieutenant with the Cherokee County
8 Sheriff's Office.

9 Q Lieutenant Burrell, what is your role at the sheriff's
10 office?

11 A As it currently stands, I'm a crime scene
12 investigator.

13 Q Okay. And how long have you been in that role?

14 A I have been in this role since May of 2020.

15 Q what are your duties as a crime scene investigator?

16 A Any time where detectives have deemed crime scene
17 necessary, we are called to collect evidence, photograph,
18 preserve and store any evidence or evidentiary items
19 related to the -- related to the scene.

20 Q what were -- was your role before you were a crime
21 scene investigator?

22 A Before that I was with the Cherokee County Sheriff's
23 Office as a road deputy, and before that in two other law
24 enforcement organizations as a road officer.

25 Q Okay. So, in total, how long have you been with law

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Direct examination by Ms. Barry

1 enforcement?

2 A I have been in law enforcement for 22 years.

3 Q So, did you become involved in the investigation
4 against this defendant?

5 A I did.

6 Q Okay. Were you a crime scene investigator?

7 A I was. I was a crime scene investigator when this
8 incident occurred, yes.

9 Q Okay. Did you respond to the scene?

10 A I did.

11 Q Okay. Did you -- I'm going to show you what's been
12 premarked as State's Exhibit 46. Can you tell me what that
13 is?

14 A Yes. This is a buccal swab that was collected from
15 the defendant on 3/21 of '22.

16 Q And what -- how do you do a buccal swab?

17 A A buccal swab is obtained after, in this instant
18 after, a court order has been given, at which point I would
19 take a pair of clean gloves, open a sterile swab, at which
20 point instructions would be given that the swab would be
21 brushed on the inside of the left cheek.

22 The second swab would be brushed on the inside of the
23 right cheek.

24 Both swabs would be placed into a box, sealed and
25 packaged for evidence to be tested at a later date.

1 Q Okay. And is that what you did with this defendant?

2 A Yes, yes. It is.

3 Q And then how do you package it?

4 A After it was -- once -- once the buccal swab's
5 obtained, it is placed in -- it is placed inside of a
6 D.N.A. collection box. That box is then sealed inside of a
7 Manila envelope, and then that envelope is sealed with
8 evidence tape.

9 Q Okay. And that's how you did it in this case?

10 A And that is how I did them in this case.

11 Q Okay. And then once you package it, what do you do
12 with it?

13 A It is turned over to our evidence custodian, and from
14 there it is up to them about when they take it to the lab
15 to get it examined.

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

17 A That is.

18 MS. BARRY: Your Honor, at this time I'd like to admit
19 State's Exhibit 46 into evidence.

20 MR. FARR: No objection, Your Honor.

21 THE COURT: State's 46 is in without objection.

22 (Buccal swab marked State's Exhibit No. 46.)

23 MS. BARRY: No further questions, Your Honor.

24 Q Please answer any that Mr. Far may have for you.

25 MR. FARR: I have no questions, Your Honor.

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Direct examination by Ms. Barry

1 THE COURT: Okay. Sir, you may step down. Please be
2 careful.

3 MS. BARRY: Your Honor, may this witness be excused?

4 MR. FARR: No objection, Your Honor.

5 THE COURT: Without objection, sir, you may stay or
6 go, whichever you choose.

7 THE WITNESS: Okay.

8 (Whereupon, the witness was excused.)

9 MS. BARRY: Your Honor, may we approach?

10 THE COURT: Sure.

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: All right. Madam Forelady and ladies and
14 gentlemen, we're going to take -- take a little short
15 afternoon break at this point in time. We've been running
16 about an hour and five or ten minutes. We were here a
17 little bit before that. So, we'll take a break.

18 Again, nobody smokes. Nobody wants to go outside and
19 smoke. We're all good.

20 Okay. Take them out. If you need anything -- coffee,
21 water, whatever it might be -- let the bailiffs know.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Okay. We'll be in recess for about 15
25 minutes or so.

1 MS. BARRY: Thank you, Your Honor.

2 (Whereupon, a recess was taken.)

3 (Photograph marked State's Exhibit No. 47 for
4 Identification.)

5 THE COURT: Everybody ready?

6 MS. BARRY: We're ready, Your Honor.

7 THE COURT: Okay. We'll have the jury.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Everybody -- everybody good, Madam
11 Forelady?

12 THE FOREPERSON: Good.

13 THE COURT: Good, very good.

14 Solicitor.

15 MS. BARRY: Thank you, Your Honor. Your Honor, the
16 would recall Jacob Mullinax to the stand.

17 THE COURT: Okay.

18 JACOB MULLINAX, having been
19 previously duly sworn, testified as follows:

20 THE COURT: Sir, you were previously sworn and you
21 remain sworn.

22 THE WITNESS: Yes, sir.

23 DIRECT EXAMINATION BY MS. BARRY

24 Q Just briefly. On these machetes that you recovered --
25 State's Exhibits 40, 41. Actually not 40. Yes. 40, 41,

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Cross-examination by Mr. Farr

1 42, 43, 44 and 45. How did you package those items after
2 you did your testing?

3 A Yes, ma'am. After I completed the testing that we
4 did, I placed them into the boxes as you see and sealed
5 them up with tape, and evidence tape over the top of that.

6 Q And do you sign anywhere showing that you have done
7 that?

8 A Yes, ma'am. I put my initials on there and then the
9 date as well.

10 Q Okay. And you did that to all of those items.

11 A Yes, ma'am.

12 Q Okay. And then as to Item 40, which would have been
13 the machete found in the field at a later date, Captain
14 Anthony took that down to SLED?

15 A Yes.

16 Q Okay. And then he brought these items back, correct?

17 A Yes.

18 Q Okay. When you packaged them, were they in these
19 vacuum-sealed bags?

20 A No. They weren't.

21 Q Okay. Who did the vacuum-sealed bags?

22 A The now Major Anthony.

23 Q Major Anthony. Okay.

24 MS. BARRY: No further questions, Your Honor.

25 MR. FARR: Just to follow up.

1 CROSS-EXAMINATION

2 BY MR. FARR

3 Q What's Major Anthony's full name?

4 A Billy Anthony.

5 Q Okay. And he's the one that sealed them and took them
6 to SLED.

7 A I sealed the boxes. He -- he was our evidence
8 custodian at the time and transported them to SLED.

9 Q Okay. So, he transported to SLED.

10 A Correct.

11 Q Okay. He also got them returned as well.

12 A That's correct.

13 Q Okay. At the time of being returned, you opened the
14 seal to seal them to the air-tight bag.

15 A No, sir. I did not. I did not.

16 Q Or Anthony -- Captain Anthony did.

17 A It would have been sealed more than likely at SLED.

18 Q What I'm asking though, today they were reopened
19 before trial to seal them to the air-tight bags.

20 A If they were, I'm not -- I'm not aware of that. I --
21 I'm not at the sheriff's office currently.

22 Q Okay. What I'm asking to follow up, today they've
23 been opened up and they've been sealed air tight.

24 A Yes, sir.

25 Q Okay. That's all I ask.

1 A Yes, sir.

2 Q Okay.

3 MR. FARR: That's all the questions I have, Your
4 Honor.

5 THE COURT: Anything?

6 MS. BARRY: No further questions, Your Honor.

7 THE COURT: Please be careful. You may step down.

8 THE WITNESS: Yes, sir. Thank you.

9 MS. BARRY: That's all we have for today, Your Honor.

10 THE COURT: Okay. Let's talk just for a second.

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: Madam Forelady and ladies and gentlemen,
14 you're going to be delayed in the morning, and here is why.
15 You -- you've been able to see we have two interpreters
16 with us, and they are not available until -- one of them at
17 11:00, one maybe at 10:30.

18 So, I'm going to ask you to come in at 10:45. Okay.
19 And bear with us, but I don't want you sitting back there
20 from 9:00 o'clock.

21 We've actually scheduled -- nothing to do with this
22 case. We've actually scheduled some nonjury work. So, I'm
23 still going to be here at 8:00 o'clock in the morning.
24 We -- I'm going to take the bench at 9:00 a.m., but I don't
25 need you. And the work I'll be doing has zero to do with

1 MR. FARR: Judge, one last thing -- 47.

2 MS. BARRY: Your Honor, this is a picture, and we've
3 stipulated that it would come into evidence as State's
4 Exhibit 47.

5 MR. FARR: Yeah. I'll stipulate to it as well. No
6 objection, Judge.

7 THE COURT: Okay.

8 MR. FARR: Certainly had no --

9 MS. BARRY: The knife is in.

10 MR. FARR: It's already in, yes, sir.

11 THE COURT: Okay. I'll let you put it on the record,
12 I mean, in front of the jury, but it's stipulated to.

13 MR. FARR: Yes, sir.

14 MS. BARRY: Thank you, Your Honor.

15 THE COURT: Anything?

16 MR. FARR: No, sir.

17 MS. BARRY: No, sir.

18 THE COURT: Okay.

19 END OF PROCEEDINGS JANUARY 23, 2024
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23
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25

1 (Proceedings January 24, 2024)

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

4 (Blood sample marked State's Exhibit No. 48 for
5 Identification; D.N.A. sample marked State's Exhibit No. 49
6 for Identification; D.N.A. sample marked State's Exhibit No.
7 50 for Identification; passports marked State's Exhibit No.
8 51 for Identification; plea offer marked Court's Exhibit No.
9 2.)

10 THE COURT: I think we have a couple of things we need
11 to put on the record.

12 Solicitor.

13 MR. HANEY: I believe the defense had a motion
14 pertaining to the video the state has introduced later
15 today. I think we resolved that. I was just going to make
16 the objection so the Court could rule on that.

17 THE COURT: That's fine.

18 MR. FARR: But the other issue, Judge, is -- unless
19 you have something else.

20 MS. BARRY: No. I was just going to talk about the
21 SLED guy.

22 Your Honor, when we spoke back in chambers yesterday,
23 one of our SLED analysts was unavailable this morning.

24 I did speak with Mr. Farr yesterday afternoon, and he
25 has agreed to have his supervisor testify to his process

1 and the analysis that he did.

2 MR. FARR: Your Honor, that is correct. I've been on
3 that side, been on this side. We understand about what
4 peer review is and everything else. I'd agree to that.

5 THE COURT: Okay. Thank you.

6 MR. FARR: Judge, just from the defense side, I have
7 made the offer that was rejected as a court's exhibit. I'd
8 like to go ahead and enter that in as a court's exhibit,
9 Judge.

10 THE COURT: Any objection?

11 MS. BARRY: No objection, Your Honor.

12 THE COURT: It's now a court's exhibit.

13 MR. FARR: Thank you, Your Honor.

14 THE COURT: Ready for the jury?

15 MS. BARRY: Yes, sir, Your Honor.

16 THE COURT: Ready for the jury?

17 MR. FARR: Oh, yes, sir.

18 THE COURT: Bring them in.

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

21 THE COURT: Thank you all for your patience this
22 morning.

23 Madam Forelady, everybody ready?

24 THE FOREPERSON: Yes, sir.

25 THE COURT: Solicitor.

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Direct examination by Mr. Haney

1 MR. HANEY: Thank you, Your Honor. May it please the
2 Court. The state calls Heather Kelly to the stand.

3 HEATHER KELLY, having been
4 first duly sworn, testified as follows:

5 THE COURT: Please tell us who you are, and spell your
6 last name for madam court reporter, please.

7 THE WITNESS: My name is Heather Kelly. K-E-L-L-Y.

8 THE COURT: Thank you.

9 Solicitor.

10 DIRECT EXAMINATION BY MR. HANEY

11 Q Ms. Kelly, where are you currently employed?

12 A I am currently retired.

13 Q Retired from where?

14 A United States Army.

15 Q And did you used to work at the Cherokee County
16 Sheriff's Office?

17 A That's correct.

18 Q Approximately how long did you work there?

19 A I worked at the Cherokee County Sheriff's Office from
20 November of 2017 until December of 2022.

21 Q And while you were there, what were your duties?

22 A Until November of 2020 I was a patrol deputy, and then
23 from November of 2020 until December of '22 I was the
24 evidence custodian.

25 Q What is an evidence custodian?

1 A So, we receive evidence from patrol, sometimes from
2 crime scenes, from whichever person is working a case.

3 We log that information -- that evidence into our
4 database system, which is called the BEAST system. And
5 then we maintain that evidence in a controlled evidence
6 vault unless the evidence needs to be taken to SLED for
7 further testing.

8 Q So, evidence comes to you as evidence custodian.

9 A That is correct.

10 Q And as the evidence custodian did you have an
11 opportunity to handle the evidence in this case, the
12 Dionicio Abarca case?

13 A Yes, sir. I did.

14 Q Okay.

15 MR. HANEY: May the witness step down to the table?

16 THE COURT: Certainly.

17 (Whereupon, the witness left the stand.)

18 Q I'm just going to ask you to look at these several
19 exhibits here. We'll look at 41, State's 42.

20 MR. FARR: Your Honor, I'm sorry.

21 Can you just speak a little louder, Evan, for the
22 interpreter? I'm sorry.

23 Q State's 41, State's 42, State's 43, State's 44 and
24 State's 45. Please take a moment and examine each one of
25 those pieces of evidence.

128 Heather Kelly
Direct examination by Mr. Haney

1 (Pause.)

2 A Okay. Do you want me to step back up here? Yes, sir.

3 Q Stay there. Were those pieces of evidence that you
4 seized in this case?

5 A Yes, sir.

6 Q And those are the machetes, the knife and the saw?

7 A Yes, sir.

8 Q Have a seat.

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

10 Q When did you as the evidence custodian receive that
11 evidence?

12 A I received that evidence on January 19th of 2021,
13 which was the day that I took it to the SLED lab.

14 Q And where did you receive it from?

15 A I received it from our crime scene lab.

16 Q Okay. Was there an officer involved?

17 A It was Lieutenant Mullinax, Jacob Mullinax.

18 Q Describe the evidence, how it's packaged when you
19 received it.

20 A It's similar to where it is now. Obviously, it's been
21 opened. But when I receive the evidence it's in those --
22 those packagings, the cardboard boxes -- were the tubes.
23 It has evidence tape overlapping to seal all seams. And
24 then it is initialed and dated by Lieutenant Mullinax.

25 Q And when you received this evidence, it was sealed.

1 Did it appear to be tampered with?

2 A No, sir.

3 Q Would you have transported it to SLED if it had been
4 tampered with?

5 A No, sir. I would not have.

6 Q What is SLED?

7 A The state law enforcement division.

8 Q And you testified just a second ago. Remind the jury.
9 When did you take this evidence to SLED?

10 A I took those particular items on January 19th of 2021.

11 MR. HANEY: I'm going to approach the witness, Your
12 Honor.

13 Q I'm going to show you what has been introduced into
14 evidence as State's Exhibit No. 46. And this is the buccal
15 swab from the defendant.

16 A Yes, sir. It is.

17 THE INTERPRETER: I'm sorry? Repeat the "this is
18 the".

19 MR. HANEY: Buccal swab.

20 Q When did you receive the defendant's buccal swab?

21 A It was on April 19th of 2022.

22 Q And was this an additional piece of evidence in
23 addition to that that you received?

24 A Yes, sir. It was.

25 Q And where did you receive this buccal swab?

130 Heather Kelly
Direct examination by Mr. Haney

1 A I received that from Lieutenant Brian Burrell.

2 Q And when you received it, any part of this packaging
3 appeared to be tampered with?

4 A No, sir. It wasn't.

5 Q And, again, would you have transported it to SLED for
6 testing if it had been tampered with?

7 A No, sir. I would not have.

8 Q And when did you deliver this to SLED?

9 A April 19th of 2022.

10 Q Please answer any questions the defense may have for
11 you.

12 MR. FARR: Your Honor, may it please the Court --
13 Ms. Barry, Mr. Haney.

14 CROSS-EXAMINATION

15 BY MR. FARR

16 Q Just to be clear. Mr. Haney went over some evidence
17 that's been introduced already. You only handled those
18 pieces of evidence that you took to SLED -- machetes and
19 knives.

20 A Yes, sir.

21 Q Okay. And when you were talking about the vault and
22 you were talking about entering items in, who enters those
23 items in?

24 A I did, sir.

25 Q Okay. So, when you enter these items...

1 MR. FARR: And if I can approach real quick, Judge.

2 Q Is this what a print-off of the chain of custody would
3 be, what you entered into?

4 A Yes, sir. So, the items are actually initially in --
5 these particular items were initially inputted at the crime
6 scene lab. I input them that they have come to the vault.
7 And that particular day that they went to SLED they were
8 handed to me that same morning. So, they were -- were just
9 scanned straight to SLED.

10 Q Okay. And when you're handed, say, this, the
11 machetes, is there something written with machete from one
12 of the officers?

13 A It's the prelog sheet for -- for SLED. Each -- each
14 item is listed, and what the item is and what particular
15 testing is going to be done on that item.

16 Q Okay. And do you seal those boxes?

17 A Those boxes, I did not seal. Those were sealed in the
18 crime-scene lab.

19 Q Okay. And who did those?

20 A Lieutenant Mullinax.

21 Q Because he asked you about whether or not you would
22 know something was tampered with.

23 A Yes, sir. I mean, if the tape was tampered with, is,
24 I believe, the question that he was asking me, if the boxes
25 looked to appear to be tampered with.

Dennis Fowler

Direct examination by Ms. Barry

1 Q But you wouldn't know if they were tampered with
2 before they were sealed.

3 A No, sir. I wouldn't know that.

4 Q Okay. And when you type in owner, do you type in who
5 owns those machetes?

6 A If I have that information.

7 Q Okay. And that would be on the piece of paper that
8 they give to you, where it came from?

9 A No, sir. I mean, again, this evidence was entered by
10 Lieutenant Mullinax. So, I don't know if he knew the --
11 the ownership of these items when they were entered into
12 the BEAST system.

13 Q Okay. So, he entered it in then too.

14 A That is correct, sir.

15 Q So, you didn't enter them into this.

16 A No. That's what I'm saying. He entered them in the
17 crime scene lab and then brought them to me the morning
18 that they were taken to SLED.

19 Q Okay. Thank you. That's all the questions I have.

20 THE COURT: Anything?

21 MR. HANEY: Nothing further from the state.

22 THE COURT: Thank you. You may step down. Please be
23 careful.

24 THE WITNESS: Thank you, Your Honor.

25 MR. HANEY: May Ms. Kelly be excused, Your Honor?

1 THE COURT: Any objection to her being excused?

2 MR. FARR: No objection, Your Honor.

3 THE COURT: You may stay or go, whichever you choose.

4 (Whereupon, the witness was excused.)

5 MS. BARRY: Your Honor, the state would call Dennis
6 Fowler to the stand.

7 THE COURT: Is he here?

8 MS. BARRY: He is. He is in our office.

9 (Pause.)

10 DENNIS FOWLER, having been
11 first duly sworn, testified as follows:

12 THE COURT: Good morning.

13 THE WITNESS: Good morning.

14 THE COURT: Tell us who you are, and spell your last
15 name for madam court reporter, please.

16 THE WITNESS: I am Coroner Dennis Fowler. That's
17 F-O-W-L-E-R.

18 THE COURT: Thank you.

19 Solicitor.

20 MS. BARRY: Thank you, Your Honor.

21 DIRECT EXAMINATION BY MS. BARRY

22 Q Good morning, Coroner Fowler. How are you?

23 A Good morning. I'm well. I hope you are.

24 Q So, you stated that you were a coroner. How long have
25 you been coroner in Cherokee County?

134 Dennis Fowler
Direct examination by Ms. Barry

1 A Since January 1st of 2007.

2 Q Okay. What are your duties as coroner in Cherokee
3 County?

4 A As the coroner it is my job and my duty under State of
5 South Carolina law to determine cause and manner of death
6 on questionable deaths in this county.

7 Q Okay. So, were you called out to a death in this
8 case?

9 A Yes.

10 Q Where did you respond to?

11 A If you'll let me refer to my notes, please.

12 Q Yes, sir.

13 A This was in Concord Heights --

14 Q Is that here in --

15 A -- in Gaffney, South Carolina.

16 Q In Cherokee County?

17 A Yes.

18 Q And what did you do when you responded out to that
19 scene?

20 A I had been notified by one of the sheriff's captains
21 who was with the crime scene investigation that they had
22 found a -- a body that was in a shallow grave with corn
23 stalks. It was in a cornfield. And they asked me to
24 respond.

25 Q Okay. So, when you responded, what did you do?

1 A I met with the deputies, along with the crime scene
2 and the captain.

3 Q Okay. And did you see the body?

4 A They directed me to the body in the cornfield, yes.

5 Q And did you do anything with the body out in the
6 cornfield?

7 A I did not at the present, at that current time. I
8 photographed the scene, along with their crime scene
9 investigations team, before we started uncovering, yes.

10 Q And then did you ultimately take the body somewhere?

11 A Yes. We placed the body into a body pouch and put it
12 in our transport truck and transported it to the morgue at
13 the Cherokee County Coroner's Office.

14 Q Okay. And do you know if an autopsy was performed in
15 this case?

16 A Yes. It was.

17 Q And did you attend that autopsy?

18 A I did not attend that autopsy. It was under my
19 direction.

20 We had short coverage because of our staff. So, I had
21 to provide coverage for the county. But I did not attend
22 the autopsy. I did get the report of course from the
23 pathologist.

24 Q Okay. Along with the report from the pathologist, did
25 you receive anything else from the pathologist?

136 Dennis Fowler
Direct examination by Ms. Barry

1 A well, as part of the autopsy we always do toxicology.
2 So, the toxicology is -- is pulled by the pathologist at
3 the time of autopsy, and it was held for later pick-up by
4 me. The autopsy, I think, was held on the 21st of -- of
5 July, and then I picked it up a couple of days later and on
6 the -- and transported it to state law enforcement.

7 Q Okay. And what did you pick up?

8 A would you like me to make --

9 Q Did you pick up --

10 A There's a lot of things I picked up as -- as part of
11 that. There's a number of vials that we have that are --
12 are different tubes that are picked up from -- from autopsy
13 that's done by them.

14 Q Did you pick up blood that --

15 A Yes.

16 Q -- belonged to the victim?

17 A Yes.

18 Q I'm going to show you what's been premarked as State's
19 Exhibit 48 if you'll take a look at that. Is that the
20 blood that you picked up?

21 A Yes, ma'am.

22 Q Okay. How is -- is that in its normal packaging?

23 A Yes.

24 MS. BARRY: At this time I'd like to admit that into
25 state's -- into evidence, Your Honor.

1 MR. FARR: No objection, Your Honor.

2 THE COURT: Without objection.

3 (Blood sample marked State's Exhibit No. 48.)

4 Q And then once you picked this up from the pathologist,
5 what did you do with it?

6 A I transported it directly to the state law enforcement
7 division laboratory in Columbia.

8 Q And what day did you do that?

9 A If you'll let me refer to my notes.

10 Q Yes, sir.

11 A That would have been on July the 27th.

12 Q Of?

13 A 2020.

14 Q Okay. Coroner Fowler, I have no further questions for
15 you. But, if you will, answer that Mr. Farr may have for
16 you.

17 A Certainly.

18 MR. FARR: I have no questions.

19 THE COURT: Thank you.

20 Sir, you may step down. Please be careful.

21 THE WITNESS: Thank you, sir.

22 MS. BARRY: Your Honor, may this witness be excused?

23 THE COURT: Any objection?

24 MR. FARR: No objection, Your Honor.

25 THE COURT: Coroner, you may stay or go, whichever you

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Direct examination by Mr. Haney

1 choose.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Thank you.

4 (Whereupon, the witness was excused.)

5 MR. HANEY: State calls Jeffrey Crooks.

6 MS. BARRY: Your Honor, may we approach?

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

9 JEFFREY CROOKS, having been
10 first duly sworn, testified as follows:

11 THE COURT: Sir, if you will, tell us who you are, and
12 spell your last name for madam court reporter, please.

13 THE WITNESS: Yes, sir. My name is Jeffrey Crooks.
14 C-R-O-O-K-S. I'm a lieutenant with the South Carolina
15 State Law Enforcement Division, commonly referred to as
16 SLED.

17 THE COURT: Thank you.

18 Solicitor.

19 DIRECT EXAMINATION BY MR. HANEY

20 Q Good morning. You stated your position and rank at
21 SLED. How long have you worked there?

22 A Since 1997.

23 Q Tell the jury what your duties are at SLED.

24 A I am the supervisor of the latent print department,
25 which is in the forensics laboratory. In the latent print

1 department we receive evidence submitted by agencies to
2 process for the presence of latent prints. And we also
3 conduct fingerprint comparisons of developed latent
4 fingerprints.

5 Q And describe to the jury your training and education
6 to do that.

7 A I have a bachelors of science degree from the Citadel.

8 I started at SLED in 1997 in the crime scene unit. At
9 that time the latent print function was part of the crime
10 scene unit.

11 I also served as a field agent for about five years
12 prior to coming back to the lab to become the supervisor of
13 the crime scene unit, which at that time also included
14 latent print responsibilities.

15 In 2014 the latent print department was established
16 separate from the crime scene unit, and that's when I took
17 over the latent print department. And I've been in that
18 capacity ever since.

19 Q And as being at SLED doing latent prints, are there
20 any continuing education or training required to do that
21 job?

22 A Yes, sir. In order to do casework and laboratory, you
23 have to establish what we call competency. You have to
24 demonstrate ability to perform the -- the type of
25 examination that you have to perform.

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Direct examination by Mr. Haney

1 By doing that I had to complete the SLED latent print
2 in-house training program which lasted approximately one
3 year.

4 I also have to take a yearly proficiency test which is
5 provided by an outside entity. And it consists of
6 conducting fingerprint comparisons.

7 I also have to take a yearly test to demonstrate
8 processing evidence for the presence of latent prints and
9 to demonstrate that proficiency on a yearly basis.

10 Q Have you ever testified as an expert before?

11 A Yes, sir. I have testified 33 times as an expert in
12 latent fingerprints.

13 I've testified in state courts of South Carolina and
14 North Carolina, and I've testified in federal court as an
15 expert in latent fingerprint examination, as well as
16 processing evidence for fingerprints.

17 MR. HANEY: Your Honor, at this time I'd like to offer
18 Lieutenant Jeff Crooks as an expert in latent prints.

19 THE COURT: Any objection?

20 MR. FARR: No objection.

21 THE COURT: Ladies and gentlemen, this witness is
22 now -- this witness is now qualified as an expert in latent
23 prints.

24 Most of the time witnesses have to testify about what
25 they've seen, heard or did themselves. An exception exists

1 where someone by their training and skill can be qualified
2 as an expert.

3 This doesn't mean that you need to give any more
4 weight to it or less weight to it than any other witness.

5 BY MR. HANEY

6 Q Lieutenant Crooks, we talked a little bit about latent
7 prints generally.

8 Describe for the jury and the Court what a latent print
9 is.

10 A The word latent means hidden. So, a latent print is a
11 fingerprint that typically cannot be seen unless you use
12 methods to enhance its visibility.

13 So, when you touch an item it is possible that you can
14 leave an outline of the ridges on your fingers, palms or
15 feet much like a rubber stamp would do with ink.

16 The -- the print that gets left behind is about 98 to
17 99 percent moisture and then another -- the rest of it is
18 either the salts from your sweat or residue from your hands
19 coming in contact with your face -- oily residues.

20 When -- when a print is left the -- the moisture will
21 evaporate leaving that tenth of a percent or so -- one
22 percent -- of residue in that outline of the ridges of your
23 skin. That is why they're hard to see typically.

24 Now, there are other types of prints that you can see
25 such as a patent print or a plastic print, which are -- so,

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Direct examination by Mr. Haney

1 like a fingerprint in paint would be a patent print. A
2 fingerprint in, say, putty or caulk would be a plastic
3 print, which is almost like a reverse of the ridge detail.

4 But the vast majority of what we deal with are latent
5 prints. So, we have techniques that we can use in the
6 laboratory when we process evidence that will make those
7 prints easier for us to see.

8 Then we can document those prints either through
9 lifting or photography, which in our department about
10 99 percent of what we do is through photography.

11 And then from there we can -- once we can see those
12 prints, then we can compare them to a known standard.

13 Q And how does your department receive samples?

14 A We will accept evidence submitted to the laboratory
15 from any agency within the state. Sometimes actually out
16 of state, we'll receive cases if there's a connection to --
17 to here. But a vast majority comes from sheriffs' offices,
18 police departments, some -- some federal agencies as well.

19 They will submit the evidence packaged and sealed.
20 They -- once it's received by the laboratory, then we have
21 a department referred to as evidence control that will
22 determine where that evidence needs to go.

23 When the evidence is submitted the agency will
24 complete paperwork indicating the request that they want.
25 And if there's -- if there's evidence submitted to the lab

1 for latent fingerprint processing, as well as D.N.A.
2 processing, then that evidence will come to our department
3 and we will conduct both of those examinations.

4 And when I say D.N.A., I'm referring to collecting any
5 D.N.A. that may be present, not doing the D.N.A.
6 examination itself. But as far as processing goes, we will
7 do both.

8 Q And, Lieutenant Crooks, what was received in this
9 case?

10 A In this case there were quite a few machetes. I
11 believe there was also a saw that was received. Most of
12 the items were machetes or knives.

13 Q And how was a chain of custody maintained for the
14 integrity of that evidence?

15 A So, when the evidence, again, is brought in, it is
16 accepted by our evidence control department and then the --
17 depending on how the evidence is packaged, the evidence
18 itself will receive a -- what we refer to as a -- as a bar
19 code for that item of evidence. Or if it's multiple items
20 or packaged together, that evidence will be given -- that
21 box will be given a container number. It's basically a bar
22 code system so that once it's received the -- the evidence
23 is tracked through that bar code system.

24 So, for example, we have in our department -- we have
25 a secure room, which is our evidence room for what we

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Direct examination by Mr. Haney

1 receive. And the evidence that we receive comes and goes
2 from there to evidence control.

3 So, we'll go downstairs. We'll pick it up. We'll
4 transfer it to that person's custody. It will go, be put
5 in the custody of the evidence room where it'll stay in a
6 secure, sealed container until it gets worked.

7 Once the -- once the processing is complete, the
8 evidence is re-containerized and resealed, put back into
9 that evidence room until it's ready to go back downstairs
10 to the evidence control department where at some point that
11 submitting agency will return and receive it back from the
12 laboratory.

13 Q And in this case, which is SLED Lab No. L20-11014, was
14 SLED requested to perform analysis on this case?

15 A Yes, sir. There was evidence submitted on two
16 occasions.

17 Initially, some evidence was submitted that was
18 processed by Special Agent Tom Barnell who is a latent
19 fingerprint examiner in my department.

20 And then at a later date initial evidence was also
21 submitted, and a second report was issued on the evidence
22 that was processed for that, for that submission.

23 Q Was the evidence sealed?

24 A Yes, sir. It was. We -- the laboratory will not
25 accept evidence unless it is sealed. There are some

1 special circumstances where -- or at least for my
2 department where -- that may not be possible.

3 If that's the case, then we actually will be involved
4 with receiving the evidence from the local agency and take
5 it directly and handle it in that manner.

6 But in this case, yes, all of the evidence was sealed
7 upon the laboratory receiving it.

8 Q And you supervise Mr. Tom Darnell, correct?

9 A Yes, sir. He's one of several examiners that I have
10 in the department.

11 Q And did Mr. Darnell perform latent print testing and
12 processing on the machetes, the knife and the saw in this
13 case?

14 A Yes, sir. He did.

15 Q Did you have an opportunity to peer review
16 Mr. Parnell's work?

17 A Yes, sir. One of the cases I actually conducted a
18 peer review. In all of the casework that we do, whether
19 it's processing evidence or conducting fingerprint
20 examinations, it gets reviewed by a second examiner.

21 That second examiner has to agree with the results and
22 has to agree with the case file as far as the documentation
23 the -- to ensure that everything is done in accordance with
24 protocol and -- and also agrees with the results of the
25 first examiner.

1 That is done on every case that we do before a report
2 is issued, and the report is only issued if both examiners
3 are in agreement.

4 So, in this case the initial evidence was peer
5 reviewed by another agent with the department who has since
6 retired.

7 So, in the second evidence -- the second batch of
8 evidence was received and processed because that agent was
9 no longer there. I conducted the second peer review for
10 the additional evidence that was processed.

11 Q We've already touched on this a little bit. Please
12 tell the jury what the actual process is for testing.

13 A Well, we have several techniques. It depends on the
14 evidence and the type of evidence.

15 We classify all of our evidence into two basic
16 categories, which would be porous or nonporous, and the
17 reason why that's important is fingerprints on nonporous
18 surfaces stay on the surface. Fingerprints on porous items
19 get soaked in -- get absorbed into that surface.

20 So, depending on the type of evidence is the processes
21 we have to use. I can explain the results that he used for
22 this particular evidence if that's what you're referring
23 to.

24 Q Yes. What were the results in this case?

25 A Okay. So, the first item, Item 1, which is mentioned

1 on the report dated September 8th of 2020, was a machete
2 with a curved blade.

3 A review of Agent Darnell's examination worksheet,
4 which is how we document our processing, revealed that he
5 used cyanoacrylate fuming, which cyanoacrylate is a fancy
6 word for super glue.

7 And then he followed that test up with using a
8 chemical referred to as M.B.D., and that -- what that
9 chemical allows us to do is see any fingerprints that may
10 be present under an alternate light source.

11 So, the -- so, the fuming process, again, what I
12 mentioned before that fingerprint is very fragile, the --
13 the way that process works is we basically turn the super
14 glue -- we heat it to a fume.

15 We also introduce moisture into the chamber where this
16 process occurs. That moisture gets added back into the
17 print, and then the super glue fumes will harden the print
18 making it durable.

19 It -- it makes it much less fragile so that we can
20 perform other processes without losing that integrity of
21 the fingerprint, which is what he did in this case. And
22 that is -- that is the typical way that we process
23 nonporous items.

24 He did that for Item 1. And as a result of those
25 processes there was no fingerprint evidence observed,

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1 which, basically, we have three levels.

2 There's either not going to be anything on the item,
3 that's any fingerprints; there's going to be fingerprints
4 but it's not of a sufficient value to conduct an
5 examination; or we're going to develop fingerprints that we
6 can actually compare to a known standard. And in this case
7 for Item 1 there was no fingerprint evidence observed.

8 The second report issued February 3rd of 2021, which
9 consisted of Items 2, 3, 4, 5, 6 and 7 -- Item 2 is a
10 machete. He did the same test for it that I mentioned in
11 Item 1. Same result. No fingerprint evidence was
12 observed.

13 Item 3 was a machete. He used the same processes, the
14 cyanoacrylate and M.B.D. with alternate light source.
15 There was no fingerprint evidence observed.

16 Item 4, one machete. He used the same techniques on
17 Item 4 and no fingerprint evidence was observed.

18 Item 5 was one handsaw. Same test, same results. No
19 fingerprint evidence was observed.

20 Item 6, one pair of scissors. He conducted the same
21 processes, and there was no fingerprint evidence observed
22 on Item 6.

23 Item 7 was a hawkbill knife. He performed those same
24 processes on that item, and was also the same result. No
25 fingerprint evidence was observed.

1 Also, prior to those tests on all of those items he
2 swabbed the evidence for the -- the presence of both blood
3 and touch D.N.A. because the -- those requests were -- were
4 placed on those items of evidence by the submitting agency.

5 We are trained to know how to collect swabs for
6 looking for D.N.A., whether it's touch D.N.A. or blood that
7 might contain D.N.A.

8 And the reason for that goes back, again, to the
9 fragile nature of our evidence. We know better how to
10 handle evidence to try to prevent destruction of any
11 fingerprints that may be there. So, we do the D.N.A.
12 swabbing, as well as the fingerprint processing for those
13 items.

14 If there's evidence that comes through the door that
15 does not have a latent print request, the D.N.A. department
16 has people that will do that swabbing for them for their
17 D.N.A. analysis. But for this, this evidence that I
18 mentioned, Agent Darnell swabbed all of those items for
19 D.N.A.

20 Q And you just testified there was no latent prints
21 found on the blades or the handles of the machetes and the
22 saw and the knife.

23 A That is correct. And that's not necessarily uncommon,
24 but sometimes we'll see. We can tell if there's ridge
25 detail but there's not sufficient quality of the

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1 fingerprint to allow us to compare it to a known standard.

2 In this case for all of these items he -- he didn't
3 get any ridge detail developed on any of these items.

4 Q And what can affect the presence of latent prints on
5 items?

6 A A fingerprint's biggest enemy is friction. So,
7 anything that would rub -- it doesn't take much to rub a
8 fingerprint away.

9 If you wipe an item down, it's possible that you could
10 remove any prints that are there.

11 If -- if evidence is exposed to the elements, you
12 know, if it's thrown in a river, the current of the river
13 can cause friction to remove the print. Rain can do the
14 same thing.

15 So, anything that can cause friction on that surface
16 could potentially remove any prints that are there. It's
17 also possible you can touch an item and not even leave a
18 print.

19 Q If someone wore gloves it would --

20 A Right. So, again, what I mentioned before, the ridges
21 of your skin, if -- if those ridges on your fingers, hands
22 or feet are dry, if there's no sweat residue or no residue
23 from touching your face on those ridged surfaces, then you
24 can touch an item and not leave a fingerprint.

25 Q You mentioned the elements can affect the presence of

1 latent prints. But, more specifically, could heat affect
2 the presence of latent prints?

3 A It could. It certainly -- you know, any -- any
4 adverse environment when you're talking about something as
5 fragile as a fingerprint could cause it to deteriorate to
6 where nothing would be developed, or if it was developed
7 wouldn't be suitable for examination.

8 Q And how about rain? Would that affect the presence of
9 latent prints?

10 A Yes, sir. It could. Again, you know, if you think
11 about the movement of rain, if there's movement, there's
12 going to be friction when it touches the surface. It's --
13 it definitely could do that.

14 Q And you mentioned earlier the items were swabbed
15 for -- to be sent for D.N.A. testing, is that correct?

16 A Yes, sir. We cannot determine if something is blood
17 or not. So, if we see like a reddish-color stain or if we
18 see a surface that might look like it has rust on it or
19 some kind of reddish-brownish-type color, oftentimes we'll
20 swab that and submit that as well just on the chance that
21 it might be blood.

22 Now, those determinations would be made by the D.N.A.
23 department as to whether it's actually blood or if there's
24 any D.N.A. present.

25 So, we take the approach of if it looks like something

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1 that we think they need to look at, then we'll go ahead and
2 swab it.

3 As far as touch D.N.A. requests, obviously, touch
4 D.N.A. is not going to be something you can see. It's kind
5 of like latent prints.

6 So, what we do in our department is we have to
7 determine based on the item that we receive is -- you know,
8 when they have both requests, we're going to have to
9 determine what we're going to process for prints and what
10 we're going to swab for the presence of D.N.A., so that the
11 swabbing would come first.

12 So, we would swab the evidence for -- for any D.N.A.
13 requests prior to doing any of our processing. And that's
14 what Agent Darnell did in this case, is he conducted visual
15 examinations.

16 He determined what areas would have a reasonable
17 chance of getting touch D.N.A. He also swabbed any areas
18 he thought needed to be looked at for the presence of
19 blood. And then he packaged those swabs, and then those
20 swabs would be submitted together to the D.N.A. department
21 where they would do their analysis.

22 Q You said the swab packaged. How were they packaged?

23 A So, when we swab an item of evidence, typically what
24 we do is we will use two swabs kind of like just if you
25 think of a Q-tip, similar to that. And we will -- we will

1 apply deionized water to one of the swabs. The other swab
2 will remain dry. And then we will swab the item of
3 evidence with both of those swabs.

4 Those swabs are allowed to dry. And then after
5 they're allowed to dry for a period of time the swabs will
6 be packaged together. Two swabs into one. We refer to
7 them as serology envelopes. They're very similar to like a
8 coin envelope in size.

9 We will put it in that envelope. We will seal it with
10 evidence tape. We will describe on the packaging what that
11 swab is, where it came from.

12 And then every time we swab something we will do that.
13 So, if -- if ten areas on one item are swabbed, we'll end
14 up with ten sets of swabs. Two swabs per set. So, there
15 will be ten separate coin envelopes sealed and -- and
16 labeled.

17 And then those ten envelopes will be packaged in a
18 heat sealed pouch or plastic pouch together, and then that
19 pouch will be sent to D.N.A. for D.N.A., for doing what
20 they do.

21 MR. HANEY: Beg the Court's indulgence.

22 (Pause.)

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

24 THE COURT: Sure.

25 Q Lieutenant, I'm going to show you what's been

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1 premarked as State's Exhibit No. 49 and State's Exhibit 50.
2 Take a moment and examine those.

3 (Pause.)

4 Q Were those the swabs that were sent to the D.N.A.
5 department for testing?

6 A Yes, sir. These are -- it bears Agent Darnell's name.
7 I recognize his handwriting. This is the same packaging
8 method that we use.

9 The -- each -- each area that was swabbed, each item
10 that was swabbed, was sealed in its own serology envelope,
11 and then they were packaged together in this heat-sealed
12 pouch for transfer to the D.N.A. department.

13 Q Thank you.

14 A And that's how we always do it.

15 Q Please answer any questions Mr. Farr may have for you.

16 MR. FARR: Your Honor, may it please the Court.

17 THE COURT: Yes, sir.

18 MR. FARR: Ms. Barry, Mr. Haney.

19 CROSS-EXAMINATION

20 BY MR. FARR

21 Q You've said a lot already. I'm just going to hit some
22 points and about the techniques. And really is about the
23 procedures. Not to be funny or anything. This isn't like
24 T.V. where you see the black dust and all and you got a
25 fingerprint. You're talking about super glue. Is it like

1 a gas when you fume it?

2 A Well, it's literally a bottle of super glue. We
3 put -- we have chambers. Back in the day we actually used
4 curiums and coffee cup warmers, a long time ago, but we've
5 come a long way.

6 We actually have automated chambers now that we put
7 the evidence inside the chamber. The -- there's a -- a
8 heating element that we place the -- the liquid glue on.

9 It's attached to a humidity chamber that -- that
10 automatically assesses how much humidity needs to be
11 applied, how long the fuming process needs to take. It's
12 automated. So, it'll turn itself off when it's had an
13 adequate amount of time to process.

14 But, yes, the liquid super glue will actually -- when
15 it heats up it turns into a vapor. And then anything
16 inside of that chamber will -- will receive a -- a thin
17 coat of the super glue. And it basically hardens any
18 prints that may be present.

19 Q Does it turn a color?

20 A Well, not really a color. It kind of looks like a
21 little bit of a frosted appearance sometimes. Sometimes
22 you can't even see that, which is why we use the -- the
23 next step, which was the M.B.D., which is a fluorescing
24 chemical that when we apply -- when we apply the M.B.D. and
25 then we look at the evidence under an alternate light

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1 source at a particular wavelength, it will allow those, any
2 prints that are present, to fluoresce.

3 So, it actually -- we're in the dark with the light
4 and any -- any ridge detail that's present fluoresces
5 almost like glowing in the dark and makes it very, very
6 obvious.

7 Q Okay. And in this one y'all did both tests, correct?

8 A Yes, sir. That -- that -- that method of processing,
9 that sequence, those processing techniques, are probably
10 what we use for the vast majority of the nonporous items.
11 So, that is -- that is typical.

12 We do have other processing techniques we can use, but
13 that's -- that covers the vast majority of the nonporous
14 items that -- that we receive.

15 Q So, in all eight of these items y'all used, basically,
16 I consider a 2-step process, which is the super glue. I'm
17 just going to use your term. And then the M.B.D. in this
18 case.

19 A Yes, sir. I did notice when I was reviewing his case
20 record that the Item 5, the handsaw, had a wood handle, a
21 wood that is not sealed with like a -- with like a sealer.
22 We consider that to be porous.

23 So, for Item 5 he actually did apply a chemical called
24 ninhydrin to that handle, because if there were any prints
25 on that handle it would have been absorbed into the wood.

1 He did use that process on the handle itself for Item
2 5. And that was no fingerprint observed as well.

3 Q And there were still -- so that would have been a
4 3-step process in that.

5 A Well, not really a 3-step. So, processing the
6 nonporous part of the evidence is two steps, and then the
7 ninhydrin is its own step. It's separate from. So, it's
8 not like those three are done together.

9 He would have done the nonporous first, and then he
10 would have done the handle after those, after those exams
11 -- techniques were used.

12 Q So, the handsaw, the only one he did, because it had a
13 wood handle?

14 A Yes. That's what his records state. Yes.

15 Q So, all the other machetes -- as this one's already
16 been in as 45 -- has a wood handle would not have been
17 tested since that was on his -- on the report.

18 A I'm sorry? What? What item is that?

19 Q It's number -- it's been No. 45. It's not in there.
20 It's with the machetes with the wooden handle. But you're
21 saying only the handsaw was given that priority.

22 A Right. Of the items he received, Item 5 was the only
23 one he processed with ninhydrin. That's correct.

24 Q And when you say -- y'all swabbed prior to doing
25 y'all's chemical test, correct?

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1 A Uh-huh.

2 Q So, in this case they asked for D.N.A. and, I'm
3 assuming, blood. Is that how it's reported to y'all?

4 A Yes, sir. What -- the laboratory has a computer
5 system that everybody in the laboratory uses. So, we can
6 look up a case in that system.

7 So, when Tom took that case, first thing he would have
8 done was look it up, read the paperwork that was received,
9 read the -- what we refer to as the packing slip, which is
10 what the local agency submits with their evidence that
11 lists the exams that they request.

12 Also, at any point if we're doing -- if we're
13 processing evidence and we may see something that we think
14 needs to be done that maybe they didn't request, sometimes
15 we'll do that as well typically after communicating with
16 that agency to let them know, hey, we, you know, maybe we
17 saw this and we want to collect it and it wasn't requested
18 but we think we probably need to go ahead and collect it.
19 So, we'll do that. But typically it's whatever they
20 request.

21 Q And in that request are -- you're the expert -- are
22 you swabbing specific items like parts of the item, or are
23 you doing the entire item swabbing?

24 A Well, typically when there's a latent and a D.N.A.
25 request, we will have to choose what we're going to do,

1 latents, or what we're going to swab. We will swab those
2 areas, and then we'll -- then we'll go in and process the
3 whole item of evidence after swabbing it for the presence
4 of latent prints.

5 Sometimes because of the nature of the evidence we'll
6 have to make a choice, I'm going to swab these particular
7 areas, I'm going to process, I'm going to save these other
8 areas to process for the presence of latent prints.

9 Q And in your -- in Mr. -- hold on -- Darnell's report
10 does it say what parts of the items he swabbed for D.N.A.?

11 A Yes. He -- do you want to read through all of them?

12 Q Yes, sir. What he swabbed. Yes, sir.

13 A Okay. Item 2. It says -- says presence of rust on
14 blade, no visible blood stains. Swabbed portions of handle
15 for touch D.N.A. and designated swabs as Item 2.1. Swabbed
16 blade for D.N.A. blood and designated swab as Item 2.2.

17 For Item 3, swabbed portions of the handle for touch
18 D.N.A. Swabbed the blade for D.N.A. blood.

19 And the reason he's writing it -- he wrote it on his
20 exam worksheet in all caps. Basically, that's the request
21 type. So, you know, he's indicating that he looked for
22 both, anything that could be checked for blood, as well as
23 touch D.N.A.

24 Item 4 indicated presence of rust on blade, possible
25 reddish-brown stains on blade. Swabbed portions of handle

1 for touch D.N.A. Designed swabs as 4.1. Swabbed blade for
2 D.N.A. blood and designated swabs as Item 4.2.

3 For Item 5 indicated presence of rust on blood. No
4 visible blood stains. Swabbed portions of handle for touch
5 D.N.A. That's Item 5.1. Swabbed blade for D.N.A. blood.
6 Designated swabs as Item 5.2. Saw the handle of saw was
7 porous wood, therefore it was sprayed with ninhydrin and
8 then exposed to heat and humidity chamber, which that
9 accelerates the ninhydrin process. And then he reexamined
10 that one under light and magnification.

11 Item 6. No visible bloodstains. Swabbed portions of
12 handles for touch D.N.A. and designated swabs as Item 6.1.
13 Swabbed blades for D.N.A. blood and designated swabs as
14 6.2. And then he did the processing.

15 Item 7. Presence of rust on blade. No visible blood
16 stains. Swabbed portions of handle for touch D.N.A. And
17 that's 7.1. Swabbed blade for D.N.A. blood and designated
18 swabs as Item 7.2, and then he processed it.

19 And then for Item 1. Swabbed portions of handle for
20 touch D.N.A. and designated swabs as 1.1. Swabbed
21 reddish-brown stains from sharp edge of blade for D.N.A.
22 blood and designated swabs as Item 1.2. And then did the
23 processing.

24 Q Okay. Just to be clear, I want to use the same one so
25 it's easier. When you say blade, the sharp part or the

1 entire thing?

2 A Well, typically, you know, generally speaking, we
3 refer to the blade as the metal portion. However,
4 typically when we swab, unless we see an obvious stain that
5 we need to collect -- if we're looking for blood we're
6 going to swab the -- the edged portion.

7 Q Which is considered the sharp part.

8 A Yeah. If -- if the -- if -- you know, because, again,
9 we're having to decide where we're going to swab and also
10 leave something to try to get prints as well.

11 Q Because if you -- is it -- to try to leave prints, you
12 try not to put not too much chemicals on the object?

13 A Well, actually none of the processes that we use are
14 detrimental to D.N.A. However, it's the application of the
15 chemical itself.

16 Again, I mentioned friction before when we -- we apply
17 the chemicals we're -- we're not -- we don't dip it in the
18 chemical. So, we're using like a squirt bottle type thing
19 that applies friction.

20 You know, we try to limit handling as much as we can
21 because, obviously, even handling could destroy any latent
22 prints that may be there.

23 So, yeah, we're going to have to try -- we're going to
24 have to choose. We can't typically do everything for both.
25 We have to say, okay, well, if they want D.N.A., we're

1 going to have to figure out what -- you know, if there's
2 a -- if there's a portion of the item that has the least
3 chance of getting latents but the best chance of getting
4 D.N.A., we're going to swab that portion, and then vice
5 versa.

6 So, you know, there may be, like, so for like, a
7 handle, I may swab the corners of the handle for touch
8 D.N.A., like the corner between the sides and then the top
9 of the handle. And I may leave the flat surfaces for
10 processing for prints. That'd be an example of how we
11 would choose which one, how we swab, and then also process
12 for prints.

13 Q So, does your process detect if there's a chemical
14 that's been used on those objects?

15 A I'm not sure I understand the question.

16 Q So, prior to them being down there, it's been
17 testified to that they used a chemical for blood on the
18 blade. Would that -- would that mess up your part of the
19 test?

20 A You talking about before we received it?

21 Q Yes, sir.

22 A Yeah. I mean, I guess it would depend on what was
23 done. And we prefer, obviously, if -- if any processes
24 occur that we be notified, because it helps us form our
25 decisions on what we're going to do.

1 I did not see anything in the case record that
2 indicated that occurred, and Agent Darnell didn't indicate
3 any -- anything in his examination-documentation that he
4 was notified in this particular case. But, yeah, I mean,
5 it's -- it's -- it's possible. It's also possible it
6 wouldn't have an impact.

7 Q Right.

8 A But we prefer if that was done that we be notified.

9 Q But in this case y'all were not notified.

10 A I'm not aware. I could not find -- normally, any time
11 we have a communication with an investigator or someone
12 regarding the evidence, it'll be documented in the record.

13 Prior to coming here I reviewed the case record,
14 particularly the -- where we indicate discussions, phone
15 calls, e-mails, etc. I not did see anything there --

16 Q Okay.

17 A -- that would indicate that, and I didn't see anything
18 in Agent Darnell's notes that he had a conversation about
19 anything being done.

20 And also I would think -- typically, if we receive
21 evidence that has been processed, we can usually tell.

22 Q Yes, sir.

23 A We can tell something's been done. We may not know
24 exactly what. Oftentimes, we can look at it and say, yeah,
25 they've fumed this already.

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1 Q Right.

2 A They've put powder on this already. He had -- and --
3 and Tom's been doing this longer than I have. In fact,
4 at -- at one point he was a supervisor --

5 Q Okay.

6 A -- of latent prints. And I know that if he would have
7 made that observation it would have been documented.

8 Q Okay. You talked about heat could be a factor of
9 sometimes prints go away. So, you talked about packaging
10 for the swabs, and you called it a heat seal. Does that --
11 does that mess up the swabs of D.N.A. or anything?

12 A No. What I was referring to is -- is the -- at the
13 top of the evidence pouch there -- it is sealed with a heat
14 sealer.

15 Q Okay.

16 A It is, basically, a melted -- it melts a line across
17 the top to seal the -- the plastic pouch. It melts the
18 plastic together.

19 This is done after the evidence has been allowed to
20 dry, after the evidence has been packaged in the individual
21 serology envelopes. And then of course, obviously, when we
22 seal these pouches, we take care to make sure that there's
23 no serology envelopes in the path of the heat sealer before
24 we -- we seal it. And the heat sealing process lasts about
25 a tenth of a second. I mean, it's immediate.

1 Q Okay. Thank you.

2 MR. FARR: That's all the questions I have, Your
3 Honor.

4 THE COURT: Anything?

5 MR. HANEY: Nothing further from this witness, Your
6 Honor.

7 THE COURT: You may step down. Please be careful.

8 THE WITNESS: Yes, sir.

9 MR. HANEY: May Lieutenant Crook be excused, Your
10 Honor?

11 THE COURT: Any objection?

12 MR. FARR: No objection, Your Honor.

13 THE COURT: Sir, you may stay or go, whichever you
14 choose.

15 THE WITNESS: I'll go.

16 (Whereupon, the witness was excused.)

17 MS. BARRY: Your Honor, the state would call Courtney
18 Thompson to the stand.

19 COURTNEY THOMPSON, having been
20 first duly sworn, testified as follows:

21 THE COURT: Agent, if you will, tell us who you are,
22 and spell your last name for madam court reporter, please.

23 THE WITNESS: My name is Courtney Thompson.

24 T-H-O-M-P-S-O-N.

25 THE COURT: Thank you.

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1 Solicitor.

2 MS. BARRY: Thank you, Your Honor.

3 DIRECT EXAMINATION BY MS. BARRY

4 Q Ms. Thompson, where are you currently employed?

5 A I am employed with the South Carolina Law Enforcement
6 Division, commonly referred to as SLED.

7 Q How long have you worked at SLED?

8 A I have been employed with SLED for about 11 years.

9 Q What do you do at SLED?

10 A I am a forensic scientist in the D.N.A. casework
11 department.

12 Q What is your educational background?

13 A I have a bachelors in science, in forensic science,
14 and biology from Southern Wesleyan University.

15 Q What type of training do you have in serology?

16 A When I was hired as a [sic] employee with the South
17 Carolina Law Enforcement Division, I underwent about a -- a
18 year-long training program where a D.N.A. analyst and
19 qualified evidence processing technician taught me all of
20 the ways that I should be handling evidence, that I perform
21 the tests that I am competent to do, to maintain integrity
22 of evidence, write reports and learning how to testify in
23 court when necessary.

24 Before I could handle cases on my own, I had to go
25 through a series of tests to show that I was competent in

1 the area I was trained in. This included a written exam,
2 an oral exam, a mock court in a mock case which were all
3 deemed successful prior to being certified to handle
4 casework independently.

5 Q And do you have to maintain training or continuing
6 education credits for serology?

7 A I do participate in continuing education, usually in
8 the form of conferences or seminars.

9 Q Have you testified as an expert in the serology
10 before?

11 A Yes. I have.

12 Q Approximately how many times?

13 A It has been over 50 times now.

14 MS. BARRY: Your Honor, at this time I would like to
15 offer Courtney Thompson as an expert in the field of
16 serology.

17 MR. FARR: No objection, Your Honor.

18 THE COURT: Without objection, she is so qualified.

19 Ladies and gentlemen, once again, she's qualified due
20 to her education, training and experience. You do not have
21 to accept her opinion. Give it whatever weight you deem
22 appropriate.

23 BY MS. BARRY

24 Q Ms. Thompson, can you please tell the jury what
25 serology is?

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1 A Serology is the identification of bodily fluids.
2 Specifically, the bodily fluids that are tested at the SLED
3 D.N.A. casework department are blood, semen and saliva.

4 Q And how are items received in your department?

5 A Items are received for examination through requesting
6 evidence from the evidence control department, which is
7 located in the forensic services laboratory. And that is
8 where all of the evidence that is submitted to the SLED lab
9 is housed before and after examination.

10 Q And in this case were you asked to perform a serology
11 analysis?

12 A Yes. I was.

13 Q And what items did you receive?

14 A I received several items of evidence. The items of
15 evidence that I received for this case were several sets of
16 swabs that were collected by an examiner in the latent
17 prints department for the purposes of body fluid testing
18 and D.N.A. analysis.

19 Those items were SLED's items 1.1, 1.2, 2.1, 2.2, 3.1,
20 3.2, 4.1, 4.2 and 5.1, 5.2, 6.1, 6.2, 7.1 and 7.2.

21 Q And with the point one, point two, those are just
22 swabs coming off of an item. So, they're like a subset of
23 that item, correct?

24 A That is correct. It is a collection that has come
25 from the original SLED Item 1, 2, etc. It is given the

1 point one or point two naming nomenclature, but the naming
2 behind it in order to identify that it came from that
3 original SLED item itself.

4 Q And were all of the items that you received sealed in
5 this case?

6 A Yes. I received all of the evidence properly sealed.

7 Q What would happen if they were not properly sealed?

8 A If I found a piece of evidence that had not been
9 properly sealed, I would have contacted, in this instance,
10 because these swabs were created by a latent print
11 examiner, I would have contacted that individual in the
12 department, and then maybe further have also contacted the
13 submitting agency to discuss any discrepancies with the
14 evidence before moving on to any type of testing or
15 preparation.

16 MS. BARRY: Permission to approach the witness, Your
17 Honor.

18 THE COURT: Yes, ma'am.

19 Q I'm going to show you what's been premarked as State's
20 Exhibits 49 and 50. Can you take a look at those for me?

21 A I do recognize these items of evidence, yes.

22 Q And were those the ones that you received from Tom
23 Darnell?

24 A Yes. These are the set of swabs that Tom Darnell from
25 latent prints department created and then I subsequently

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1 retrieved from the evidence control department at a later
2 date.

3 Q Have they been altered or tampered in any way?

4 A No. They would not have been altered or tampered from
5 what I can -- from what I can tell. And my seal and
6 initials and date from where I have handled the items are
7 on the outside of the package to ensure that after I was
8 done that the evidence was still secured.

9 MS. BARRY: Your Honor, at this time I would like to
10 admit State's 49 and 50 into evidence.

11 MR. FARR: No objection, Your Honor.

12 THE COURT: Without objection, they are admitted.

13 MS. BARRY: Thank you, Your Honor.

14 (D.N.A. sample marked State's Exhibit No. 49; D.N.A.
15 sample marked State's Exhibit No. 50.)

16 Q So, when you receive these items, you perform tests on
17 them, correct?

18 A Yes. It -- the type of testing is often determined by
19 what the agency who has submitted these items is requesting
20 and what I think might be appropriate based on the scenario
21 and information provided.

22 Q And, specifically, what were those swabs of?

23 A These swabs were all taken from various weapons that
24 were submitted to the laboratory with latent prints and
25 then D.N.A. blood and a D.N.A. touch request on them.

1 Q So, you performed the serology analysis. What were
2 the results of the analysis for each of those swabs?

3 A Each set of swabs either came from the blade of one of
4 the weapons or the handle of one of the weapons.

5 All of the swabs that were tested were from the blade
6 of each of these weapons that were submitted.

7 The swabs that I tested from the blade, I tested them
8 for the possible presence of blood, and each set of those
9 were presumptively negative for blood, which means that the
10 test that I used, which indicates blood may be present, was
11 negative on those swabs.

12 And then the swabs from the handles of each of those
13 items, because those were for a touch collection, which
14 just means D.N.A. left behind by someone handling a
15 particular item, I did not do any type of serological
16 testing on them as I did not see any type of body fluid
17 potentially or seeing that I thought would need any extra
18 testing.

19 So, those items were simply prepared for the D.N.A.
20 analyst to be able to move forward further on in the
21 laboratory process for D.N.A.

22 Q And can you describe the analysis process when you're
23 testing for bodily fluids?

24 A The process that I use is one that, like I said, is
25 going to screen for, in this instance, blood. This test

1 that I use is a chemical test that in the presence of blood
2 or something that could also cause a reaction with blood --
3 that's why we consider it an indication of the presence of
4 blood -- in that presence it turns a bright pink color.

5 So, if a -- a positive is there, it turns bright pink,
6 and I know that that needs to move forward for further
7 analysis.

8 I'm not confirming the presence of blood, but it is a
9 screening tool that is used to indicate that blood may be
10 there and that further analysis is important to move
11 forward with.

12 Q And because these had a negative presumption for
13 blood, you did not do any further analysis.

14 A Yes. That's correct, because the request on those
15 items were specifically for the presence of blood. After
16 they tested negative with my tests that I performed, I did
17 not do any other examination or preparation on those swabs.

18 Q And you said that you then prepared the swabs to go to
19 the D.N.A. analyst. How did you prepare those swabs?

20 A The swabs that were collected from the handle of each
21 of those weapons were prepared by me by taking a small
22 cutting off of each of the swab sets, placing them into a
23 sterile tube.

24 I then labeled the sterile tube with the SLED lab
25 number and the item number associated with that set of

1 swabs and then repackaged it securely so that it could move
2 forward for D.N.A. analysis.

3 Q And is that what you did in this case?

4 A Yes, that is what I did in this case.

5 Q Did you prepare a report for this case?

6 A I did not prepare a report for this case. My results
7 are reported with the D.N.A. analyst report that was
8 issued.

9 Q Ms. Thompson, I have no further questions. Please
10 answer any that Mr. Farr may have for you.

11 MR. FARR: Your Honor, may it please the Court.

12 THE COURT: Yes, sir.

13 MR. FARR: Ms. Barry, Mr. Haney.

14 CROSS-EXAMINATION

15 BY MR. FARR

16 Q How long have you been with SLED, again?

17 A I've been with SLED just a little over 11 years.

18 Q Okay. And that's based out of Columbia?

19 A Yes. It's located in the City of Columbia.

20 Q And you handle all -- all counties in the state.

21 A We handle any county that wishes to submit items of
22 evidence to the laboratory. We will accept any county in
23 South Carolina. Evidence from any type of criminal case
24 for submission.

25 Q And in this case you received the -- is it cotton

1 swabs that you received?

2 A Yes. They are a cotton-tipped swab very similar to a
3 Q-tip that was prepared by the latent print examiner Tom
4 Darnell.

5 Q And then as -- I'm not sure if you were here before,
6 but that's -- y'all use a bar code and put them back in a
7 drawer. So, then that gets passed down to y'all, is that
8 correct?

9 A The bar code that is on the outside of the packaging,
10 it is what we use to make sure that the chain of custody is
11 maintained within the lab. And so the bar codes are unique
12 for every single piece of packaging.

13 And when those items are transferred, the bar code is
14 scanned, and then the bar code -- that is actually each
15 examiner in the building has a bar code as well.

16 And so a bar code is scanned to receive evidence or
17 take evidence from somebody else in order to make sure that
18 the electronic chain of custody that the lab generates
19 stays accurate throughout the evidence's time in the lab.

20 Q As Ms. Barry was asking you earlier, so if it came to
21 you and your time to process these cotton tips and you went
22 to the lab to pick them up and it was unsealed, you would
23 know who the next person touched it, correct?

24 A Yes. In this particular instance I would be able to
25 trace exactly in the laboratory, at least where I needed to

1 contact somebody if I had found the evidence in an unsealed
2 state.

3 Q And you were just testing for fluids, and your
4 understanding -- or I don't want to put words in your
5 mouth -- fluids for you is blood, saliva and semen.

6 A Yes. I can perform each of those types of tests in
7 the lab, and in this case I did blood screening on these
8 items.

9 Q You didn't do the saliva or semen, or was that passed
10 down to somebody else?

11 A The request on the evidence did not have saliva or
12 semen, so those tests were not performed on these items.

13 Q And your understanding when you see on a piece of
14 paper for swabs for a blade, it's your understanding it's
15 just a sharp part of as over here of machetes.

16 A Yes. If I were to understand the description that was
17 provided to me of the swabs, the blade is going to be the
18 sharp typically metal part of a weapon, and then the handle
19 would be some type of wooden or plastic part that you hold
20 at the end.

21 Q And you said if there's the presumption of blood it
22 would turn bright pink.

23 A Yes. The way that the test that I perform works is a
24 positive result is a bright pink color that I can visibly
25 observe.

1 Q And in your process if there's been a chemical used
2 would -- and it ruined the tip, would you be able to notice
3 that in your process of this?

4 A There are sometimes chemicals that can be used that
5 interfere with the testing results, but oftentimes, yes,
6 they are visible to the -- visible on the swab, as well as
7 I did not -- I did not visually see anything like that.
8 And then many of the techniques used by the latent prints
9 department is used to ensure that, you know, the D.N.A. is
10 not going to be compromised when they go to swab.

11 Q And you only -- I'm making sure I don't -- you only
12 did the blades, right? No handles.

13 A I did not do, yes, any screening for blood on the
14 handles, as those were collected for touch, and I did not
15 see any indication that I needed to test them by visually
16 observing any blood, potential bloodstains, on the -- on
17 the swabs.

18 Q How do you see bodily fluids?

19 A It depends on what the bodily fluid is. So, blood is
20 usually through a visual exam, but other bodily fluids such
21 as semen and saliva are often not visible to the unaided
22 eye. And I can utilize a special light source, an
23 alternate light source, that when I apply it to a
24 particular item, it will cause semen and saliva stains to
25 be fluorescent so that I can more easily locate them for

1 testing.

2 Q In this case did you take all of those items -- when I
3 say the machetes that have like 1.1 -- did you do the light
4 source on those items, or do you only do the cotton tips?

5 A I didn't -- I never had the actual weapons themselves
6 in my custody. I only took the swabs into my custody
7 because they had already been processed by the latent print
8 examiner.

9 Q Thank you.

10 MR. FARR: Your Honor, I have no other questions.

11 THE COURT: Anything at all?

12 MS. BARRY: No, sir, Your Honor.

13 THE COURT: Thank you.

14 Agent, you may step down. Please be careful.

15 MS. BARRY: Your Honor, may this witness be excused?

16 MR. FARR: No objection, Your Honor.

17 THE COURT: You may stay or go, whichever you choose.

18 THE WITNESS: Thank you.

19 (Whereupon, the witness was excused.)

20 MS. BARRY: Your Honor, the state would call Adrienne
21 Hefney to the stand.

22

23

24

25

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1 ADRIENNE HEFNEY, having been
2 first duly sworn, testified as follows:

3 THE COURT: Agent, if you will, tell us who you are,
4 and spell your last name for madam court reporter, please.

5 THE WITNESS: Sure. Adrienne Riley Hefney. My last
6 name is spelled H-E-F-N-E-Y.

7 THE COURT: Thank you.
8 Solicitor.

9 MS. BARRY: Thank you, Your Honor.

10 DIRECT EXAMINATION BY MS. BARRY

11 Q Ms. Hefney, where are you currently employed?

12 A With the South Carolina Law Enforcement Division, more
13 commonly known as SLED.

14 Q What are your duties at SLED?

15 A I'm a forensic D.N.A. analyst there, and so what I do
16 is develop D.N.A. profiles from evidence that was left
17 behind at a crime scene and make comparisons to known
18 standards, which is blood or saliva that we know the origin
19 of where it came from.

20 Q And how long have you been at SLED?

21 A Since November of 1997, so over 26 years now.

22 Q Do you hold a rank?

23 A Senior analyst, senior criminalist.

24 Q What is your educational background?

25 A I have a bachelor of science degree in biology from

1 the University of South Carolina. I also have a master in
2 business administration from Winthrop University.

3 I was trained on the job by a court-qualified analyst.
4 And I've also taken postgraduate courses in the field of
5 genetics and cell molecular biology.

6 Q And do you have to maintain your education hours or
7 training hours?

8 A We do. We have to have at least eight hours of
9 continuing education credit each year, and we obtain that
10 through attending a symposium on forensic D.N.A. analysis
11 to stay abreast of any changes in D.N.A., or they'll come
12 to us and provide some type of training in a new technology
13 that may be available in the field.

14 Q Have you have your testified as an expert in forensic
15 D.N.A. analysis before?

16 A I have.

17 Q Approximately how many times?

18 A Over a hundred times. I think this probably makes
19 101.

20 Q Okay.

21 MS. BARRY: Your Honor, at this time I'd like to offer
22 Adrienne Hefney as an expert in forensic D.N.A. analysis.

23 MR. FARR: No objection, Your Honor.

24 THE COURT: Without objection, she is so qualified.

25 Again, ladies and gentlemen, she is an expert by

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1 virtue of her training, skills and knowledge. You do not
2 have to give -- you do not have to believe her opinion.
3 You can give what weight you deem appropriate.

4 BY MS. BARRY

5 Q Agent Hefney, just basically what is D.N.A.?

6 A Okay. D.N.A. stands for deoxyribonucleic acid. And
7 what that is is a chemical substance they found -- that's
8 found in certain cells in your body.

9 So, it's a genetic information to basically make sure
10 who you are, because you're going to get half of that
11 information from your mom and the other half of that
12 information from your dad. And no two people will have the
13 same D.N.A. with the exception of identical twins.

14 Now, a lot of our D.N.A. codes for us being human and
15 so --

16 THE INTERPRETER: Your Honor, may you instruct the
17 witness to go a little bit slower?

18 THE COURT: She's translating.

19 THE WITNESS: Okay.

20 THE COURT: Thank you.

21 A So, a lot of our D.N.A. codes for us being human
22 beings. It gives us two arms, two eyes and two legs.

23 However, we notice around this courtroom that everyone
24 looks different. So, that, again, no two people will have
25 the same D.N.A.

1 Q Generally -- generally, what are you trying to
2 determine through D.N.A. analysis?

3 A Through forensic D.N.A. analysis we are trying to
4 determine whether evidence that was left behind at a scene,
5 whether it be blood, semen, saliva, skin cells will match
6 who we believe may be involved in the case, a subject
7 and/or the victim.

8 Q And how do you go about doing that?

9 A Okay. We develop D.N.A. profiles from the evidence
10 that was left behind, and we also develop a D.N.A. profile
11 from the known standards of people involved in the case,
12 and then we make that comparison.

13 And we develop those D.N.A. profiles simply by we --
14 we add chemicals that's going to release the D.N.A. from
15 the cells. And then we'll run through instrumentation that
16 will verify the D.N.A.

17 We'll make copies of that D.N.A., not changing
18 anything, just making a copy where we can develop a D.N.A.
19 profile. Thus we can be able to interpret.

20 Q And when you say no D.N.A. or a known D.N.A. standard,
21 what is that?

22 A That's D.N.A. that we know the origin of it. So, as I
23 said, that's saliva from the inside of your cheek cells or
24 blood from your vein from the people involved in the case.
25 They're known as known standards or comparison standards.

1 Q And you're simply trying to see if that matches any
2 D.N.A. profile that's developed on a piece of evidence.

3 A That is correct.

4 Q How are samples received in your department?

5 A Typically, we would either receive it from our
6 evidence control unit or we can get it from one of our
7 other forensic scientists that may prep it for D.N.A., prep
8 the samples for D.N.A.

9 Q So, in this particular case were you requested to
10 perform a D.N.A. analysis?

11 A Yes, ma'am. I was.

12 Q And what did you receive?

13 A I received various swabs from items such as machetes
14 and a T-shirt in this case.

15 Q I am going to show you what has already been admitted
16 as State's Exhibits 49 and 50. Are these the swabs that
17 you received in this case?

18 A Yes, ma'am, they are. And I can identify them by my
19 initials right here and the date on both seals.

20 Q And those are the swabs for the machetes, correct?

21 A That is correct. These are from the blade, and then
22 these are -- was collected by Tom Darnell and these from
23 machetes.

24 Q Thank you.

25 Please explain to the jury how you processed and

1 analyzed these swabs in the case.

2 A Sure. Well, again, we'll add chemicals on there.

3 That's going to release the D.N.A. from the cells. And

4 we'll attempt to develop a D.N.A. profile from any, like,

5 for the blade of the knife. If there was any blood left

6 behind, we would attempt to get a D.N.A. profile from that.

7 From the handle of a knife or machete. We would swab that

8 and attempt to develop a D.N.A. profile from any skin cells

9 that may have been left behind on that.

10 Q And did you receive known standards in this case?

11 A I did.

12 Q What did you receive?

13 A I received a known blood standard from Alicia Garcia,

14 as well as a buccal swab standard from Dionicio Arbaca

15 [sic].

16 Q And you were able to develop those as suitable D.N.A.

17 standards?

18 A Yes. The results of both of those is a D.N.A. profile

19 developed that's suitable for use as a known standard.

20 Q Can you tell us what a likelihood ratio is?

21 A Sure. When we do comparisons -- so, once we do a

22 visual comparison, we'll do a likelihood ratio. It's like

23 a statistic.

24 So, if you think about it as comparison, two different

25 scenarios. Say, our first scenario would be that the

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1 person on trial is the one who did this, and/or who -- not
2 who did this but who left the D.N.A. profile, contributed
3 to the profile.

4 THE INTERPRETER: I'm sorry. Your Honor, could the
5 witness speak a little bit louder perhaps? I'm having
6 difficulty hearing her.

7 THE COURT: Can you be a little louder and a little
8 slower?

9 THE WITNESS: A little slower.

10 THE COURT: Thank you.

11 A Okay.

12 Q Use your outside voice.

13 A Okay. All right. So, the likelihood ratio is a
14 comparison between two different scenarios.

15 So, our prosecutors' hypothesis when we're setting up
16 a comparison, that would be that the person who is on --
17 accused of the crime may be contributing to this D.N.A.
18 profile. Where the defense hypothesis would be no, anybody
19 other than this person is the one who contributed this
20 D.N.A. profile.

21 And that's not by any means this prosecutor or this
22 defense's hypothesis. It's just in general the person
23 on -- in any courtroom T.V. case, you see the person on
24 trial. They're saying the one that did it, and the defense
25 attorney is saying, no, they didn't.

1 So, we just compare those two scenarios and develop a
2 likelihood for each known which is a statistical
3 mathematical calculation that's developed from those.

4 Q And what is STRmix?

5 A STRmix is a type of software that we use to be able to
6 interpret or help interpret D.N.A. profiles, especially
7 mixtures, and low level mixtures at that.

8 Q And what is a mixture?

9 A A mixture is a contribution of more than one D.N.A.
10 profile or more than one more person's D.N.A. and profile.

11 Q Were you able to develop results in this case?

12 A For some, or one actually, so.

13 Q And what -- what was the results?

14 A Okay. So, for a lot of the -- like Courtney who
15 testified before, would swab the handle of one and would
16 swab the blade of one.

17 So, she would also test for presumptive testing of
18 blood on the blade or the -- on the blade of those. And
19 then I will do D.N.A. testing on the handle of them.

20 So, we did that for Item 1, which was a machete with a
21 curve blade. The -- there was no D.N.A. profile developed
22 from the handle of the machete with the curve blade.

23 As far as the blade, presumptive testing for blood was
24 negative.

25 For Item 2, which is described as a machete, we were

1 able to get a D.N.A. profile from it. And that's what she
2 was talking about likelihood ratios. So, I'm going to read
3 directly from the report and explain as I go through.

4 "A D.N.A. profile suitable for comparison was
5 developed. Likelihood ratios for this profile was
6 calculated using STRmix." And that's that software program
7 I told you we use to help calculate the likelihood ratio.

8 "The D.N.A. profile was interpreted as a mixture
9 originating from two individuals. So, from what I could
10 see on the D.N.A. profile there was two people contributing
11 to this."

12 The H.P. or that prosecutor's hypothesis that I
13 explained earlier, the person of interest and an
14 unidentified, unrelated individual contributed to the
15 mixture.

16 Sometimes he use that word, the person of interest,
17 when we're talking about a comparison standard that was
18 developed. And later on when I read the result it'll tell
19 you who the person of interest was.

20 The defense's hypothesis or the H.D. was at two
21 unidentified, unrelated individuals contributed to the
22 mixture.

23 The result of this. Alicia Garcia and Dionicio Artica
24 [sic] are excluded as contributors to the mixture under the
25 listed propositions.

1 So, that means the D.N.A. profile that I did develop
2 from this one handle of Item 2, machete, Alicia Garcia and
3 Dionicio Artica were excluded as contributors to that
4 mixture under those propositions.

5 To keep going, Item 2.2 was swabs from the blade of
6 Item 2 machete, and the presumptive testing for blood was
7 negative on that one.

8 Item 3.1, swabs from handle of Item 3, machete, there
9 was a partial D.N.A. profile developed, but due to the
10 limited information obtained no further interpretation
11 would be offered or could be offered.

12 Item 3.2, swabs from the blade of Item 3, machete,
13 presumptive testing for blood was negative.

14 Item 4.1, swabs from handle of Item 4, machete, a
15 partial D.N.A. profile was developed, but due to the
16 limited information obtained no further interpretation will
17 be offered.

18 Item 4.2, blade of Item 4, machete, the presumptive
19 testing for blood was negative.

20 Okay. Then we deal with the handsaw. Item 5.1, the
21 handle of Item 5, handsaw, again, a partial D.N.A. profile
22 was developed, and due to the limited information obtained
23 no further interpretation will be offered.

24 The blade of said handsaw, Item 5.2, presumptive
25 testing for blood was negative.

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1 Then Item 6 was handle of scissors. There was no
2 D.N.A. profile developed. No S.T.R.D.N.A. profile was
3 developed.

4 Item 6.2, swab from blade of Item 6, which were
5 scissors, the presumptive testing for blood was negative.

6 Item 7.1, handle of Item 7, which was a hawkbill
7 knife, there was no D.N.A. profile developed.

8 Swabs from blade of Item 7, hawkbill knife,
9 presumptive testing for blood was negative.

10 Q And, Agent, I'll stop you right there. So, what does
11 it mean "no further interpretation will be offered"?

12 A That means we got too little D.N.A. profile to make a
13 conclusion of it.

14 So, when you get a partial D.N.A. profile, it has to
15 have enough markers present for us to be able to make a
16 conclusion. And if it's less than that, then we can't make
17 a conclusion on that.

18 Q Okay. So, do you through your testing -- can you
19 determine when that D.N.A. was left on an item?

20 A We cannot.

21 Q Can you tell how it was left on an item?

22 A We absolutely cannot.

23 Q What affects D.N.A. not being on an item or being on
24 an item? What's the effect?

25 A Environmental conditions can affect it. So, if any

1 D.N.A. pro -- if any D.N.A. is left on an item that's been
2 exposed to heat or moisture, those are environmental
3 conditions that will deteriorate D.N.A. or damage D.N.A.
4 and render it where we can't develop a D.N.A. profile.

5 If an item has been wiped clean, we may not be able to
6 develop a D.N.A. profile.

7 If -- in cases of touch D.N.A. if a person was --
8 hands were not shedding any skin cells or they didn't
9 handle it, so to speak, if they just touched it for a brief
10 second, they probably didn't leave any D.N.A. behind to go
11 back and swab and get it.

12 But if they handled it for a while but they have not
13 as moisturized hands and they weren't leaving any skin
14 cells behind, that can be another reason we would not be
15 able to develop a D.N.A. profile.

16 Q Okay. So, you don't always leave D.N.A. behind when
17 you come in contact with something.

18 A That is correct.

19 Q So, an individual could come in contact and you
20 wouldn't know about it, correct?

21 A That is correct.

22 Q So, as to Item 2.1, the swabs from the handle from
23 Item 2, machete -- and that's where Alicia Garcia and
24 Dionicio Abarca are excluded as contributors, that doesn't
25 mean that they never came into contact with this machete,

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1 right?

2 MR. FARR: Objection. That's speculation, Your Honor.

3 MS. BARRY: I think she's testified to being able to
4 say that you don't always leave D.N.A. behind.

5 THE COURT: I'm going to let her answer that. It's
6 overruled.

7 Go ahead.

8 A Ask me again.

9 Q Okay. So, on Item 2.1 where that swabs from the
10 handle of Item 2, machete --

11 A Uh-huh.

12 Q -- and Alicia Garcia and Dionicio Abarca are excluded
13 as contributors --

14 A Uh-huh.

15 Q -- that doesn't necessarily mean that they never came
16 in contact with this item, correct?

17 A That's correct. It just means that in that swab we
18 did not get their D.N.A. profile, like, if it was, you
19 know, say they contributed or touched it before this last
20 person did or last persons did, then we may not be able to
21 get their D.N.A. profile.

22 Q And I think we touched on this. Can extreme heat
23 affect D.N.A. left on an item?

24 A Absolutely.

25 Q I believe those are the only questions I have for you,

1 Agent Hefney. Please answer any that Mr. Farr may have.

2 MR. FARR: Your Honor, may it please the Court -- Ms.

3 Barry, Mr. Haney.

4 CROSS-EXAMINATION

5 BY MR. FARR

6 Q When you say -- I think you talked about it earlier
7 but just to be clear, when you say you have limited
8 abilities, is that just a Q-tip that you get? You just
9 have that much? It wasn't enough to continue to develop?

10 A Well, it mostly means there was limited D.N.A. left
11 behind --

12 Q Okay.

13 A -- that we weren't able to get a D.N.A. profile from.

14 Q Okay. Thank you.

15 MR. FARR: That's all the questions I have, Your
16 Honor.

17 THE COURT: Thank you.

18 Anything else for that one question?

19 MS. BARRY: No, sir, Your Honor.

20 THE COURT: Thank you.

21 Agent, you may step down. Please be careful.

22 MS. BARRY: Your Honor, may Agent Hefney be excused?

23 THE COURT: Any objection?

24 MR. FARR: No objection, Your Honor.

25 THE COURT: Agent, you may stay or go, whichever you

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1 THE COURT: Thank you.

2 Solicitor.

3 MS. BARRY: Thank you, Your Honor. The state would
4 call Luis Abarca to the stand.

5 LUIS ABARCA, having been first
6 duly sworn, testified as follows:

7 THE COURT: Sir, tell us who you are, and spell your
8 last name, please.

9 THE WITNESS: I'm Luis Abarca. A-B-A-R-C-A.

10 THE COURT: Thank you.

11 Solicitor.

12 DIRECT EXAMINATION BY MS. BARRY

13 Q Hi, Luis. How are you?

14 A Good. How are you?

15 Q How old are you?

16 A I'm 20.

17 Q You're 20.

18 A Uh-huh.

19 Q Okay. Are you employed anywhere?

20 A Yes. I am.

21 Q Where are you employed?

22 A U.P.S.

23 Q And what do you do at U.P.S.?

24 A I'm a mechanic for them.

25 Q How long have you been there?

1 A I've been there two years now.

2 Q Okay. who is Dionicio Abarca to you?

3 A He's my uncle.

4 Q And is he your uncle on your mom's side or your dad's
5 side?

6 A My dad's side.

7 Q So, he is your dad's brother.

8 A Yes.

9 Q What kind of relationship did you have with your
10 uncle?

11 A Not an extremely close relationship. Nothing out of
12 the ordinary.

13 Q Do you remember coming in contact with him on July the
14 18th of 2020?

15 A I do.

16 Q And how did you come in contact with him?

17 A I was going to drop off rent money to him.

18 Q Okay. where were you going to drop off rent money?

19 A At one of his rental houses.

20 Q Okay. Do you remember that address?

21 A I do not off the top of my head.

22 Q Okay. was it in Cherokee County?

23 A Yes. It was.

24 Q So, did you normally drop off rent money?

25 A Not usually, being that we didn't work together at the

1 time. So, it wasn't a very common thing.

2 Q Okay. So, you used to work together.

3 A Yes.

4 Q What did you do?

5 A We worked on a farm together.

6 Q Okay. But at that time you didn't work on the farm?

7 A No. I did not.

8 Q Did he work on the farm?

9 A No, no. He did not.

10 Q Do you remember where he worked at that time?

11 A I don't know exactly where. I know he worked at a
12 pallet company.

13 Q Okay. How old would you have been at this time?

14 A I would have been 17.

15 Q Okay. So, you go to drop off rent money. When you
16 get there is anyone there?

17 A Just my uncle to my knowledge.

18 Q Okay. Do you see any cars around the area?

19 A Not that I can recall.

20 Q Okay. Does your uncle -- is he inside; is he outside?

21 A I can't recall. I want to say he was walking out as I
22 was pulling in, but I can't exactly recall.

23 Q Okay. And when you say walking out, walking out of
24 where?

25 A I believe it might have been the front of the house.

1 Q Okay. So do you come in contact with him?

2 A I do.

3 Q Okay. What's the conversation?

4 A I can't remember it word for word. I do recall him
5 asking me for a ride.

6 Q Okay. Has he ever asked you for a ride before?

7 A Not in a long distance type of deal. Usually, it was
8 something small around the farm.

9 Q Okay. So, he asked for a ride. Do you agree to give
10 him a ride?

11 A I do.

12 Q Okay. Does he get in the car?

13 A He does, yes.

14 Q Where does he get in?

15 A He got in the back passenger side of the vehicle.

16 Q Okay. Was that normal when you would give him a ride
17 somewhere?

18 A No. It was not.

19 Q Okay. So, all of a sudden he's getting in the back
20 passenger seat.

21 A Yes.

22 Q Okay. Do you know if anybody else was there with him?

23 A Not that I seen.

24 Q Okay. So, he gets in the car. Does he ask you to
25 take him to a certain place?

Luis Abarca
Direct examination by Ms. Barry

1 A I cannot recall exactly --

2 Q Okay.

3 A -- the direction I was given.

4 Q Okay. So, where do you go?

5 A I was told to get on I-85.

6 Q I-85. Okay. So, I-85. Do you leave Cherokee County
7 on I-85?

8 A I do, yes.

9 Q What county do you go into?

10 A I believe it would be Spartanburg County.

11 Q Okay. Do you stop anywhere in Spartanburg County?

12 A Not that I can recall, no.

13 Q Go through Spartanburg County?

14 A Yes.

15 Q What county do you go into after that?

16 A I believe it would be Greenville County.

17 Q Okay. Do you ask to stop when you get into Greenville
18 County?

19 A Not at the time, no.

20 Q Okay. If I -- I'm going to show you what's been
21 premarked as State's Exhibit 52. If I showed you that,
22 would that help you relate to the jury kinda the route you
23 took?

24 A Yes.

25 Q Okay.

1 MS. BARRY: Your Honor, at this time I'd like to admit
2 State's Exhibit 52.

3 MR. FARR: For what purpose, Your Honor?

4 MS. BARRY: For demonstrative purposes.

5 MR. FARR: Okay. No objection.

6 THE COURT: Without objection, State's 52.

7 MS. BARRY: Thank you, Your Honor.

8 (Map marked State's Exhibit No. 52.)

9 MS. BARRY: Permission to publish.

10 THE COURT: Yes.

11 Q So, Luis, this is State's Exhibit 52. Okay. You said
12 that you left Cherokee County, so somewhere in here, going
13 this way on 85.

14 A Yes.

15 Q You go through Greenville. Okay. You continue on 85.
16 Do you leave South Carolina?

17 A Yes.

18 Q Okay. Going into Georgia, right?

19 A Yes.

20 Q Okay. How far into Georgia do you go?

21 A I believe we would have made it through Georgia.

22 Q Through Georgia. Okay. Does anything start to become
23 weird?

24 A Not at that point exactly. I do remember once it
25 started to get dark, I realized, you know, I had to go

Luis Abarca
Direct examination by Ms. Barry

1 home.

2 Q Okay. Do you voice that to your uncle?

3 A I do.

4 Q Do you remember what you said to him?

5 A I just told him I had to be home because it was
6 getting dark.

7 Q Okay. What does he say?

8 A He asked me to continue to drive.

9 Q Okay. And when he got in the car back at the rental
10 property, did he have anything with him?

11 A Not that I noticed.

12 Q Okay. What did you plan to do that night?

13 A I was going to go hang out with my friends after that.

14 Q Did your parents know where you were going to be?

15 A My dad knew. I lived with my dad at the time. He
16 knew I was going to a friend's house.

17 Q Okay. So, he wasn't expecting you to leave the state
18 that night.

19 A No.

20 MR. FARR: Objection. Hearsay, Your Honor.

21 THE COURT: He didn't say anything.

22 Okay. Go ahead.

23 MS. BARRY: Thank you, Your Honor.

24 Q Okay. So, Luis, do you have your driver's license at
25 this point?

1 A No.

2 Q Okay. So, you're on Interstate 85 with your uncle
3 telling you to drive.

4 A Yes.

5 Q You hit Atlanta traffic.

6 A Yes.

7 Q And he won't let you turn around.

8 A It was right around that time. I don't know if it was
9 further. I believe it was further into the drive where I
10 was no longer there by my own choice.

11 Q Okay. So, you said you go through Georgia on
12 Interstate 85, correct?

13 A Yes.

14 Q And what's the next state that you go into?

15 A Alabama.

16 Q Okay. Do you ask to turn around in Alabama?

17 A Yes.

18 Q And what does he say?

19 A No. Just continue to drive.

20 Q Okay. Has he -- has he given you a destination?

21 A Not particularly that I can recall.

22 Q Okay. Does he ever give you a destination?

23 A I believe he might have mentioned Houston, I believe.

24 Q Houston, Texas.

25 A Yes.

Luis Abarca
Direct examination by Ms. Barry

1 Q Okay. Were you prepared to drive to Houston, Texas?

2 A No, ma'am. I worked that day.

3 Q Okay. So, you had worked that day. It's getting
4 late. You're getting tired.

5 A Yes, ma'am.

6 Q And he won't let you go home.

7 A Yes.

8 Q Okay. Do you make any stops in Alabama?

9 A Yes, there. I believe it was in Mobile, Alabama. I
10 stopped because I could not drive any further.

11 Q Okay. Do you make any stops before that, like a gas
12 station or --

13 A Yes. I believe there was a gas station in Atlanta.

14 Q Okay. Do you get out of the car?

15 A Yes.

16 Q Where do you go?

17 A I go inside the gas station.

18 Q Does the defendant go in with you?

19 A No, ma'am.

20 Q Okay. So, you lose sight of the defendant for a
21 little while.

22 A I do.

23 Q Okay. So, you go into this gas station. Did you tell
24 anybody what was going on?

25 A No. I believe at that point I didn't realize the

1 situation I was in.

2 Q Okay.

3 A So, I did not.

4 Q Okay. So, you get back in the car and drive to
5 Alabama.

6 A Yes.

7 Q And then you said you stop in Mobile, Alabama.

8 A Yes. I believe that was the town.

9 Q Down here. Okay. So, why do you stop in Mobile,
10 Alabama?

11 A I could not drive any further.

12 Q Okay. Where do you pull into, do you remember?

13 A I do recall it being a [sic] abandoned gas station.

14 Q Okay. And what do you do?

15 A I remember pulling over and going to sleep.

16 Q And about how long are you asleep?

17 A It could not have been long. I couldn't give you an
18 exact timeframe with that.

19 Q Okay.

20 A But it wasn't very long.

21 Q Okay. What made you wake up?

22 A I remember waking up to my shoulder being shook and
23 telling me to drive, my uncle telling me to drive.

24 Q Okay. So, he shook you awake telling you to drive.

25 A Yes.

1 Q Did you drive?

2 A No.

3 Q why?

4 A I -- I saw police officers. That's not what you do.

5 Q Okay. So, do you talk to the police?

6 A I do.

7 Q And do you -- you initially tell them what's going on?

8 A I do not, no.

9 Q And why is that?

10 A I did not feel safe at that point.

11 Q Okay. why didn't you feel safe?

12 A He was behind me. At that point the situation was
13 starting to set in that something was wrong. And I believe
14 it was just worrying out -- worrying for my safety to a
15 point where I didn't think it was the right time to say
16 anything yet.

17 Q Okay. So, what do you tell law enforcement?

18 A I can't recall the exact story. I know it was -- it
19 was something with just the first thing that came in my
20 mind in order to pulled outta the vehicle.

21 Q Okay. were you eventually pulled out of the vehicle?

22 A Yes.

23 Q Where was the defendant when you were pulled out of
24 the vehicle?

25 A I believe he might have still been in the car.

1 Q Okay. What do you tell law enforcement at that time?

2 A At that time I think I held onto that story for a
3 little bit longer because we weren't very far from the
4 vehicle.

5 Q Okay. Can your uncle understand English?

6 A I believe he could briefly, but not fluently, no.

7 Q Okay. But were you worried that he was going to hear
8 you tell law enforcement what was going on?

9 A Yes.

10 Q So, that's why you wanted to be taken away from the
11 car?

12 A Yes.

13 Q Okay. So, what do you tell law enforcement, or do you
14 get taken away from the car?

15 A I do, yes.

16 Q Okay. And then what do you tell law enforcement, if
17 anything?

18 A I believe at that point I told them that I was worried
19 for my safety --

20 Q Okay.

21 A -- and that something was wrong.

22 Q Okay. Are you ever put back with the defendant at any
23 time?

24 A Never back in the vehicle. We might have been placed
25 beside each other.

Luis Abarca
Direct examination by Ms. Barry

1 Q Okay.

2 A But never back in the vehicle.

3 Q Okay. Now, you were in the car for a long time from
4 Cherokee County to Mobile, Alabama.

5 A Yes.

6 Q Did you and the defendant have any conversations?

7 A Not anything major that I could recall.

8 Q Okay. Does he ever ask you to stop to look for work?

9 A No.

10 Q Okay. Does he ever mention his wife?

11 A No. Not that I can recall.

12 Q Does he ever mention his kids?

13 A No.

14 Q He just says drive.

15 A I can't recall everything. Tried my best. It's been
16 a while, but to my memory, yes.

17 Q Did you have a phone?

18 A Did I have a phone?

19 Q Yes.

20 A Yes.

21 Q Did you try and use it?

22 A I did.

23 Q Okay. What did he say about that?

24 A It wasn't until later in the trip where I was told to
25 turn my phone off.

1 Q Okay.

2 A That's when it started to really come to me.

3 Q Okay. What -- what really came to you?

4 A That I was no longer there by choice.

5 Q Okay.

6 A It's a slow realization.

7 Q So, you were not in that car of your own free will.

8 A At that point, no.

9 Q What did you think was going on?

10 A I couldn't say for certain. At first I thought it was
11 a simple ride. You know, you're raised to trust your
12 family members. Later on in the ride, by the end of the
13 ride, I realized that that's no longer the case.

14 Q Okay. Did you think something bad had happened?

15 A Yes.

16 Q Okay. You just didn't know what.

17 A I didn't know what.

18 Q Did he get in the car with luggage?

19 A Not that I can recall.

20 Q Any -- any bags at all?

21 A I cannot recall.

22 Q Okay. Do you know what kind of car your uncle drove?

23 A I believe he drove a little brown pickup truck.

24 Q What's the farthest you've ever driven out of Cherokee
25 County?

1 A At the time, not very far. I only had my permit.

2 Q Were you eventually allowed to go back to Cherokee
3 County?

4 A Yes.

5 Q Were you afraid that the defendant was going to do
6 something to you?

7 A At the end of the ride, yes.

8 Q Okay. Do something to you physically?

9 A In any shape or form.

10 Q What time did you go to the rental property to get or
11 to pay rent to your uncle?

12 A I couldn't recall exactly. I know it wasn't -- it was
13 before dark, but it was in the afternoon.

14 Q Okay. So, I've been talking about the defendant and
15 your uncle. Is he in the courtroom here today?

16 A Yes. He is.

17 Q Could you point him out for the jury, please?

18 A In the black sweater.

19 Q In the black sweater.

20 A Yes.

21 Q Okay.

22 MS. BARRY: Your Honor, let the record reflect that
23 the witness has pointed at the defendant sitting at the
24 defense table.

25 THE COURT: It's so noted.

1 Q When you stopped -- if you hadn't stopped in Alabama
2 at the gas station, would you have kept on going through
3 Alabama?

4 A Could you repeat the question?

5 Q If you -- when you stopped at the gas station, what
6 did your uncle say?

7 A I can't recall exactly word for word. I know it was a
8 little bit of a hassle to be able to pull over, but I could
9 not drive any further.

10 Q Okay. You said it was a little bit of a hassle. Was
11 he unhappy that you had stopped?

12 A Yes.

13 Q Okay. Do you remember how you pulled into the gas
14 station?

15 A I do not.

16 Q Okay. But you were refusing to go any further, and he
17 was unhappy about it.

18 A Well, I couldn't. And at that point, like I said, I
19 realized I wasn't there by choice.

20 So, I had to tell him, you know, it's not possible for
21 me to drive any more.

22 Q Okay. Luis, I have no further questions for you. If
23 you will, please answer any questions Mr. Farr may have.

24 MR. FARR: Your Honor, may it please the Court -- Ms.
25 Barry, Mr. Haney.

1 CROSS-EXAMINATION

2 BY MR. FARR

3 Q Luis, have myself and you ever met before?

4 A No, sir.

5 Q Is this the first time?

6 A Yes, sir.

7 Q How many times have you met with the solicitor's
8 office?

9 A Might have been three times maybe.

10 Q Okay. And to get you ready for court today?

11 A To help me, yes.

12 Q Okay. Have they given you any materials to refresh
13 your memory or anything back in 2020?

14 A Not anything major. I seen probably 20 minutes worth
15 of video, but nothing more.

16 Q No. And that's just to get your mind refreshed about
17 something that happened, that happened to you being in a
18 vehicle three years ago.

19 A Well, they attempted to, but those are memories I try
20 to get out of -- out of my head. So, I was only able to
21 watch 30 minutes of it. I couldn't watch any more.

22 Q You said that you just had a learning permit.

23 A Yes, sir.

24 Q Okay. But you were able to drive before on a learning
25 permit.

1 A Yes, with somebody else in the vehicle.

2 Q Okay. And had you ever been by yourself?

3 A Could you reword that?

4 Q Have you ever driven a vehicle with your learning
5 permit by yourself?

6 A Not very often, no.

7 Q Okay. But you have before.

8 A I have, yes.

9 Q Okay. Do you have your own vehicle at the time when
10 you were 17 years old?

11 A Not exactly, no.

12 Q Okay. How many vehicles did you, your dad and mom
13 have?

14 A Might have been four.

15 Q Okay. And the vehicle you were driving this day,
16 whose vehicle was it?

17 A That was my stepmom's car.

18 Q Stepmom. She let you drive that vehicle with a
19 learning permit?

20 A Not knowingly, but yes.

21 Q Okay. And you testified that you stated that you were
22 going to friends, is that correct?

23 A Yes.

24 Q Okay. Do you remember -- have you given -- have you
25 given different versions of that story?

1 A Not that I can recall, no.

2 Q So, your only story today is that you told that you
3 were going to see friends, no one else.

4 A To the best of my memory, yes.

5 Q Okay. And you don't have anybody else that lives at
6 your house.

7 A At the time, just my dad and my stepmom and their
8 kids.

9 Q Okay. And at that time were you in high school?

10 A Yes.

11 Q Okay. What high school did you go to?

12 A At that time might have been Chesnee High School.

13 Q Okay. You said you were going to meet your uncle for
14 rent.

15 A I was going to drop off rent money, yes.

16 Q Okay. How much money did you give him to rent?

17 A I cannot recall the exact number.

18 Q Okay. Do you know -- do you remember the denomination
19 of the money?

20 A I do not.

21 Q So, you don't know if it's twenties, hundreds, tens?

22 A I can't recall.

23 Q Okay. Did you ever tell anybody that there was
24 another car?

25 A Not that I can recall, no.

1 Q Okay. And all you remember -- I don't want to change
2 or put words -- is that you went to a rental property.

3 A Yes.

4 Q Okay. Do you happen to know a Vasquez Perez will
5 Alberto?

6 A I believe it might be one of my uncle's step-kids.

7 Q Okay. Do you happen to know a Mr. or Ms. Lewis?

8 A Lewis?

9 Q Yes, sir.

10 A Lewis?

11 Q That's just the last name. Do you know of anybody?

12 A With the last name of Lewis?

13 Q Yes, sir.

14 A No.

15 Q Okay. And you remember that it was not dark.

16 A If I'm not mistaken, it was not dark, no.

17 Q Okay. When you said you picked up your uncle.

18 A Yes.

19 Q Okay. And how many times did you say you stopped?

20 A To my memory, it would have been twice.

21 Q Twice. I'm looking at Ms. Barry's exhibit. When
22 would -- when do you think your first stop would have been?

23 A I could not recall exactly on the map. I know it was
24 right around Atlanta.

25 Q Okay. Atlanta. Do you know what gas station?

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Cross-examination by Mr. Farr

1 A Not off the top of my head, I do not.

2 Q Okay. And at that time you went into the store,
3 correct?

4 A Yes.

5 Q Okay. And you testified that my client, your uncle,
6 was still in the vehicle.

7 A Yes.

8 Q He never got out.

9 A No. I was not -- I did not physically watch him while
10 I was in the gas station, but to my knowledge he did not
11 get out.

12 Q Did y'all make any purchases besides stopping at the
13 gas station?

14 A I remember it was gas. It might have been a Gatorade
15 but I can't -- I couldn't tell you exactly.

16 Q Okay. And then your next stop, you say, was in
17 Mobile, Alabama.

18 A To my memory, yes.

19 Q Okay. Ms. Barry asked you, the solicitor asked you,
20 about anything about a G.P.S., that you entered anything in
21 there. From Cherokee County did you enter anything into a
22 G.P.S.?

23 A I couldn't recall if I had, no.

24 Q Okay. So, we're looking at the map. What did -- what
25 did you take, just hit 85 and just continue on 85 until you

1 decided you felt like stopping?

2 A No. I was just told to drive in that direction, and I
3 believe it must have been Alabama where I said I could no
4 longer drive.

5 Q Okay. You testified that there was no bags that your
6 uncle put in the vehicle, correct?

7 A Not that I could recall.

8 Q Okay. Do you remember what he was wearing?

9 A I do not.

10 Q Did you step out of the vehicle or did law enforcement
11 get you out of the vehicle?

12 A They instructed me to get out of the vehicle.

13 Q Okay. And what did you tell the officer at the
14 beginning when he got you out?

15 A I can't recall word for word. I know it was the first
16 thing that came to mind.

17 Q What was that?

18 A I couldn't recall word for word.

19 Q Okay. In the vehicle, were y'all laying down --

20 A No.

21 Q -- or were you just sitting in the vehicle sleeping?

22 A I was in the driver's seat leaned back a little bit.

23 Q Okay. Leaned back. And you said you felt the hand
24 shaking you.

25 A I did.

1 Q Okay. Do you know where that hand went?

2 A It would have been on my right shoulder.

3 Q Okay. And when you were in Atlanta -- sorry to take
4 you back there -- you were in the gas station. Did you
5 call either of your parents, your stepmom or your dad?

6 A I did not.

7 Q And your phone was still on at that point that you
8 say.

9 A I could not recall exactly. Might have.

10 Q Okay. You used the word unhappy. What do you mean by
11 that?

12 A I'm sorry?

13 Q You used the word unhappy. What do you mean by that?

14 A In what?

15 Q The solicitor asked you about your uncle. You said he
16 was unhappy because you pulled over. What do you mean by
17 that?

18 A I do not believe he was pleased with that.

19 Q Did he yell at you?

20 A Not that I can recall, no.

21 Q How did you know the gas station was abandoned?

22 A I did not see any lights, any pumps or -- I know there
23 was one street light above it. Can't seem to put that.

24 Q Was it a rundown, closed gas station?

25 A More than likely, yes.

1 Q Okay. Did you ever talk to Investigator Parnell?

2 A Who would that be? I believe I did, yes.

3 Q Okay. How many times?

4 A Might have been twice.

5 Q Twice?

6 A Uh-huh.

7 Q Did your story ever change during his conversations
8 with you?

9 A I do not believe so.

10 Q Okay. Do you remember those conversations?

11 A Not word for word, no.

12 Q No. Did you give your cell phone number to the
13 investigator?

14 A I offered to, and they said they could pull it up
15 through their systems.

16 Q Okay. But did you ever give it to them?

17 A No. I did not.

18 Q Did you give them your phone number?

19 A I do not recall that particularly.

20 Q Okay. Just ask you real quick. You do not remember
21 anything that your uncle was wearing when he got in the
22 vehicle with you.

23 A I can't recall exactly, no.

24 Q Okay.

25 MR. FARR: Your Honor, that's all the questions I have

216 Luis Abarca
Redirect examination by Ms. Barry

1 for the witness.

2 THE COURT: Anything at all?

3 MS. BARRY: Yes, sir, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. BARRY

6 Q Luis, when you stopped at that gas station in Atlanta,
7 you said that you went inside, right?

8 A Yes.

9 Q So, you lost sight of the defendant.

10 A I did.

11 Q which means you don't know what he was doing at that
12 car.

13 A No. I do not.

14 Q So, you can't say if he got out of that car or not.

15 A I cannot, not confidently, no.

16 Q But you remember that you picked him up --

17 A Yes.

18 Q -- in Cherokee County --

19 A Yes.

20 Q -- and he told you to drive.

21 A Yes.

22 Q He kept telling you to drive.

23 A Yes.

24 Q You went through Atlanta.

25 A Yes.

1 Q And then you left the State of Georgia.

2 MR. FARR: Your Honor, I'm going to object. This is
3 asked and answered. Also, outside of cross-examination.

4 MS. BARRY: I'm asking what he remembers.

5 THE COURT: Move along.

6 Q But he was angry -- was he angry at you?

7 A By the end of it, I could feel the tension, yes.

8 Q And you said that when Mr. Farr asked you to define
9 what unhappy was with you, and you said he was not pleased.

10 A Yes.

11 Q Did he say something to that effect?

12 A I believe I might have told him, sure, that I couldn't
13 drive any further and he said just continue to drive.

14 Q Okay. He was not happy that he had stopped.

15 A From what I could tell, no.

16 MS. BARRY: No further questions.

17 THE COURT: Anything at all?

18 MR. FARR: No, sir.

19 THE COURT: Sir, you may step down. Please be
20 careful.

21 MS. BARRY: Your Honor, may this witness be excused?

22 MR. FARR: No objection, Your Honor.

23 THE COURT: Sir, you may stay or go, whichever you
24 choose.

25 THE WITNESS: Thank you.

218 Pate Cardwell
Direct examination by Ms. Barry

1 (Whereupon, the witness was excused.)

2 MS. BARRY: Your Honor, the state would call Deputy
3 Pate Cardwell to the stand.

4 PATE CARDWELL, having been
5 first duly sworn, testified as follows:

6 THE COURT: Officer, if you will, tell us who you are.
7 And spell your last name for madam court reporter please.

8 THE WITNESS: My name is Pate Cardwell.
9 C-A-R-D-W-E-L-L.

10 THE COURT: Thank you.
11 Solicitor.

12 MS. BARRY: Thank you, Your Honor.

13 DIRECT EXAMINATION BY MS. BARRY

14 Q Deputy Cardwell, where are you currently employed?

15 A The Baldwin County Sheriff's Office in Baldwin County,
16 Alabama.

17 Q How long have you been employed there?

18 A Since February 4th of 2019.

19 Q What are your duties there now?

20 A Currently, I am a narcotics investigator assigned to
21 the drug task force.

22 Q Okay. Were those your duties on July the 19th of
23 2020?

24 A No, ma'am. At that time I was assigned to patrol.

25 Q And what were your duties as a patrolman?

1 A Answer calls for service, traffic stops, warrant
2 services, close patrols, that kind of stuff.

3 Q Did those duties bring you in contact with the
4 defendant in this case?

5 A They did.

6 Q How did you come in contact with him?

7 A I was riding by a gas station that was closed at the
8 time. It was Mil and I about 3:00 o'clock in the morning.
9 Sets right off of I-65. We'd had a bunch of problems with
10 that gas station around that time to include people
11 breaking in and hooking the chain to an A.T.M. and trying
12 to drive the A.T.M. out of there. So, kind an increased
13 presence in that area.

14 I pulled in the driveway or the drive to the gas
15 station. It goes down a small hill. And they were --
16 there was a car there in the parking lot of the closed gas
17 station.

18 Q Okay. So, that was a little bit of a concern based
19 off of what had been going on at the gas station.

20 A Yes, ma'am.

21 Q Okay. Do you get out of the car?

22 A I did. So, as I pull in my -- my headlights kind of
23 crossed the -- the car that was there. And then, like, two
24 heads pop up, like one in the driver's seat and one in the
25 back passenger seat.

1 So, I don't have my lights on or anything but I -- I
2 get out. It's a marked unit. I'm in uniform. I get out
3 and start talking to the driver.

4 Q Okay. How does the driver seem when you come in
5 contact with him?

6 A From the start it seemed like there was something
7 going on that it looked like some kind of criminal
8 activity, you know, from my experience. He was nervous.
9 He told me that he was --

10 MR. FARR: Objection, Your Honor. Hearsay. The
11 individual just testified, said he didn't recall anything
12 that he said to the officer.

13 MS. BARRY: Your Honor, I'm going to argue that this
14 is all going to be under the present sense impression
15 exception to hearsay.

16 Mr. Abarca testified that he was scared, so, anything
17 that he had told the officer he was saying as he was
18 experiencing this fear.

19 MR. FARR: I still say that's hearsay. I don't think
20 it's under the present sense impression. There's nothing
21 happening at that time. He could say that he was scared,
22 but there's no action or activity happened for that present
23 sense impression.

24 THE COURT: He's already testified, number one, and,
25 number two, it is present sense.

1 Go ahead.

2 MS. BARRY: Thank you, Your Honor.

3 Q So what did Luis tell you?

4 A That he was driving his uncle to see his aunt in New
5 Orleans at a hospital, that she COVID.

6 Q Okay. And did that make sense to you?

7 A It did not. It was -- again, it's in 2020. It was
8 kind of in the whole COVID time. My wife works at a
9 hospital and they were --

10 MR. FARR: Objection. Hearsay.

11 THE COURT: Well --

12 MR. FARR: He's talking about his wife being a nurse
13 and protocols.

14 MS. BARRY: He hasn't said anything that his wife
15 said.

16 THE COURT: Okay. Don't tell us anything your wife
17 said.

18 BY MS. BARRY

19 A It didn't -- it sounded suspicious travel so far to go
20 to see someone in a hospital with COVID.

21 Q Okay. Does that story change?

22 A It does.

23 Q Okay. What does he tell you after that?

24 A I approached him. I went back to my vehicle and kind
25 of ran his driver's license real quick. I approached him a

1 second time. He's still out of the vehicle -- the nephew
2 is. And I just told him, I said, you know, it's not likely
3 that you're driving to New Orleans. And he said, no, I
4 made that up, I'm actually going to Houston. And he said
5 he was scared, and he asked if I could walk away from the
6 vehicle and talk to him.

7 Q Okay. And did you do that?

8 A I did.

9 Q Okay. And then what did he tell you?

10 A Just that he didn't know what was going on. He
11 thought that his -- he said he thought that he was in
12 danger, he thought that his uncle had done something bad.
13 And I asked him what. He said he didn't know.

14 And he said that he had his phone with him when they
15 got in the car but that his uncle took his phone and turned
16 it off and that every time he would slow down he would --
17 his uncle would say -- you know, some -- he would act up, I
18 guess, act out about him slowing down or not wanting to
19 stop. And so he said he was scared. He had no idea, you
20 know, where he was and that kind of stuff.

21 Q Okay. How is the defendant acting?

22 A Well, when I got out and approached the vehicle the
23 first time, he was in the back seat alone. He puts on a
24 COVID mask if that -- I guess I'll call it a COVID mask.
25 But he puts on one of those masks and he just stares

1 straight ahead where he's sitting. He's just staring the
2 whole time. So, I try to talk to him, and he didn't want
3 to talk to me or really didn't understand English. So, I
4 left him in the car.

5 Q Okay. Do you ask to search the car?

6 A I did.

7 Q Who did you ask for consent to search?

8 A The nephew you who was the driver. He said the
9 vehicle belonged to his stepmother.

10 Q Okay. Did he give you consent to search?

11 A He did.

12 Q Okay. Did you find anything in the car?

13 A I found a few things. The car was mostly empty.
14 There was, like, some empty bottles and cups in the trash,
15 but there was no bags, no luggage, no anything for a trip
16 to New Orleans to see someone in a hospital, or even to
17 Houston. So, it was really empty all the way around in
18 that the only thing of significance was the floorboard in
19 the back passenger side was some money and some passports.

20 Q How much money, do you remember?

21 A I don't know the exact number, but it's around a
22 thousand dollars.

23 Q I'm going to show you what's been premarked as State's
24 Exhibit 51. Do you recognize these? Take a look at them.

25 A I do.

1 Q Are those the passports that you found in the -- in
2 the car?

3 A Yes, ma'am.

4 Q Have they been altered or changed in any way?

5 A No, ma'am.

6 MS. BARRY: Your Honor, at this time I'd like to admit
7 State's Exhibit 51 into evidence.

8 MR. FARR: Objection, Judge, under they're not
9 relevant, and I think if you believe they're relevant under
10 403 they're prejudicial. Those are my objections.

11 THE COURT: They're not overly prejudicial under 403
12 and they are relevant and they're in.

13 (Passports marked State's Exhibit No. 51.)

14 MS. BARRY: Thank you, Your Honor. Permission to
15 publish.

16 THE COURT: Yes, ma'am.

17 BY MS. BARRY

18 Q Can you tell the jury what that is?

19 A That is one of the passports that was in the car.

20 Q And that is the defendant?

21 A Yes, ma'am.

22 Q But this one is expired, right?

23 A One of the two is. I can't read very well from here.
24 One of the two is expired. I ran them both through our
25 dispatch.

1 Q Okay.

2 A Just that, you know, it's not a driver's license. We
3 can't get much back, but it could tell if there was like
4 a -- there's a nationwide database can tell if he had a
5 warrant or something like that.

6 Q Okay. And then the same thing with this one. This is
7 a passport?

8 A Yes, ma'am.

9 Q Belonging to the defendant.

10 A Yes, ma'am.

11 Q How close -- where you had found them, how close is
12 that to the Mississippi state line?

13 A It's another 30. That would have been at exit 37 on
14 I-65. That would have ended zero -- at I-10, and from I-10
15 to Mississippi, probably another 30. So, an hour probably
16 to the Mississippi line.

17 Q Did you ever put Luis in handcuffs?

18 A I did.

19 Q Why?

20 A He requested that I put him in handcuffs.

21 Q And what is that?

22 A Because he said that if I was going to put his uncle
23 in handcuffs, he wanted to be in handcuffs so that he
24 didn't think that he was telling something he shouldn't.

25 Q Okay. Did you ever find a phone on Luis?

226 Pate Cardwell
Cross-examination by Mr. Farr

1 A I don't know if it was on him or in the vehicle, but
2 there was a phone in the vehicle. I believe it was the
3 vehicle.

4 Q Was it on or was it off?

5 A It was off.

6 Q Okay. Did you turn it on?

7 A I did.

8 Q Why?

9 A To call Luis' dad --

10 Q Okay.

11 A -- or parent, but it ended up being his dad.

12 Q Okay. Do you remember if the defendant had a phone?

13 A I don't.

14 Q Okay. Deputy Cardwell, I have no further questions.
15 If you will, answer any that Mr. Farr may have.

16 A Okay.

17 CROSS-EXAMINATION

18 BY MR. FARR

19 Q Where do you work, again?

20 A In the Baldwin County Sheriff's Office.

21 Q How long did you say you've been with them?

22 A Next month will be five years.

23 Q Five years. And you were a patrolman at the time?

24 A Yes, sir.

25 Q And when you got out -- did you already have Luis

1 outside the car by the time you came up there and you cut
2 your body cam on?

3 A Yeah. I'm not sure why. There's two ways our body
4 cam comes on. It's either -- you either have to remote
5 start it yourself or when your lights or emergency lights
6 are on and the door opens, the body cam comes on. So, at
7 some point when the video starts, it's actually like two or
8 three minutes after the initial contact.

9 Q Okay. Have myself or you ever talked on the phone
10 before today?

11 A No, sir.

12 Q Have you talked to you the solicitor's office
13 before -- Ms. Barry that just asked questions.

14 A Yes, sir.

15 Q How many times have you talked to her?

16 A On the phone?

17 Q Yes, sir.

18 A Probably twice.

19 Q What about meeting in person?

20 A Never.

21 Q Okay. Until today.

22 A Today.

23 Q Okay. Have you reviewed all of body cam material and
24 report before today?

25 A I have.

1 Q Okay. Where did Luis say he was coming from?

2 A I think he specifically said Gaffney.

3 Q He did? And that's what he specifically said when
4 he -- when you first got out and you --

5 A Oh, in that -- in the first minute, I don't know.

6 Q Okay. And --

7 A I mean, I reference to a 2-hour-long video. He said
8 Gaffney is where he was coming from.

9 Q Okay. But he didn't say where he -- before he was
10 coming from?

11 A South Carolina.

12 Q Okay.

13 MR. FARR: Judge, if the Court can allow me, I would
14 like to refresh this officer's mind --

15 THE COURT: Sure.

16 MR. FARR: -- which is the first 15 seconds with his
17 body cam.

18 MS. BARRY: Your Honor, may we approach?

19 THE COURT: Sure.

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

22 THE COURT: Madam Forelady, ladies and gentlemen, this
23 is one of those matters that I told you would come up in
24 each and every trial. I need to excuse you from the jury
25 room [sic] while we rule on a matter of law.

1 So, please take the jury out. It won't be very long.

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

4 THE COURT: Whatever you need, Mr. Farr.

5 Q I'm going to let you -- I'm going to play a few
6 snippets for you to refresh your memory. I don't mind
7 coming up here. First 15 seconds.

8 (Whereupon, the video was played for the witness.)

9 Q That's the very beginning, and I'm going to play one
10 more thing. Okay.

11 (Whereupon, the video was played for the witness.)

12 (Pause.)

13 (Whereupon, the video was played for the witness.)

14 Q Play one more snippet.

15 (Pause.)

16 (Whereupon, the video was played for the witness.)

17 MR. FARR: Judge, I am just trying to get the right
18 number. That was it. That was the two parts. That there
19 was it, Judge.

20 THE COURT: Ready?

21 MR. FARR: Will that refresh you?

22 THE WITNESS: Yes, sir.

23 THE COURT: Are we ready for the jury?

24 MR. FARR: Yes, sir.

25 THE COURT: Bring the jury.

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

3 THE COURT: Okay. Thank you, Madam Forelady and
4 ladies and gentlemen.

5 Mr. Farr.

6 MR. FARR: Your Honor, may it please the Court again

7 -- Ms. Barry, Mr. Haney

8 BY MR. FARR

9 Q Playing those two little snippets, did that refresh
10 your memory?

11 A Yes, sir.

12 Q Okay. And when you first approached -- I'm talking
13 about the very beginning -- and when you talked to Luis,
14 did he tell you where he was coming from?

15 A Are you talking about the very first, before that even
16 video?

17 Q Right there where I just showed you.

18 A He didn't tell me. I asked to -- I said just so for
19 me to get this right, you guys are coming from North
20 Carolina, and he said yes.

21 Q Okay. Okay. Did he tell you a few minutes later
22 where he saw his uncle?

23 A At his house.

24 Q Did you ever look at Luis' cell phone?

25 A I don't believe I did as far as go through it or

1 anything of that, no, sir.

2 Q Did you ever seize the cell phone?

3 A No, sir, not to like put it in property or anything
4 like that. He left with it.

5 Q Okay. Was there any conversation about work in
6 Alabama?

7 A No, sir. Not that I remember.

8 MR. FARR: Judge, that's all the questions I have.

9 THE COURT: Anything at all?

10 MS. BARRY: No, sir, Your Honor.

11 THE COURT: Thank you.

12 Officer, you may step down. Please be careful.

13 MS. BARRY: Your Honor, may this witness be excused?

14 MR. FARR: No objection, Your Honor.

15 THE COURT: Officer, you may stay or go, whichever you
16 choose.

17 THE WITNESS: Thank you.

18 THE COURT: Thank you.

19 (Whereupon, the witness was excused.)

20 MR. HANEY: Your Honor, the state calls Michael
21 Bridges to the stand.

22 MR. FARR: Judge, I would have objection. I'd like
23 that objection outside the presence of the jury, I guess.

24 THE COURT: Okay. Madam Forelady and ladies and
25 gentlemen, if you'll retire to the jury room momentarily.

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

3 THE COURT: Do you object to the state calling a
4 witness?

5 MR. FARR: Yes, sir. This witness is not relevant.

6 Judge, this piece -- piece of evidence that they're
7 trying to get in -- this is the preacher, Your Honor, about
8 video footage of, I'm assuming, somewhere, sometime between
9 2:55 to about 3:30.

10 Judge, it's not relevant from the standpoint of this
11 case. Nobody can determine what they're actually trying to
12 look at. Nobody can say for a fact that that's my client's
13 vehicle.

14 I believe by letting it in, it is a critical part of
15 the state's case, which is what they're trying to prove is
16 the act forbidden by law.

17 Judge, however, there's no concrete evidence that's
18 been introduced on this record that that is my client's
19 truck on this video when it is produced, and it is going
20 down a road.

21 Judge, I think it is misleading the jury, and I think
22 if you look at the breakdown of an analysis, we go first to
23 401 about whether or not it's relevant. It's not relevant
24 from the standpoint of this case because nobody has
25 testified or put in the record that when this video gets

1 played that that's my client's. Nobody has described it or
2 anything like that.

3 Judge however, if this Court says 401 applies, we look
4 at 402. 401 -- there's no constitutional rule or anything
5 like that that says it shouldn't be admitted.

6 And if we look at 403, Judge, I honestly believe
7 looking at 403, I believe this is going to be misleading
8 the jury from the standpoint of what the state is trying to
9 present and the standpoint to say, hey, it's an identical
10 truck, it's an identical truck that goes down there, but
11 the investigator and nobody else is going to be able to
12 testify that's the exact truck of my client.

13 Judge, and that's why I believe it should be excluded
14 with this witness and this video, because I believe looking
15 at the video itself, it is going to be confusing the issue,
16 misleading the jury and I believe it's unfair prejudice,
17 Judge.

18 That is my argument as long -- as well as -- sorry,
19 Judge. I'm thinking off the top of my head. I can't think
20 of it right now, but that is my argument, Judge.

21 THE COURT: Solicitor.

22 MR. HANEY: Yes, Your Honor.

23 For the record's sake, we're referring to what's been
24 premarked as State's Exhibit No. 54. This is a church
25 surveillance video.

234 Michael Bridges (In-camera)
Direct examination by Mr. Haney

1 Mr. Farr states that that video is prejudicial to his
2 client. I hope it is. That's not the standard here. The
3 standard in 403 is whether or not the probative value
4 substantially outweighs my -- the unfair prejudice and look
5 at the evidence, all of that.

6 The probative value here is that it shows a vehicle
7 that matches the description of his client, the defendant,
8 on video going near the incident location where this
9 happened, where her body was found. So, for those reasons
10 we would ask that this be admitted.

11 THE COURT: Okay. Well, the -- the objection to the
12 state calling the witness is overruled. They can call
13 whoever they want.

14 But at this point in time your -- you are the
15 proponent. The state is the proponent of the evidence.
16 There's nothing for me to rule on.

17 So, if you want to do a proffer, you'll have to
18 proffer it so we can put something on the record.

19 So, call your witness.

20 MR. HANEY: The state calls Michael Bridges to the
21 stand.

22 THE COURT: Come on up, Reverend, and be sworn.

23

24

25

1 MICHAEL BRIDGES, having been
2 first duly sworn, testified as follows:

3 THE COURT: Sir, tell us who you are, and spell your
4 last name, please.

5 THE WITNESS: My name is Michael Bridges.
6 B-R-I-D-G-E-S. Pastor of Concord Baptist Church here in
7 Gaffney.

8 THE COURT: Thank you.
9 Solicitor.

10 MR. HANEY: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MR. HANEY

12 Q Good afternoon, Mr. Bridges. You stated that you're
13 the pastor of Concord Baptist Church.

14 A Yes, sir.

15 Q Is that in Cherokee County?

16 A It is in Cherokee County.

17 Q How long have you been the pastor there?

18 A I've been there a total of 26 years -- 25 as a pastor
19 and one as interim.

20 Q So, you were working there in the summer of 2020?

21 A Yes.

22 Q As pastor are you aware of any cameras at that church?

23 A Yes. We do have security cameras there.

24 Q And do some of those security cameras -- are they
25 located outside the church?

236 Michael Bridges (In-camera)
Direct examination by Mr. Haney

1 A Yes, yes. We have some around perimeters.

2 Q And do you have a video or a camera that's pointed
3 towards Concord Road in front?

4 A Yes.

5 Q And does that same camera also capture partially
6 Concord Heights Road, where it intersects with Concord?

7 A Yes.

8 Q And that's in Cherokee County.

9 Now, does that have surveillance -- is it just a live
10 feed or does it record to something?

11 A Yes. It records to a device on a computer system.

12 Q And are you the custodian of that surveillance as
13 pastor?

14 A Yes, as pastor, yes, and as overseer of all things
15 there.

16 Q And were the cameras recording and saving surveillance
17 from July 18th of 2020?

18 A Yes.

19 Q And did you provide a copy of that surveillance to law
20 enforcement?

21 A Yes.

22 Q I'm going to approach the witness and show you what's
23 been premarked as State's Exhibit No. 54. Please have a
24 look at that.

25 A Yes.

1 Q Do you recognize that?

2 A Yes.

3 Q How do you recognize it?

4 A I recognize it upon viewing it with Ms. Barry and the
5 staff.

6 Q Did you initial it?

7 A Yes.

8 Q What was the date on that?

9 A That is 12/6/23 when we reviewed it.

10 Q And what is this?

11 A That is the footage that the department when they was
12 investigating pulled from the system of that day.

13 Q Okay. Is this the church surveillance that we were
14 just talking about?

15 A Yes.

16 Q And is it a fair and accurate representation of what
17 was captured on surveillance?

18 A Yes.

19 Q Has it been changed or altered?

20 A No.

21 MR. HANEY: At this time I'd like to offer State's
22 Exhibit No. 54 into evidence.

23 THE COURT: For the purpose of the proffer.

24 MR. HANEY: Yes.

25 THE COURT: Any objection?

238 Michael Bridges (In-camera)
Cross-examination by Mr. Farr

1 MR. FARR: To offering that? I just want to ask a few
2 questions.

3 THE COURT: Oh, yeah. I'm going to do. Any objection
4 to the video at this stage for the proffer?

5 MR. FARR: I was -- I thought under the proffer I got
6 to ask questions. If not --

7 THE COURT: You are. I'm just asking. He is
8 introducing this.

9 MR. FARR: I'm still objecting to that until --

10 THE COURT: In trial. I'm talking about for the
11 proffer.

12 MR. FARR: Oh, at this time to play it? I don't have
13 any objection for him to play it.

14 THE COURT: Okay. It's before the Court for a proffer
15 only. It's not into evidence.

16 Okay. You got some more questions, or not?

17 MR. HANEY: Nothing further.

18 THE COURT: Okay. Yes, sir.

19 Q Please answer any questions Mr. Farr may have for you.

20 CROSS-EXAMINATION

21 BY MR. FARR

22 Q Pastor --

23 A Yes, sir.

24 Q -- looking at the video, do you know anything on that
25 video?

1 A Do I know what, sir?

2 Q Do you know anything on that video?

3 A I -- I know of that section that we saw when the
4 detectives came to ask if we had surveillance when they
5 pulled that that day.

6 Q I understand that, but I'm saying looking at that
7 surveillance, do you have any personal knowledge with
8 what's on that video.

9 A Just only what that section that they looked at that
10 day.

11 Q That's all you know. You don't know anything else
12 that's on that actual video.

13 A That's just that section is what I saw --

14 Q Okay. Do you --

15 A -- of -- of a vehicle that they -- that the officers
16 were looking for on that day when they were gathered out
17 there and saw those cameras.

18 Q Okay. So, you're saying that you personally have
19 knowledge of a vehicle on this video.

20 A No.

21 Q Okay.

22 A I have -- I have knowledge of what they were looking
23 for when they came to our church looking for what they
24 were -- they just wanted to see it.

25 Q Okay.

240 Michael Bridges (In-camera)
Cross-examination by Mr. Farr

1 A So, we let them see it.

2 Q To see the video.

3 A Excuse me?

4 Q You were just letting investigators look at a video.

5 A They were looking at the surveillance from my cameras.

6 Q Okay.

7 A And then they made a copy of it, yeah, this copy.

8 Q Okay. And on this video do you personally -- you
9 personally -- see my client?

10 A I didn't see him. I just saw what they saw. No. I
11 don't know. I didn't see him.

12 Q Okay. Do you personally -- you personally -- know
13 what my client drives?

14 A No.

15 Q Okay.

16 A I don't know.

17 Q You don't know anything about my client.

18 A All I know -- no. I don't know nothing about him.

19 Q I'm not asking you about --

20 A I don't know him, no.

21 Q Pastor, I'm not trying to trick you.

22 A I know.

23 Q I know that you sat with him and sat with the
24 solicitor. I'm asking for own personal knowledge.

25 A Yes.

1 Q Okay. This video that you've seen --

2 A Yeah.

3 Q -- do you have any personal knowledge of my client on
4 this video -- your own personal knowledge?

5 A No, no.

6 Q Okay. And you could not describe anything on this
7 video of my client.

8 A No.

9 Q Okay.

10 MR. FARR: That's all the questions I have, Your
11 Honor.

12 THE COURT: Okay. Are you going to play it?

13 MR. HANEY: We can for the purposes of this hearing,
14 Your Honor, if you like.

15 THE COURT: How long is it?

16 MR. FARR: Thirty minutes.

17 MS. BARRY: Thirty minutes.

18 THE COURT: We've got plenty.

19 (Whereupon, the video was played for the Court.)

20 MR. HANEY: Judge --

21 THE COURT: Yes, sir.

22 MR. HANEY: -- if I may interrupt, we've seen the --
23 the truck both coming to the incident location and also
24 leaving the incident location at this point.

25 We can go on if we need to. There's also another

1 angle that shows a similar view of the truck pulling in and
2 out. I think for the purposes of this hearing I would --
3 positive we've seen enough.

4 THE COURT: Okay. Do you agree with that?

5 MR. FARR: Yes, sir. I saw it. I saw the video.

6 THE COURT: Anything else?

7 MR. FARR: Not at this time, Your Honor.

8 THE COURT: Anything from the state?

9 MR. HANEY: Your Honor, I can continue to argue why it
10 should come in if the Court would like.

11 Your Honor, it is relevant under 401 because it shows
12 the truck that matches the description of the defendant.
13 We've had several witnesses. All of them say it's a little
14 brown truck, something to that effect.

15 It is on Concord Road, which intersects with Concord
16 Heights Road. That view or the other view also showed
17 Concord Heights Road, which is leading to the field of
18 where this murder occurred. So that is relevant to what --
19 under 401.

20 Under 403 it is extremely probative because it puts a
21 vehicle matching his description in the incident location
22 at the approximate time that we believe the death occurred.

23 As for comments made earlier or arguments made earlier
24 by Mr. Farr that this witness has no personal knowledge of
25 this defendant or what the defendant drives, he doesn't

1 have to. He's a custodian of records. He has no clue or
2 no -- no reason to know anything on that video other than
3 the video was taken and stored. He's the custodian of
4 record.

5 So, for that purpose, Your Honor, we would ask that it
6 be allowed to come in once it's actually introduced.

7 THE COURT: Anything further from the defense?

8 MR. FARR: Judge, I argued originally under 403 gave
9 the breakdown.

10 The word I was missing was speculation, Judge, but
11 also I would argue that that video has no date stamp, and
12 that's why I went up there to look.

13 I know he testified, but he testified to June 18th of
14 2020, but there is not a date stamp actually on the video.

15 THE COURT: Yeah. There's a stamp and a time.

16 MR. HANEY: Bottom left.

17 MR. FARR: Okay. I just couldn't see.

18 THE COURT: Yeah. There's a stamp and a time. I was
19 watching it.

20 Okay. Relevant evidence is -- is -- this reverend is
21 the custodian of the evidence, of the video that's being
22 propounded.

23 There's been no question as to its authenticity, so
24 therefore the Court accepts that it is authentic. Under
25 rule 401 relevance is a low standard. Any tendency to make

1 the existence of any fact to the determination of the
2 action more probable or less probable than without the
3 evidence -- here, it's alleged a truck matching the general
4 description of defendant's truck was in the vicinity on the
5 date and time thought to be the time of the incident
6 itself. So, it comes in as relevant under 401.

7 Under 403, unfair prejudice is an undue tendency to
8 suggest a decision on an improper basis such as an
9 emotional one.

10 There is nothing emotional about vehicles passing by
11 the church captured on surveillance cameras.

12 In 2024 it is common for law enforcement to canvass
13 neighborhoods for ring doorbells or flock cameras in the
14 vicinity and to get that and to copy that footage.
15 Personal knowledge of what's on there is not relevant
16 whatsoever. It's not required. Again, authenticity is not
17 challenged.

18 So, according to Professor Walter A. Riser, Jr. in
19 this little book right here on evidence, it comes in. It's
20 relevant. It is not unduly prejudicial. Therefore, it
21 comes in. But you're protected on the record.

22 MR. FARR: Well, I know this is under proffer. Judge,
23 it know it's under proffer. When they come back in, I'll
24 just need to make it for the Court at that time.

25 THE COURT: You may do that, sure.

1 MR. FARR: Yes, sir. Not the whole full pledge, I
2 think, but I'll make it.

3 THE COURT: It's fine with me.

4 And, sir, we'll let you step down so that you can be
5 properly called and re-sworn, because the jury saw none of
6 this.

7 Okay. Thank you, Reverend. Have a seat right there.

8 Yes, sir.

9 Everybody ready for the jury?

10 MS. BARRY: Yes, sir, Your Honor.

11 THE COURT: Okay. We'll have the jury.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: Thank you, Madam Forelady, ladies and
15 gentlemen.

16 Solicitor, I have an objection on the floor. Do you
17 want to be heard?

18 MR. HANEY: Yes, Your Honor.

19 This witness is the party that needs to be testifying
20 about the evidence that the state seeks to admit.

21 It is -- he is the custodian of record. We just ask
22 that he be allowed to take the stand and testify, and we
23 can argue about the evidence later.

24 THE COURT: Okay.

25 MR. FARR: Judge, I'm going to go ahead and make my

1 full argument from the standpoint that I'm arguing about
2 the preacher introducing the video under 403, speculation
3 and those are the two objections that we previously heard.
4 I'm renewing them again at this point in time, Judge.

5 THE COURT: Okay. Do you want to be heard on it?
6 He's offering it under 40 -- say it stays out under 401 and
7 403.

8 MR. HANEY: Your Honor, 401 is relevance. That -- any
9 relevant evidence is the evidence tends to prove the
10 existence of a fact.

11 In this case this video would be relevant due to the
12 fact that several witnesses have testified to the
13 description of the truck that was given by the defendant.
14 And that's what's on this video.

15 So, we would now argue that it is both relevant and
16 comes under 403 because it is not probative value. That
17 video is not substantially outweighed by any other factor
18 under 403.

19 THE COURT: Anything else on that?

20 MR. FARR: Just to clarify. My part on 403 was unfair
21 prejudice, confusion of the issues and misleading the jury.
22 Judge, those were the three under 403 that I argued
23 earlier.

24 THE COURT: Okay. First of all, the objection to him
25 testifying is overruled. The state could call whatever

1 witness they choose to testify as long as they offer
2 relevant testimony.

3 Number two, as to it not coming in under rule 401,
4 which is relevance, and 403, the reverend is a custodian of
5 the video, and we watched the video outside the presence of
6 the jury.

7 There's been no question as to the authenticity of
8 this video. Rule 401, relevance, is a low standard. Any
9 tendency to make the existence of a fact, of any fact,
10 through the determination of the actual more probable or
11 less probable than without the evidence, here, it is
12 alleged a truck matching the general description of the
13 defendant's truck was in the vicinity on the date and time
14 thought to be the time of the incident.

15 Under rule 403 it is not unfair prejudice. Unfair
16 prejudice is defined as an undue tendency to suggest a
17 decision on an improper basis such as an emotional one.

18 There is nothing emotional in this video about
19 vehicles passing by the church captured on surveillance
20 cameras belonging to the church.

21 In 2024 it is common for law enforcement to canvass
22 neighborhoods or ring door bells or flock cameras footage
23 so that they can further their investigation. Personal
24 knowledge is not required.

25 And, again, I'm quoting from Professor Rizer's

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1 evidence book.

2 Okay. Anything further?

3 MR. HANEY: Nothing further, Your Honor.

4 THE COURT: You're protected on the record.

5 MR. HANEY: Yes, sir.

6 THE COURT: Are you going to call your next witness?

7 MR. HANEY: Yes, Your Honor. The state calls Michael
8 Bridges to the stand.

9 MICHAEL BRIDGES, having been
10 first duly sworn, testified as follows:

11 THE COURT: Pastor, tell us who you are, please, and
12 spell your last name for madam court reporter.

13 THE WITNESS: My name is Michael Bridges. Last name,
14 B-R-I-D-G-E-S. I am Pastor of the Concord Baptist Church
15 here in Gaffney, South Carolina.

16 THE COURT: Thank you.

17 Solicitor.

18 DIRECT EXAMINATION BY MR. HANEY

19 Q Mr. Bridges, you're the pastor of the Concord Baptist
20 Church?

21 A Yes.

22 Q How long have you been the pastor of that church?

23 A Twenty-six years, one as interim and 25 as pastor.

24 Q Where is Concord Baptist Church?

25 A It is here in Cherokee County out near Hwy. 18. Some

1 call it Grassy Pond area.

2 Q Okay. Is it on Concord Road?

3 A It is on Concord Road.

4 Q Were you working there as pastor in the summer of
5 2020?

6 A Yes.

7 Q And to your knowledge as pastor does the church have
8 surveillance cameras?

9 A Yes. We do have surveillance cameras.

10 Q Are those cameras outside?

11 A Yes. We have some inside and some outside the
12 perimeter.

13 Q Do any of the outside surveillance cameras point
14 towards Concord Road --

15 A Yes.

16 Q -- away from the church?

17 A Yes. They do point to Concord.

18 Q And do any of those videos also point towards the
19 direction of Concord Heights Road?

20 A Yes.

21 Q Does Concord Heights Road intersect with Concord Road?

22 A Yes.

23 Q Right there at the church?

24 A Yes, right near the church.

25 Q Does the surveillance at the church, is it just a live

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Direct examination by Mr. Haney

1 feed, or does it record to a computer?

2 A Yes. It records to a computer over time.

3 Q And are you the custodian of the surveillance?

4 A Yes. I'm the pastor there. I oversee everything.

5 Q Were the cameras recording and storing that
6 surveillance on July 18th of 2020?

7 A Yes.

8 Q And did you provide a copy of that to law enforcement?

9 A Yes.

10 Q I'm going to show you what's State's Exhibit 54.

11 Please have a look at that. Do you recognize it?

12 A Yes, sir.

13 Q How do you recognize it?

14 A Recognize it. This is the copy of the surveillance
15 that was viewed with Attorney Barry and her staff.

16 Q And, so, you reviewed this prior to today?

17 A Yes.

18 Q How do you know it's the same copy?

19 A It's the same copy because I signed it and dated it
20 the day we viewed it.

21 Q What date was that?

22 A That was on 12/6/23.

23 Q Again, what is that video?

24 A That is the video from the camera facing Concord Road
25 from our church.

1 MR. HANEY: At this time I'd like offer this into
2 evidence, Your Honor.

3 MR. FARR: Judge, renewing my motion under 403. I
4 don't believe it's relevant. Also, I believe it is
5 misleading to the jury and also believe it is speculation.
6 Judge, those are renewing those motions again.

7 THE COURT: Over your objection, it's admitted.

8 (Surveillance video marked State's Exhibit No. 54.)

9 Q Please answer any questions the defense may have for
10 you.

11 MR. FARR: I have no questions, Your Honor.

12 THE COURT: No questions.

13 Okay. Sir, you may step down. Please be careful.

14 THE WITNESS: Thank you, sir. Thank you.

15 MR. HANEY: May the pastor be excused, Your Honor?

16 MR. FARR: No objection, Your Honor.

17 THE COURT: Without objection.

18 Sir, you may stay or go.

19 THE WITNESS: Thank you.

20 THE COURT: Thank you.

21 THE WITNESS: Nice to meet you.

22 THE COURT: Thank you, sir.

23 (Whereupon, the witness was excused.)

24 THE COURT: That's it?

25 All right. Madam Forelady, ladies and gentlemen,

1 that's going to be it for today.

2 The next witness that will come up to the stand will
3 be a little late being here, I'm told, so we're toward the
4 end of the day. We're going to start fresh tomorrow
5 morning on that at 9:00 o'clock.

6 We have everybody? Okay. Everybody is with us
7 tomorrow. So, we can start at 9:00 o'clock tomorrow
8 morning. I'll be here about 8:00 o'clock. The lawyers
9 will be here. Get some of that good coffee these folks
10 make. Every once in a while they have some doughnuts or
11 something around here.

12 But, nonetheless, don't try to learn anything about
13 this case. Don't do any investigation.

14 Please get here in the morning between 8:30 and 9:00.
15 I'll already be here. The lawyers will be here. We'll be
16 ready to work.

17 Okay. Madam forelady.

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

20 THE COURT: Okay. Anybody need anything?

21 If not, we will be in recess until 9:00. We are in
22 recess until tomorrow.

23 END OF PROCEEDINGS JANUARY 24, 2024

24

25

1 (Proceedings January 25, 2024)

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

4 THE COURT: Everybody ready for the jury?

5 MS. BARRY: Yes, Your Honor.

6 THE COURT: The jury is here.

7 MS. BARRY: Yes, sir.

8 THE COURT: We'll have the jury.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Hope everybody had a doughnut. All right.
12 Thanks to Ms. Brandy.

13 Madam Forelady, everybody good?

14 THE FOREPERSON: Yes, sir.

15 THE COURT: Solicitor.

16 MS. BARRY: Thank you, Your Honor.

17 Prior to calling the state's next witness I'd just
18 like to say that Mr. Farr and I have stipulated to State's
19 Exhibit 47 coming into evidence.

20 MR. FARR: That's correct, Your Honor.

21 THE COURT: Okay. State's Exhibit 47 without
22 objection.

23 (Photograph marked State's Exhibit No. 47.)

24 MS. BARRY: Thank you, Your Honor.

25 Your Honor, at this time the state would call Captain

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1 Keenon Parnell to the stand.

2 CHRISTOPHER KEENON PARNELL,
3 having been first duly sworn, testified as follows:

4 THE COURT: Captain, tell us who you are, and spell
5 your last name for the court reporter, please.

6 THE WITNESS: Yes. My name is Christopher Keenon
7 Parnell. My last name is spelled P-A-R-N-E-L-L.

8 THE COURT: Thank you.
9 Solicitor.

10 MS. BARRY: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MS. BARRY

12 Q Captain Parnell, how are you this morning?

13 A I'm good. How are you?

14 Q I'm good.

15 where are you employed?

16 A Currently, I'm employed with the Cherokee County
17 Sheriff's Office.

18 Q How long have you been employed there?

19 A I've been there for about eight years -- seven years.

20 Q Okay. And how long have you been in law enforcement
21 altogether?

22 A Altogether right at ten, a little over ten.

23 Q Okay. What is your role at the sheriff's office?

24 A At the sheriff's office I am the captain of the
25 criminal investigation division.

1 Q And what all does that entail?

2 A So, my job there in that role is to oversee cases
3 worked by other investigators, as well as working cases
4 assigned to myself as well.

5 Q Okay. What is kind of the process of investigating a
6 case?

7 A In investigating a case either we're notified by
8 uniform patrol deputies as they respond to calls for
9 service, depending on the severity of the crime that
10 occurs, or we're notified, usually the next day, once we
11 get a report in our report system. And at that point we'll
12 begin following up, usually talking to witnesses, victims,
13 any suspects that may be named, just following up on
14 those -- those leads and those pieces of -- of information
15 that's provided to us.

16 Q And what is the purpose of talking to these people and
17 following up with leads and things like that?

18 A So, the benefit of talking to maybe the complainant
19 who files a report or a victim of a crime or any witnesses
20 that saw anything is to get a little bit more information.

21 You know, a lot of times when folks report crimes,
22 it's in the heat of the moment. They may leave out certain
23 details or there may be more information that we as
24 investigators can have a one-on-one with them, kind of sit
25 down and methodically go through what's occurred, what's

1 happened, what they saw, heard, who they talked to, things
2 of that nature to get a better idea of what happened.

3 Q Okay. And throughout this process you are collecting
4 evidence?

5 A Correct.

6 Q And do all cases have the same amount of evidence?

7 A No, ma'am.

8 Q So, some will have a little less and some will have a
9 little more.

10 A That is correct.

11 Q And is all of the evidence the same?

12 A No.

13 Q So, what -- what types of evidence would you be
14 looking for in a case?

15 A You got physical evidence, cell phone data. You've
16 got witness statements, things that people heard, saw,
17 observed, video surveillance. There's tons of things that
18 could be evidence in a criminal case.

19 Q But sometimes you're not going to have all of that.

20 A That's correct.

21 Q So, were you the investigator who was involved in this
22 case?

23 A Yes, ma'am.

24 Q How did you become involved?

25 A So, on July the 19th I was the on-call detective that

1 day, and I was notified by Lieutenant Hutchens of uniform
2 patrol of a two -- of two missing people initially. So, he
3 had called me at that point.

4 Q Okay. So what's the first thing you do once you get
5 this call from Lieutenant Hutchens?

6 A So, he -- he briefs me on the information that he had,
7 you know, as they -- as they worked the missing person
8 case.

9 The children who reported their parents missing
10 provided a couple of locations that they were supposed to
11 be going to.

12 So, uniform patrol, doing some followups on that
13 information, located a vehicle at one -- one address and
14 then went to the farm at [REDACTED] Concord Heights Road and
15 located a deceased female.

16 At that point they knew this is a little more than
17 what they can deal with, so they notified me. I, in turn,
18 after hearing that information notified our crime scene
19 investigators. And then prior to me responding to that
20 address I went to the sheriff's office and obtained a
21 search warrant for that property.

22 Q Okay. And then do you ultimately take that search
23 warrant to the property?

24 A Yes, ma'am.

25 Q And is [REDACTED] Concord Heights located here in Cherokee

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1 County?

2 A It is.

3 Q So, what happens after you arrive on the search
4 warrant?

5 A Once I arrived with the search warrant, I provide that
6 to our crime scene investigators. They began to execute
7 the search warrant taking photographs, collecting, you
8 know, whatever evidence would be within that property. And
9 I just assisted them as an extra set of eyes and an extra
10 pair of hands.

11 Q Were you able to see the body in this case?

12 A I was.

13 Q And what do you notice when you see the body?

14 A So, upon walking into that field -- it's approximately
15 two, two-and-a-half-acres large. Where she was located is
16 the top half of that field.

17 As you walk into there, I noticed a -- I refer to it
18 as like a wooden stake implanted into the ground directly
19 in front of the row of corn where I noticed a human body
20 was partially buried and covered with, like, crop debris,
21 pieces of cornstalks, things of that nature.

22 Q Okay. And were you there when that body was
23 ultimately uncovered?

24 A Yes.

25 Q And what do you notice about her, if anything?

1 A As they began to remove the debris from the body, I
2 noticed multiple lacerations across the face and one severe
3 deep laceration to the back of the neck.

4 Q Okay. And were you able to determine who this field
5 belonged to?

6 A Yes, ma'am. So, looking through the Cherokee County
7 G.I.S. mapping services that's on line, you can put in an
8 address. We did that for this property at [REDACTED] Concord
9 Heights. And that field belongs to the defendant.

10 MR. FARR: Objection. Hearsay, Your Honor.

11 Are they trying to use this information as a business
12 record or just public information?

13 MS. BARRY: Your Honor, I believe it's public
14 information, and it's saying how he conducted his
15 investigation.

16 MR. FARR: Okay.

17 THE COURT: Overruled.

18 Go ahead.

19 MS. BARRY: Thank you, Your Honor.

20 BY MS. BARRY

21 Q So, you noticed lacerations to Alicia's face and a
22 deep laceration to her neck. So, what conclusions do you
23 draw from those injuries?

24 A Based on that, it clearly did not look self-inflicted,
25 and it appeared that somebody used a sharp cutting

1 instrument to -- for her to sustain those wounds.

2 Q Okay. So, you're looking for some type of sharp
3 weapon.

4 A Correct.

5 Q So, once you finish at [REDACTED] Concord Heights, do you go
6 anywhere from there?

7 A Yes. So, to back up to uniform patrol locating a
8 vehicle at [REDACTED] Small Farm Road, there was a patrol deputy
9 left there to kinda maintain the security of that scene
10 waiting for a search warrant.

11 We spent many hours at the field. So, once that was
12 completed, I left there, came back to the sheriff's office
13 and obtained an additional search warrant for [REDACTED] Small
14 Farm Road.

15 Q Okay. And is that located here in Cherokee County?

16 A It is.

17 Q And did you go to [REDACTED] Small Farm Road?

18 A I did.

19 Q What can you tell us about the property at [REDACTED] Small
20 Farm Road?

21 A So, Small Farm Road is a -- it's kinda like a gravel
22 road. It cuts through a very wooded rural area.

23 As you make your way, I would say, roughly half a mile
24 down that road [REDACTED] is located on the left side of that
25 roadway. And as you turn onto the driveway of that

1 property, there's actually two trailers or two homes that
2 sit on that property.

3 I believe it's [REDACTED] that sits directly in front of [REDACTED],
4 and then behind [REDACTED] is, like, a cow pasture or some type of
5 pen for animals that sits behind it and to the left of it.

6 Q And [REDACTED] is clearly marked as [REDACTED].

7 A It is, yes.

8 Q Were -- did you see any vehicles located at [REDACTED]?

9 A At [REDACTED], I did locate a brown-gold Toyota Tacoma parked
10 behind their residence.

11 Q Okay. Could you see it when you pulled up initially?

12 A Initially, you could not. So, the house -- the way
13 the houses are located, if you go down the driveway the
14 houses, both [REDACTED] and I believe [REDACTED], sit perpendicular to
15 that driveway but to the left side of the driveway.

16 So, as we approached the house, it appeared that no
17 cars were there until we went around the back and noticed
18 the vehicle.

19 Q And were you able to, throughout the course of your
20 investigation, determine who that truck belonged to?

21 A Yes. So by running the tag --

22 MR. FARR: Objection. Hearsay.

23 THE COURT: It's not hearsay. It's overruled.

24 Go ahead.

25 MS. BARRY: Thank you, Your Honor.

1 A By running the tag through the South Carolina D.M.W.
2 it showed that the vehicle belonged to the defendant.

3 Q I'm going to show you what's been premarked as State's
4 Exhibit 53. Can you take a look at that?

5 A Uh-huh.

6 Q Did you perform that search as part of your
7 investigation?

8 A I did, yes, ma'am.

9 Q Okay. Has that been altered or changed in any way?

10 A No, ma'am.

11 MS. BARRY: Your Honor, at this time I'd like to admit
12 State's Exhibit 53 into evidence.

13 MR. FARR: Your Honor, again, objection under
14 Section -- Article Nine, Section 19-5-10, which is
15 admissibility of certified copies from the D.M.V., which is
16 also 19-5-20, which is about notice, giving two days'
17 notice, if you're going to properly put that in. And,
18 Judge, also does 19-5-30 about admissibility. Also, talks
19 about the rules of evidence. And that has not been served.

20 (Pause.)

21 THE COURT: All right. Look at 803(8), public
22 records.

23 MR. FARR: Yes, sir.

24 THE COURT: And also --

25 MR. FARR: Also, 902, as well, Judge, which says

1 certified.

2 THE COURT: 902?

3 MR. FARR: Yes, sir, 902(4).

4 THE COURT: But this is not a document that is
5 recorded.

6 MR. FARR: That piece of paper says the department of
7 motor vehicles.

8 THE COURT: It's a business record but it's not
9 recorded like a divorce decree or an adoption decree.

10 MR. FARR: Yes, sir. I was just looking at the
11 statute which says using business records as evidence,
12 marked under that too.

13 THE COURT: What is that?

14 MR. FARR: Nineteen. Article 9. I was looking under
15 19-5-520, I mean, 510 where it talks about the motor
16 vehicles, department of motor vehicles. 19-5-10.

17 THE COURT: Okay. I don't have a 19-5-10.

18 MR. FARR: I printed it off.

19 THE COURT: This is current?

20 MR. FARR: Yes, sir. If it's not in your book, I
21 just -- I just printed it off -- off the South Carolina
22 Supreme Court website. That's how I found this.

23 THE COURT: 19-9?

24 MR. FARR: 19-5.

25 THE COURT: Five.

1 MR. FARR: Yes, sir.

2 And, Judge, I know you're looking at that. Are you
3 saying that that's not a business record? Because that's
4 what Article 19 is, is about business records.

5 THE COURT: It's a record kept in -- in the regular
6 course of business, is what it is. Public records and
7 reports is under 803(8).

8 MS. BARRY: And, Your Honor, I would argue that it's
9 not like a certificate of title showing ownership of a car.
10 It's what he was able to look up himself to find.

11 THE COURT: Over objection, it doesn't have to be
12 certified.

13 It's not like a title of a car. It's not an adoption
14 decree or something filed with the court where it needs a
15 seal of the clerk of court.

16 MS. BARRY: Thank you, Your Honor.

17 THE COURT: Over the objection.

18 MS. BARRY: Thank you.

19 (Car title marked State's Exhibit No. 53.)

20 Q And, Captain Parnell, you were able to officially
21 determine that that truck that was located at ■■■ Small
22 Farm Road belonged to the defendant.

23 A Yes, ma'am.

24 Q And State's Exhibit 53 is confirming that, that a 1995
25 Toyota Tacoma belonging to Dionicio Abarca.

1 A Correct.

2 Q So, could you search that truck at [REDACTED] Small Farm
3 Road?

4 A Yes, ma'am. It was part of the search warrant for
5 that property.

6 Q Do you locate anything?

7 A Yes. Inside the vehicle we located various types of
8 mail with names on them to establish the -- the occupants
9 within the vehicle or owners of the vehicle, as well as in
10 the toolbox. And I believe one was found within the cab of
11 the vehicle. But several machetes and knives.

12 Q And this was significant why?

13 A Well, significant because the victim was -- was cut
14 several times.

15 Q Okay. Were you able to determine if any of these were
16 the actual weapon used?

17 A No, ma'am.

18 Q Where does your investigation go from there?

19 A So from that point, you know, we'd been to the field,
20 we'd been to the rental property as it's been described.

21 The next thing I wanted to do was talk to Luis Abarca.
22 At this point I had been informed that he provided
23 transportation to the defendant to get to Alabama. I felt
24 like he was the next step in this puzzle that we were
25 trying to figure out.

1 So, I spoke to him on the phone. He agreed to come to
2 the sheriff's office. And he and I, as well as his father,
3 sat down and spoke at the sheriff's office that evening.

4 Q Okay. So, you are responding to a missing people's
5 report where one has been found in a field, and then you
6 find out that the other half of this missing-people's
7 report has been found in Alabama.

8 A That's correct.

9 Q Okay. So, what -- what do you do from there?

10 A After talking to -- to Luis, you know, from there he
11 explained that the defendant left some property in the
12 vehicle that was driven to Alabama. He described it to be
13 like a keyring or a set of keys.

14 So, I went back to his home, which is in -- it's in
15 North Carolina. It's in Mooresboro. I believe the road
16 was McCraw. I'm not sure of the numbers.

17 I went to his house and spoke with his stepmother who
18 owns that vehicle. She provided consent to search. I
19 obtained or collected the key rings from that car or from
20 within that vehicle.

21 From there, on the way back to the sheriff's office
22 from that address, I stopped at [REDACTED] Small Farm Road to see
23 if any of those keys happened to fit the house, as well as
24 the vehicle at that address, neither of which fit either of
25 those things. So, from there I went back to the office and

1 was kind of done at that point for the evening.

2 Q Okay. Were you ever able to determine what car those
3 keys belonged to?

4 A Yes. So, I don't know if it was the next day, but
5 shortly after obtaining the keyring, I did go back to the
6 victim and defendant's primary residence at [REDACTED] Chesnee
7 Highway, also in Cherokee County.

8 Upon pulling into the driveway there was a Nissan
9 Armada parked in front of the residence. One of the keys
10 that I obtained from the vehicle Luis drove was actually a
11 Nissan key. The key that I had collected from him opened
12 the door to that vehicle, started the vehicle like it
13 was -- that was the key. So yes.

14 Q Do you know who all lived at [REDACTED] Chesnee Highway?

15 A From all the information I've obtained, the people
16 that resided there is the victim, the defendant, and I
17 believe their three children.

18 Q And those were the only people?

19 A That's all I was ever told, yes, ma'am.

20 Q Did you ever search the house or the property at [REDACTED]
21 Chesnee Highway?

22 A I did not.

23 Q Why not?

24 A There was never a reason to search that property.

25 Q Okay. Had you been provided any information that the

1 defendant had come back to that property?

2 A I had not.

3 Q So, you were told that he went to the field with his
4 wife, he ended up at the rental property, and then he ended
5 up in Alabama without his wife.

6 A That's correct.

7 Q Did you -- you talked about investigations involved
8 in, you know, collecting cell phones and things like that.
9 Did you do that in this case?

10 A I did.

11 Q Can you tell the jury about that?

12 A I didn't actually physically collect any cell phones.
13 We did a, or I did a -- obtained search warrants for the
14 phone numbers. They were submitted to the phone -- cell
15 phone providers for the defendant, the victim, as well as
16 Luis. And those were faxed to those cell phones --
17 respective cellphone companies.

18 Q Did you ever receive anything back?

19 A I did not.

20 Q Okay. Did you follow up on why you hadn't got
21 anything?

22 A I did not.

23 Q Why not?

24 A They were sent to a fax number. I didn't have a
25 direct phone number to call anybody. I never received a

1 reference number or a case number or anything like that.

2 Q what about canvassing the areas in all of this?

3 A So, canvassing the area -- ■■■ Concord Heights Road,
4 which was the field, there's roughly 15 or so houses on
5 that roadway.

6 Either myself or another uniform patrol deputy, while
7 the crime scene was investigating the actual field, one of
8 us knocked on every single door for a house at that -- on
9 that -- on that roadway. Some people were home; some
10 people were not. We -- the ones that we were able to speak
11 with, nobody -- nobody saw or nobody heard anything out of
12 the ordinary.

13 MR. FARR: Objection to hearsay, Your Honor.

14 THE COURT: What's the hearsay?

15 MR. FARR: He's saying what those people said that he
16 said he talked to.

17 THE COURT: He's just -- go head.

18 MS. BARRY: Your Honor, he's just saying that nobody
19 heard or saw anything.

20 THE COURT: He's not saying what they said. He is
21 saying as a result of his investigation nobody knew
22 anything.

23 MS. BARRY: Thank you, Your Honor.

24 BY MS. BARRY

25 Q what about the areas to and from -- okay. So from

1 ■■■ Chesnee Highway to ■■■ Concord Heights? Did you do
2 any canvassing of that area?

3 A Yes. Several of us have driven, you know, between the
4 two locations. It's a pretty lengthy distance. I never
5 noticed any obvious signs of where someone could have
6 thrown anything out or removed or gotten rid of anything.

7 Q Okay. And then what about -- what's that landscape
8 like from the house to the field?

9 A So, that's the Grassy Pond area of the county. It's
10 very rural, a lot of woods. There's several pastures and
11 fields, a lot of -- a lot of space in between those two
12 spots.

13 Q Okay. What about the area from ■■■ Concord Heights to
14 ■■■ Small Farm Road?

15 A Very similar to the other one, a lot of wooded areas,
16 a lot of pastures and fields. Again, several of us have
17 driven between each of these locations and never noticed an
18 obvious place or really a pinpointed location for us to go
19 and -- and look for something specifically.

20 Q Okay. Did you look for any videos or surveillance or
21 anything like that?

22 A Yes. So, we did locate video at the Concord Baptist
23 Church, which is right at the intersection of Concord Road
24 and Concord Heights.

25 Q Okay. Were you able to look at that surveillance?

1 A Yes, ma'am.

2 Q And what was important about that surveillance?

3 A So, the video obtained from the church, it shows a --
4 a little brown-gold truck, small frame pickup truck,
5 driving down Concord Road, passing the church, turning
6 right onto Concord Heights Road.

7 Approximately 30 minutes after you see it make that
8 turn onto Concord Heights, you see it leave Concord Heights
9 turning left on Concord Road.

10 Q And this may be a silly question, but what's important
11 about that little gold or little brown truck?

12 A Well, I would say it's pretty important considering
13 the defendant was last seen in the -- in the brown truck
14 leaving the house with his wife, as well as the vehicle was
15 located at the last place that we knew him to be at.

16 Q And the vehicle was going where people said it was
17 going.

18 A That's correct.

19 MS. BARRY: Your Honor, at this time I would like to
20 publish State's Exhibit 54, which has already been admitted
21 into evidence.

22 THE COURT: Yes, ma'am.

23 Q And before we get started, Captain Parnell, if you
24 could, step down here and tell us what the date and time is
25 in this picture.

1 (Whereupon, the witness left the stand.)

2 A Oh, goodness. Does it show it on here? So July the
3 18th of 2020 and looks to be 2:57 in the afternoon.

4 Q Okay. And July 18th of 2020, is that the date that
5 the defendant and his wife were last seen?

6 A Yeah. That's the date that the children of the victim
7 and the defendant last saw their parents.

8 Q Okay.

9 (Whereupon, the video was played for the jury.)

10 Q Now, I'm going to stop it right there. So, is -- is
11 that the little brown truck that you guys were looking for?

12 A That is a similar little brown truck. I can't say for
13 certain if that's the exact same one or not --

14 Q Okay.

15 A -- but it is very similar.

16 Q Okay. So, you can't say that that is the defendant's
17 truck.

18 A I cannot.

19 Q Okay. But it matches the truck that you found at [REDACTED]
20 Small Farm Road, is that correct?

21 A That's correct.

22 Q Okay.

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

24 Q And this road that we see, that is Concord Road?

25 A Yes, ma'am.

1 (Whereupon, the video was played for the jury.)

2 Q So, that's only been about seven minutes. So, I'm
3 going to speed it up just a little bit.

4 (Whereupon, the video was played for the jury.)

5 Q So, we are about 25 minutes in at this point.

6 Captain Parnell, can you step down for me?

7 (Whereupon, the witness left the stand.)

8 Q What does that appear to be?

9 A That appears to be the same vehicle seen 30 minutes
10 prior.

11 Q And as you stated before, you can't see into that
12 truck, right?

13 A That's right.

14 Q Okay. But it's important because it matches the
15 vehicle that you saw.

16 A Correct. It's very similar.

17 Q There's another view to this, right?

18 A There is.

19 Q I'm not going to play it, but I just want to show this
20 other view. What is this a view of?

21 A So, this camera angle is a -- a little bit to the left
22 of the original -- the initial camera we just saw.

23 This one is also going to show Concord Road. In the
24 very top left, kind of right above the channel one logo
25 there, you can see, that's Concord Heights.

1 Q Okay. And can you see the truck pull onto that road?

2 A You can.

3 Q Okay. If you will, stay right there for me. If I
4 showed you an aerial map of that location, would it aid in
5 your testimony?

6 A Yes, ma'am.

7 Q Okay.

8 MS. BARRY: Your Honor, at this time I'd like to admit
9 State's Exhibit 21 for demonstrative purposes.

10 MR. FARR: No objection.

11 THE COURT: Without objection.

12 (Poster marked State's Exhibit No. 21.)

13 Q If you will hold that for me, and I'll move the easel.
14 Can you point out for the jury where Concord Baptist
15 Church is on this map?

16 A So, the church is going to be located right here.

17 Q Okay. And the cameras that we just saw are going to
18 be at the front of this church.

19 A That's correct.

20 Q Okay. Looking at Concord Road.

21 A Yes, ma'am.

22 Q Okay. And in that first video we can kinda see where
23 cars were turning into this area right here, right?

24 A That's right.

25 Q What is that?

1 A That appears to just be maybe a driveway that is
2 shared by a couple of houses.

3 Q Okay.

4 A It's not an actual roadway.

5 Q Okay. So, what is this road right here?

6 A This road here is Concord Heights.

7 Q And is that the road that we see in the very corner of
8 this video?

9 A Yes, ma'am.

10 Q Okay. So, the truck turns down Concord Heights. And
11 what's at the end of Concord Heights?

12 A So, at the very end of this road, this is the field
13 that we've been -- that I've been discussing. It comes to
14 a cul-de-sac, and there's a little path that's been driven
15 on that leads to that field.

16 Q And you referenced earlier that there were all of
17 these houses located on Concord Heights and all of these
18 houses were talked to for the purposes of this
19 investigation.

20 A Yes, ma'am. Efforts were made for every single house
21 on that road.

22 Q Okay. All right. Thank you very much.

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

24 Q You mentioned, you know, search warrants for phones.
25 Did you have the actual phones?

1 A No, we did not have the actual phones.

2 Q Okay. Why not?

3 A We never found them.

4 Q Okay. They never found the defendant's phone and you
5 never found the victim's phone.

6 A Correct.

7 Q It wasn't on her body?

8 A No.

9 Q So, just for overall purposes, what is the end goal
10 for an investigation?

11 A The end goal is to solve whatever crime you're
12 investigating.

13 Q Okay. And based off the information that you gathered
14 throughout this investigation -- you know, the children
15 saying that their parents left together in a little brown
16 truck, they were going to the field at [REDACTED] Concord Heights
17 Road --

18 A Yes, ma'am.

19 Q Okay. We have what looks to be the truck --

20 A Yes.

21 Q -- going to that location and leaving. And then when
22 he's found, he's found without his wife. She isn't found
23 at [REDACTED] Chesnee Highway, is she?

24 A She's not.

25 Q And then he's found in Alabama.

1 A Correct.

2 Q Do you know what he's found with?

3 A I say I believe when -- I think it's the Baldwin
4 County Sheriff's Office located him, he was found to be in
5 possession of two passports and roughly a thousand dollars,
6 give or take.

7 MS. BARRY: Beg the Court's indulgence, Your Honor.

8 THE COURT: Yes.

9 (Pause.)

10 Q When you -- so, it was determined that these two
11 individuals were husband and wife, right?

12 A Yes, ma'am.

13 Q Okay. So, does the investigation become a certain way
14 when that relationship is established?

15 A Can you rephrase that?

16 Q I can. So, when -- when a spouse goes missing, who do
17 you look at in the investigation?

18 A I mean, the spouse goes missing, you -- you look at
19 the other spouse.

20 Q Okay. And the spouse was found without her, right?

21 A That's correct.

22 Q And just to show -- and I'm not going to play the
23 whole thing -- I'm going to zoom in. Okay. So, this right
24 here is going to be Concord Heights.

25 A Yes, ma'am.

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1 Q There goes the little brown truck, right?

2 A Correct.

3 Q And there it is on Concord Heights, right?

4 A Yes, ma'am.

5 MS. BARRY: Your Honor, at this time I have no further
6 questions for Captain Parnell.

7 Q Captain Parnell, please answer any questions that
8 Mr. Farr has for you.

9 MR. FARR: Your Honor, may it please the Court -- Ms.
10 Barry, Mr. Haney.

11 CROSS-EXAMINATION

12 BY MR. FARR

13 Q How long did you say you've been with the sheriff's
14 office?

15 A I've been with the sheriff's office since about 2016.

16 Q Okay. And where did you start out at first?

17 A Initially, I was with Spartanburg County Sheriff's
18 Office.

19 Q How long were you with them?

20 A I started there in 2014.

21 Q Okay. And what did you -- what was your duties at
22 Spartanburg County?

23 A Spartanburg County, I worked uniform patrol, responded
24 to calls for service.

25 Q And then you moved over to the sheriff's office in

1 Cherokee County in 2016.

2 A Yes.

3 Q Okay. And what were your original duties at the
4 beginning?

5 A Initial job duties here, the same as in Spartanburg.
6 uniform patrol, responded to calls for service.

7 Q And then -- and then you became an investigator when?

8 A I believe that happened in 2017-18-ish.

9 Q Okay. Any special training for that?

10 A To be an investigator?

11 Q Yes, sir.

12 A I have not been through any special training to be an
13 investigator.

14 Q Okay. All you do is just the academy. Is that it?

15 A Yes.

16 Q Okay. Any other classes or anything while you're a
17 police officer, or any other training?

18 A I mean, we go through training throughout the year,
19 every year.

20 Q And what usually is the training throughout the year?

21 A Typically, there is a program called ACADIS where you
22 watch on-line videos that is put -- put out through the
23 South Carolina Criminal Justice Academy. And you have to
24 complete so many hours of video watching, as well as
25 in-service within the department.

1 Q Okay. What's in-service?

2 A It's where we are training lieutenants. We'll put
3 together some -- some form of training over the course of
4 the year. Usually includes driving, firearms and water
5 safety necessary for that particular time.

6 Q Okay. What about any training on recovering evidence,
7 anything like that?

8 A Just the basics that every police officer goes through
9 at the academy.

10 Q Okay. And what are the basics that you learn about
11 recovering evidence?

12 A Basics is don't touch it, take pictures.

13 Q Okay. Use gloves?

14 A Use gloves, yeah.

15 Q What about writing reports?

16 A What about writing reports?

17 Q Do y'all learn how to write reports?

18 A Yes, sir.

19 Q Okay. Is that a class that y'all take?

20 A That's a -- a portion of the academy that they
21 provide.

22 Q And when they taught y'all how to write reports, what
23 is -- what was the main goal of writing reports when you
24 were at the academy?

25 A It's pretty much the who, what, when, where, why.

1 Q Is it to put everything in the report?

2 A Yes.

3 Q Okay. And is everything that you testified today in
4 your report?

5 A It is.

6 Q It is?

7 A Yes, sir.

8 Q Okay. And you got your report with you?

9 A I do.

10 Q Okay. I asked you about that because the solicitor
11 asked you a question about you or your officers went to
12 every home on these pictures that Ms. Barry has gotten in,
13 that y'all went to every home and talked to witnesses. Is
14 that in your report?

15 A I do not know. If you don't mind if I just take a
16 look at it.

17 Q I do not mind.

18 (Pause.)

19 A I do not see that in my report, no, sir.

20 Q Okay. Do you -- so, in a criminal case you're the
21 lead investigator, and the lead investigator, you put the
22 file together, is that correct?

23 A Yes, sir.

24 Q Okay. In your file that you put together, do you
25 review other officers' reports?

1 A Yes, sir.

2 Q Okay. Not telling you what to say, but is that in any
3 of the reports that anybody went and talked to every
4 neighbor in that neighborhood?

5 A I cannot say if it is or if it isn't.

6 Q Okay. It's your report. You can look.

7 A Okay.

8 (Pause.)

9 A I cannot see that it is mentioned in any of these
10 reports, no.

11 Q Okay. Did you write -- did anybody write anybody's
12 names down through notes or anything else of anybody in
13 that neighborhood?

14 A No, sir. It was a very fluid dynamic situation. I
15 was kinda just going house to house seeing if anybody heard
16 anything. I don't -- I can't -- I never got anybody's name
17 because there was never any information given. Everybody
18 asked, they pretty much just said they didn't see anything.

19 Q Did you go to the houses?

20 A I went to some of the houses.

21 Q Did you put that in your report?

22 A I did not put that in my report.

23 Q Did you talk -- you heard investigator -- who called
24 you out there first?

25 A Lieutenant Hutchens initially called me.

1 Q Did he take you to the house that had the ring video?

2 A He did.

3 Q Okay. And then did you take a copy of that?

4 A I did not.

5 Q Okay. Can you describe the truck that was at [REDACTED]?

6 A The truck that we found at [REDACTED], brown-goldish, a 1995
7 Toyota Takoma, extended cab.

8 Q Any distinctions to it?

9 A Had a toolbox in the bed of it.

10 Q Okay. Did you actually look into the vehicle?

11 A As far as?

12 Q For evidence.

13 A Did I personally look in the vehicle?

14 Q Yes, sir.

15 A Yes, sir.

16 Q Okay. The toolbox in the picture -- give me a second.

17 (Pause.)

18 Q And I hand you State's Exhibit 26. That toolbox --
19 tell me what's in the picture with the toolbox.

20 A In the picture with the toolbox the left -- the
21 driver's side of the toolbox is partially open. There's a
22 couple of buckets, it looks like, in the bed of the truck.

23 Q The toolbox. Did you see if that left one could
24 close?

25 A I did not.

1 Q You did not.

2 A Uh-uh.

3 Q In the picture of the video that you're saying is
4 similar to my client's vehicle, could you tell if there was
5 a left side open?

6 A I could not tell if there was a left side open or not.

7 Q Okay. In the picture, again, were any of the tires
8 flat?

9 A I don't recall if any of them were flat or not.

10 Q Okay. I hand you what's No. 25 by the state. Does
11 the right side look leaning a little bit?

12 A I mean, I can't say if it does or doesn't. I mean,
13 it's not a directly-behind-the-vehicle shot of the picture
14 that was taken.

15 Q The back part of the fender, is it coming off?

16 A The rear bumper?

17 Q Yes, sir.

18 A Yes. I mean, it's dented.

19 Q Okay. But does it look like it's got a little dent
20 where it's coming down a little bit?

21 A Yeah, yeah. It's pulled down off of the tailgate.

22 Q Okay. On the video can you tell when it's going down
23 the street, once you zoomed in, about the back thing? Was
24 it leaning down, bent?

25 A I couldn't say. You can't tell from that, I don't

1 believe.

2 Q Okay. On the back, did you notice the magnet on the
3 back on the video?

4 A I never saw a magnet on the video.

5 Q You never did. Did you notice any rust or anything on
6 the video?

7 A I couldn't see any rust on the video.

8 Q Those pictures that have been entered in, the windows
9 are down. Do you know if the front two windows are tinted,
10 or not?

11 A Without looking at them, I'm -- I'm not sure offhand.

12 Q You investigated the -- the vehicle. These are the
13 only three entered in -- 27, 25 and 26. Do you know if the
14 two front windows are tinted, or not?

15 A I -- I can't tell you if they are. I want to -- based
16 off these pictures, it doesn't appear that they're very
17 tinted, and then the passenger-side window here is rolled
18 down. So, I can't tell.

19 Q Okay. When you were investigating, did y'all roll up
20 the window, or not?

21 A I never rolled up any windows. So, I'm not sure.

22 Q Did you seize the vehicle?

23 A We did not.

24 Q So, basically, when you were testifying to the state,
25 your main goal was once you saw the body, y'all were

1 looking mainly just for sharp objects, and that was it.

2 A well, she wasn't shot, so yes, sir.

3 Q I said sharp.

4 A Sharp.

5 Q Yeah, yeah.

6 A Yeah, yeah. We were. Cutting instruments, something
7 that would, that could, you know, provide a laceration type
8 injury.

9 Q But no testing or anything was done to the inside of
10 that truck?

11 A I can't testify. I don't know.

12 Q Okay. You were the one that got the search warrants,
13 correct?

14 A Yes.

15 Q Okay. And you got one for [REDACTED].

16 A Yes.

17 Q Small -- what is it -- Small Field?

18 A Small Farm Road.

19 Q Small Farm Road. Okay. And when you -- since you're
20 the lead investigator do you tell -- I don't want to say it
21 badly -- but the people underneath you, the other
22 investigators -- are you telling them to collect certain
23 evidence or all the evidence?

24 A Typically, not. When we go to execute search
25 warrants, yeah, I'm the lead investigator. But the way we

1 operate, it's kind of like a team. Our crime scene
2 investigators, it -- that becomes their scene. So, they
3 are privy to the same information I am as far as what we're
4 doing there. So, they know kinda what we're looking for,
5 what's going to be relevant, what we need to get or what we
6 need to be looking for, I guess.

7 So, I -- I didn't specifically tell anybody
8 necessarily anything or what to be looking for. We all
9 kinda knew why we were there.

10 Q Okay. Did you tell anybody to collect the dirt that
11 was in the tub --

12 A No, sir.

13 Q -- to send down to SLED at least for trace evidence?

14 A I did not.

15 Q Okay. I saw in the report about there was two
16 footprints that y'all have pretty good pictures of. Did
17 y'all send those down to SLED?

18 A From the field?

19 Q Yes, sir.

20 A I can't say if we did or didn't.

21 Q Okay. Did you go in the actual field?

22 A I did.

23 Q Was it wet?

24 A It was. I believe it may have just rained that
25 morning.

1 Q Okay. Did y'all collect any clothing at [REDACTED]?

2 A I'm not certain if crime scene collected clothing or
3 not, sir.

4 Q Okay. Do you know if you did?

5 A I did not.

6 Q Did you ever put anything in evidence that you did?

7 A From [REDACTED]?

8 Q Yes, sir.

9 A No, sir.

10 MR. FARR: Sorry, Your Honor.

11 (Pause.)

12 MR. FARR: If I can approach real quick, Your Honor,
13 if I can.

14 THE COURT: Yes, sir.

15 BY MR. FARR

16 Q I'm not sure how the chain of custody is typed in the
17 thing. Is it you put a chain of custody in, say, an item,
18 person's name, and then it's put what the item is. So, if
19 I hand this to you --

20 A Right.

21 Q -- explain. Look at that and make sure. I'll ask you
22 some questions about it.

23 MS. BARRY: Your Honor, can Mr. Farr tell us what's
24 being handed to --

25 MR. FARR: I'm handing -- sorry, Your Honor. I've

1 handed investigator the chain of custody, and I'm asking
2 him about looking at Item 13.

3 A Okay.

4 Q Okay. Is it Item 13, and then you put the information
5 and then it tells what the item is?

6 A I never made this, so I have no idea.

7 Q So, they just put your name in there. Somebody put
8 your name in the chain of custody, but you don't know.

9 A I don't even know what the item is.

10 Q Okay. I'll move on.

11 When you went into ■■■, did you see a vacuum cleaner?

12 A I don't recall seeing a vacuum cleaner. I'm not sure.

13 Q Did you see footprints inside the home?

14 A I don't recall seeing footprints inside the home.

15 Q Okay. And you, as Ms. Barry asked you, you had the
16 three cell phone numbers that you subpoenaed to AT&T and
17 Verizon.

18 A Yes.

19 Q Okay. And then you never followed back up.

20 A I did not.

21 Q Okay. Did you send the wooded stake that was in the
22 field to SLED?

23 A I can't -- I don't know. I don't know if that was
24 collected. I don't know.

25 Q Okay.

1 A That was -- that would have been crime scene.

2 Q Okay. Did you send the straw hat inside the brown
3 vehicle to SLED?

4 A I can't testify to that. I'm not sure.

5 Q Okay. Again, y'all didn't do any D.N.A., blood or
6 anything else inside the truck.

7 A As far as I know, they did not.

8 Q Okay. Did y'all find anything under [REDACTED], the Small
9 Field house?

10 A Under?

11 Q Yes, sir.

12 A I don't remember finding anything underneath the home.

13 Q Y'all did search up under, right?

14 A I would imagine so.

15 Q Did you go to Wal-Mart?

16 A I did not go to Wal-Mart.

17 Q I hand you what's been in as No. 53.

18 A Okay.

19 Q You talked earlier that that was information you got
20 and you put it in a computer system.

21 A Yes, sir. The South Carolina Department of Motor
22 Vehicles on-line.

23 Q Okay. On-line. Like if I go to google and type it, I
24 can type that information in.

25 A I don't know if you can. I'm not sure. As law

1 enforcement, we have access to this database.

2 Q Okay.

3 A Yeah.

4 Q And through that database, what did you punch in?

5 A This looks like customer vehicles for the defendant.

6 So, I would have either typed in his customer number
7 through the D.M.V. or his driver's license number to search
8 vehicles registered to him.

9 Q Okay. And that's held in the D.M.V.'s records.

10 A Correct.

11 Q Okay. And as the solicitor asked you earlier, the
12 only address through the public records for Concord Heights
13 had my client and his wife's owned that property.

14 A That's correct.

15 Q And [REDACTED] Small Field, was that listed under my client?

16 A No.

17 Q Okay. And did you reach out to the individual that it
18 is listed for?

19 A I did not.

20 Q Okay. And the -- the main house that you said was
21 their main house was actually two trailers on that piece of
22 property.

23 A That's right.

24 Q Okay. And did you look up who that number is?

25 A I did.

1 Q Is it my client's name?

2 A For that one, I believe he is listed as one of the
3 names on there.

4 Q On the [REDACTED] Chesnee?

5 A If you don't -- can I -- do you mind if I refer just
6 to be certain?

7 Q I do not mind.

8 (Pause.)

9 A Yes, sir. For [REDACTED] Chesnee Highway, according to the
10 G.I.S. for Cherokee County Mapping, that owner address is
11 Ruthland [sic] Lewis and a Dianna R. and Dionicio Abarca.

12 Q Okay. Did you reach out to the two other individuals?

13 A I did not.

14 Q You were talking to the solicitor. She was asking you
15 questions. You didn't believe it was necessary to search
16 the main house, is that correct?

17 A Yes, sir.

18 Q Okay. Did you even think about canvassing the
19 neighborhood for videos or anything else for that?

20 A From Chesnee Highway?

21 Q Yes, sir.

22 A We never did that, so, no, sir.

23 Q Okay. How many houses are on the street for [REDACTED] Small
24 Field?

25 A There's a handful maybe.

1 Q Okay. How many of those houses did you go and knock
2 on the door and see if they had ring videos, surveillance
3 videos or anything of that nature?

4 A The one at the intersection of Small Farm, and I
5 forget the name of the main road it runs off of. Talked to
6 that person, but they did not see, hear, have video,
7 nothing like that.

8 Q Is that in your report?

9 A It is not.

10 Q Okay. Besides color of the vehicle, were there any
11 other descriptions from that video we just played that
12 matches my client's truck?

13 A I believe when the vehicle was coming in -- the first
14 one was coming past the church to turn onto Concord
15 Heights, just after where it was paused initially, I
16 believe you can locate or I believe I noticed a toolbox in
17 the bed of that truck.

18 Q Okay. Was it up or down?

19 A I believe it was down. I believe. I can't say for
20 certain.

21 Q Okay.

22 A A little bit of a distance.

23 Q How many people in that neighborhood of Concord own
24 trucks?

25 A I couldn't tell you. I don't know specifically.

1 Q Did you see if there was any other brown trucks in
2 that neighborhood?

3 A I mean, we didn't specifically canvass the area for
4 other brown trucks, but I don't remember seeing other brown
5 trucks in the area, no.

6 Q And to the best of your knowledge, looking at that
7 video, you cannot determine who was in the vehicle.

8 A Absolutely, yeah. I cannot determine who is in that
9 vehicle.

10 Q And you said you went to North Carolina to get the
11 keys on a keyring?

12 A I did. I went to Luis Abarca's house, which is just
13 over the state line in North Carolina.

14 Q And did you ever go back to ■■■ Small Field to see if
15 any of those keys worked in that vehicle?

16 A I did. None of the keys that were found from -- from
17 Luis' vehicle matched. They didn't fit the house at ■■■
18 Small Farm, nor did they fit the Toyota Tacoma.

19 Q Did you find any keys at ■■■ Chesnee Highway?

20 A From Luis?

21 Q No. In y'all's investigation did you find any other
22 keys at the main residence that y'all say where everybody
23 lived at?

24 A No. We never found any more keys.

25 Q Did you look for more keys inside the house?

1 A We never looked for more keys inside the house.

2 Q Y'all get any more video later in the day from the
3 church?

4 A Later in that day?

5 Q Just in general. Did you get more video from the
6 church or --

7 A I don't --

8 Q -- is it just --

9 A I don't know. I never got that video. So, I'm not
10 sure.

11 Q So, you never seen that video until now.

12 A I seen the video. I never -- I never obtained that
13 video from the pastor.

14 Q Okay.

15 MR. FARR: That's all the questions I have, Your
16 Honor.

17 THE COURT: Anything at all?

18 MS. BARRY: I do, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. BARRY

21 Q It wasn't just the matching description of the truck
22 that really did it for you, was it?

23 A No. Not at all.

24 Q Okay. You were given the information that -- from the
25 children.

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1 A Correct.

2 Q And that information that they gave you, the
3 circumstances surrounding that also matched.

4 MR. FARR: Judge, I'm going to object. This is
5 outside the cross-examination. This is already asked and
6 answered. She's basically going back over it.

7 MS. BARRY: He touched on this in his cross about the
8 only thing that matched was the description of the truck.

9 THE COURT: Okay. I'll let you go just a little ways.

10 MS. BARRY: Okay.

11 BY MS. BARRY

12 Q So, the circumstances surrounding not just the truck
13 itself also matched in the video.

14 A Yes.

15 Q He asked about if we saw certain things in the video
16 from the truck. You said that you could see a toolbox,
17 right?

18 A Yeah. I believe I saw a toolbox while investigating
19 this.

20 Q And that -- that view that we have when it's going by,
21 that's going to be of the -- the left side, correct?

22 A Correct.

23 Q Okay. So, this picture that he showed you -- State's
24 Exhibit 25 -- where he mentioned where the bumper is
25 down --

1 A Right.

2 Q -- that's on the right side.

3 A It is.

4 Q Okay. So, you couldn't have made that determination
5 anyway, right?

6 A Yes, ma'am.

7 Q Okay. And he also mentioned a magnet, which would be
8 a good identifying marker, but, again, you only see the
9 left side of the truck, not the back, right?

10 A Correct.

11 Q And when you see it going down Concord Heights, you
12 see the right-front side, right?

13 A Right.

14 Q It's just such a small view, but you are able to
15 determine that it's the same truck going down Concord Road
16 turning onto Concord Heights.

17 A Yes, ma'am.

18 Q But because of the view that I had to zoom in, you
19 aren't really able to see any identifying marks, right?

20 A Correct.

21 Q Okay. But it still matched the truck --

22 A It did.

23 Q -- that you that had seen.

24 A Yes.

25 Q You went in the trailer at [REDACTED] Small Farm Road, right?

1 A I did, yes, ma'am.

2 Q Mr. Farr mentioned mud. Were you able to see what
3 looked to be fresh mud in a bathtub?

4 A Yes.

5 Q Okay. There was water in that bathtub?

6 A There was.

7 Q Why is that significant?

8 A Well, coming from what we believed to be the -- the
9 field there on Concord Heights, and it had just rained
10 earlier that morning, it's a field full of mud. It appears
11 that somebody would have went in there and cleaned
12 themselves off, gotten rid of some mud or dirt that was on
13 them.

14 Q Okay. And you said that you couldn't remember seeing
15 any other brown trucks located at [REDACTED] -- or on Concord
16 Heights.

17 A No, ma'am. I didn't.

18 Q And why was the reason that you didn't canvass the
19 neighborhood of [REDACTED] Chesnee Highway?

20 A Well, that was -- that was the known. We knew that
21 the defendant and victim left together from there. That's
22 the last place we knew everyone was okay at that point.

23 The children put them there leaving together in that
24 vehicle. So, there was no reason in my mind to go talk to
25 people about that. We knew that.

1 Q Okay. And you also had information that they did not
2 come back to this location.

3 A Correct.

4 MS. BARRY: Your Honor, I have no further questions.

5 THE COURT: Anything?

6 MR. FARR: No, sir.

7 THE COURT: Thank you.

8 Detective, step down. Please be careful.

9 MS. BARRY: Your Honor, our next witness will not be
10 available until this afternoon.

11 THE COURT: That's the doctor?

12 MS. BARRY: Yes, sir.

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

15 THE COURT: Madam forelady and ladies and gentlemen,
16 I'm told the next witness -- is that potentially the last
17 witness?

18 MS. BARRY: I'm sorry?

19 THE COURT: Is that potentially the last witness?

20 MS. BARRY: Yes, sir.

21 THE COURT: Potentially the last witness and the next
22 witness will be Dr. Kelly Rose, and she is unavailable
23 until -- she'll be here at 1:15 -- at 1:15.

24 So, we're going to let you go to be in recess until
25 then. Get yourselves some lunch, go run an errand or two,

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1 whatever you need to. I'm sorry for the delay, but she's
2 just not available until -- she'll be here at 1:15. So,
3 she's coming from Newberry, South Carolina. But she had to
4 be somewhere else this morning. And that's potentially the
5 last witness in this case.

6 So, don't try to learn anything about the case. I'll
7 see you back here about 1:15. And I'm not going anywhere.
8 I'm going to stay here. I brought my lunch. So, I'll be
9 here waiting on you.

10 Madam forelady.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Let's everybody take -- it's time for our
14 morning break. Let's everybody take about 15 or 18 minutes
15 and get some more coffee, and then's let's come back and
16 talk about -- or we can informally and put things on the
17 record.

18 MR. FARR: That's fine.

19 (Whereupon, a recess was taken.)

20 (Photographs marked State's Exhibits Nos. 55 and 56 for
21 Identification; drawings marked State's Exhibit No. 57 for
22 Identification.)

23 THE COURT: Okay. The jury is here and I think
24 everything got resolved over the break.

25 So, are we ready for the jury?

1 MS. BARRY: Yes, sir, Your Honor.

2 MR. FARR: Yes, sir.

3 THE COURT: We'll have the jury.

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

6 THE COURT: Good afternoon. Madam Forelady, everybody
7 ready on the jury?

8 THE FOREPERSON: Yes.

9 THE COURT: Okay. Give Your attention to the
10 solicitor.

11 Solicitor.

12 MS. BARRY: Thank you, Your Honor. The state would
13 call Dr. Kelly Rose to the stand.

14 DR. KELLY ROSE, having been
15 first duly sworn, testified as follows:

16 THE COURT: Doctor, if you will, tell us who you are,
17 and spell your last name for the court reporter, please.

18 THE WITNESS: I am Kelly Rose, like the flower,
19 R-O-S-E.

20 THE COURT: Okay. And one other caution is we have an
21 interpreter.

22 So, if you will speak a little slower than usual and
23 keep your voice up so our interpreter can -- can get the --
24 get the language. Thank you.

25 Solicitor.

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Direct examination by Ms. Barry

1 MS. BARRY: Thank you, Your Honor.

2 DIRECT EXAMINATION BY MS. BARRY

3 Q Dr. Rose, can you tell the jury about your employment?

4 A I work at Newberry Pathology Group. It's in Newberry,
5 South Carolina. It is a forensic pathology practice where
6 I am the forensic pathologist.

7 Q Are you licensed to practice medicine in South
8 Carolina?

9 A I am. I am a licensed medical doctor.

10 Q And are you board certified?

11 A I am. Forensic pathology is a subspecialty of regular
12 pathology. And what regular pathology is is anatomic and
13 clinical pathology. So, I have my boards in anatomic and
14 clinical pathology, and then I have my subspecialty boards
15 in forensic pathology.

16 Q Can you tell the jury about your education?

17 A I went to college at College of Charleston, and I got
18 my bachelor of science in biology.

19 After that I went to medical school at M.U.S.C. there
20 in Charleston as well.

21 After the four years of medical school I went -- I
22 started my just general pathology residency there at
23 M.U.S.C.

24 I finished my four years at Emory in Atlanta in
25 regular pathology. And then I stayed on at Emory for one

1 extra year to do forensics. And if you do forensics at
2 Emory, you do it in Atlanta at the Fulton County Medical
3 Examiner's Office.

4 Q And what are your duties at the Newberry Pathology
5 Group?

6 A Newberry Pathology does autopsies for 16 counties in
7 South Carolina. We also do autopsies for the South
8 Carolina Department of Corrections and Federal Bureau of
9 Prisons.

10 Q Do you have to do any type of, you know, continuing
11 education or training or anything like that?

12 A Yes. To keep your medical license, you have to do 60
13 hours, I believe, every two years of continuing medical
14 education. And that's just to have your medical license.

15 To keep your board-certified, every two years I have
16 to do 70 hours of continuing medical education. And every
17 three months I have to take a test on-line. So, I do a
18 lot.

19 Q Okay. How many autopsies have you performed?

20 A Approximately 6,000.

21 Q And have you ever been qualified by a court in
22 forensic pathology?

23 A Yes. I have.

24 Q Approximately how many times?

25 A Today will be the 53rd I believe.

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1 Q Okay.

2 MS. BARRY: Your Honor, at this time I would like to
3 offer Dr. Kelly Rose as an expert in the field of forensic
4 pathology.

5 MR. FARR: No objection, Your Honor.

6 THE COURT: Without objection, she is so qualified.

7 Again, ladies and gentlemen, she's qualified due to
8 her skills, education, experience and knowledge and the
9 training in her field.

10 You do not have to accept her opinion. You give it
11 whatever weight you deem advisable. Thank you.

12 MS. BARRY: Thank you, Your Honor.

13 BY MS. BARRY

14 Q Dr. Rose, can you tell the jury what an autopsy is?

15 A Okay. An autopsy is a specialized medical procedure
16 where you are aiming to determine cause and manner of
17 death.

18 So, I like to explain it to people as it's a -- a
19 really good physical exam, but the patient is deceased.

20 So, we'll start with an external exam. We'll take
21 pictures. We do diagrams. I'll look from head to toe for
22 any injury, any illness, anything that might have led to
23 the person's death.

24 After we do the outside, we will open the body, take
25 out each organ and look at every organ system. And I'll

1 slice through every organ and see even any small evidence
2 of disease or injury.

3 Q Are you always able to perform an autopsy?

4 A In general, yes. If you have something, like,
5 somebody who's been skeletonized, you know, that is not --
6 it's a specialized kind of autopsy. It's not the normal
7 kind of autopsy.

8 Q Okay. Did you perform an autopsy on Alicia Garcia on
9 July the 21st of 2020?

10 A I did.

11 Q And where did you perform that autopsy?

12 A In Newberry. The morgue in Newberry County Memorial
13 Hospital.

14 Q Prior to an autopsy, how do you -- how do you receive
15 the body?

16 A So, in South Carolina with it being a coroner state,
17 they, the coroner, will decide who needs to be autopsied,
18 and they will call and schedule an autopsy. And in this
19 case Coroner Fowler contacted us and scheduled an autopsy.

20 Q Okay. How is a body stored prior to autopsy?

21 A They're stored in coolers similar to what you would
22 see on T.V., you know -- you know, the metal boxes, big
23 walk-in coolers.

24 Q Okay. When you first viewed the body of Ms. Garcia,
25 did you notice anything about her?

1 A I did. I noticed that she, in addition to, you know,
2 having some injuries evident, she was also starting to
3 decompose. She -- her skin was a different color. She was
4 actually starting to smell. And there were some magots on
5 her body.

6 Q And what would cause a body to decompose like this?

7 A Just after you die, it's what happens. It's gross,
8 but that's just what happens. It can happen really fast in
9 warm weather. It can take a lot longer in cold weather.

10 Q Are you given any information prior to performing an
11 autopsy?

12 A We're given a case history, a brief case history, that
13 a coroner will call in and say I have, you know, a deceased
14 female, it appears that she was stabbed or it appears she's
15 been injured, such like that.

16 Q Okay. And what information did you receive in this
17 case?

18 A That she was a Hispanic female who was found partially
19 buried in a shallow grave in a cornfield and it appeared
20 that her throat had been cut.

21 Q So, when you were able to view Alicia's body, what
22 type of injuries did you notice?

23 A I noticed several different types of injuries, but
24 they were all similar.

25 There were a lot of what appeared to be at first

1 sharp-force wounds around her head and neck, and she had a
2 cut on her left, the palm of her left, hand. And she had
3 another sharp-force wound, which was a stab, to the back of
4 her right forearm. So, right in here.

5 Once we photographed the body as it was and then we
6 examined the wounds closer, I was able to get a better idea
7 of what types of wounds were there.

8 Q And what types of wounds did you observe?

9 A Okay. So, on her head she had what we refer to as
10 incisions and she had what we refer to as chop injuries or
11 chop wounds. So, sharp-force wounds -- I'll just explain
12 this a little so it will make more sense -- are made with
13 something sharp.

14 And in forensics you have two different kinds of
15 sharp-force wounds. You have stabs and you have incisions.
16 A stab goes deeper than it is on the top of the skin, goes
17 further in, and you see on the top of the skin. An
18 incision is what we would think of as a cut. It's just
19 superficial and long. So, it's longer and bigger on the
20 skin than it is deep.

21 A chop-force wound has characteristics of a
22 sharp-force wound but also of some blunt force trauma,
23 something blunt force, something with some, you know, mass
24 to it, some heaviness. Something heavy that also was kind
25 of sharp, causes chop-force wounds.

1 So, like, for instance, a boat propeller. It's thick
2 and heavy and/but it's kinda sharp on the ends. Those
3 cause chop type wounds.

4 Classically, axes, machetes, implements like that will
5 cause chop-force wounds.

6 Q After observing her chop-force wounds, were they
7 consistent with any type of weapon?

8 A They were consistent with what -- most consistent in
9 my mind with what a machete could do those types of wounds.
10 Cane knife that looks kinda like a machete, maybe anything
11 along those lines.

12 Q Okay. Did you notate these wounds with a drawing?

13 A I did.

14 Q Okay. I'm going to show you what's been marked as
15 State's Exhibit 57 if you will take a look at that. Do you
16 recognize that?

17 A I do.

18 Q Are those the drawings that you performed as a part of
19 the autopsy?

20 A They are.

21 Q And have they been altered or changed in any way?

22 A No.

23 MS. BARRY: Your Honor, at this time I'd like to admit
24 State's Exhibit 57 into evidence.

25 MR. FARR: No objection, Your Honor.

1 THE COURT: Without objection, it's admitted.

2 (Drawings marked State's Exhibit No. 57.)

3 Q And, Dr. Rose, you had mentioned both -- is it part of
4 the autopsy to take photographs of everything?

5 A It is, yes.

6 Q So, do you have your photographs with you?

7 A I have a photograph with me.

8 Q Okay. If you could, look at that but not show it to
9 the jury, and then explain what you're looking at along
10 with the diagrams that you completed in this case.

11 A Okay.

12 Q What are we looking at in this diagram?

13 A Okay. So, this is the diagram that I made of her head
14 showing the wounds that she had to her head.

15 Let me get my diagram out of here.

16 Okay. So we have chop-type injuries and incisions on
17 the back of the head.

18 Would you like me to go through them individually now
19 at this point?

20 Q Yes, ma'am.

21 A Okay. So, if you see on there where it says incised
22 wound -- may I come down there?

23 THE COURT: Sure. Go right over there, Doctor.

24 (Whereupon, the witness left the stand.)

25 A Where you see it says incised wounds to the back of

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1 the head there, that is just a cut. It's another word for
2 that. And it was two inches -- two and one-fourth-inch
3 long, and it was not very deep. So, it only caused soft
4 tissue damage, that incised wound.

5 Okay. So, then right above that you'll see chop wound
6 No. 1. The chop wound No. 1 was one of the wounds that had
7 some sharp force and blunt force characteristics.

8 So, the margins of that wound were abraded. That
9 means like scraped off, because that's something heavy.
10 And there was also kind of a sharp-force cutting to the
11 wound.

12 And underneath that the skull was fractured. I'm
13 talking about chop wound No. 2 now. And I'll tell you what
14 that meant from the inside of Ms. Garcia's head.

15 Chop wound No. 2 at the bottom of his [sic] head also
16 caused skull fractures. So, went through the scalp, caused
17 skull fractures, caused bleeding along the pathway.

18 When we reflected the scalp and looked actually inside
19 the brain, the skull fractures had caused bleeding on her
20 brain. So, that's very symptomatic of head trauma. That
21 was a significant injury.

22 Push that up a little.

23 Chop wound No. 3 went through the skin, but it did not
24 go further. It didn't do too much damage besides going
25 through the skin and muscles that you have on your face

1 there.

2 Chop wound No. 4 went through the soft tissues of her
3 neck and into her trachea, her windpipe. So, it went all
4 the way through the windpipe into it.

5 Incised wounds -- that's two and three -- just caused,
6 you know, damage to her skin and the underlying tissue
7 there.

8 Q And, Dr. Rose, I'm going to show you what's been
9 admitted previously as State's Exhibit 19. Can you
10 correspond what's on the diagram to this picture?

11 A Okay. That you are taking a look at on her neck, is
12 chop wound four, the one that went and got the trachea. If
13 you look up into her hair, you might be able to see an area
14 corresponding to the chop wound No. 1 of her head if you
15 can see kind of where her scalp looks like it's been
16 damaged.

17 Q I'm trying to zoom in for you.

18 A Yeah.

19 Q Right there?

20 A In that area, yes. And once we removed, you know, the
21 hair -- and the hair actually start to slip off from the
22 decomposition. Once the hair was not there, we were able
23 to see those wounds, and that's what we're photographing at
24 autopsy.

25 Q And then -- while we're also looking at your diagrams,

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1 what can you tell us about?

2 A Okay. That was an incised wound, or a cut, and it was
3 to the palm. And that's characteristic for a defense type
4 wound like she's trying to stop the -- whatever is coming
5 at her from getting to her, and it cuts her hand. She has
6 her hands on it.

7 Q Okay. And then this is the last page of State's
8 Exhibit 57. What are we looking at here?

9 A Okay. The scribble marks that I made, there were
10 acid, like chemical type, burns to her skin at autopsy.

11 I see those most frequently in the car crashes when
12 the battery acid or the gasoline gets on someone. But she
13 had wounds that were like that on her body from some strong
14 chemicals. I couldn't tell what chemical that was at the
15 time of autopsy, but it was from a chemical.

16 Q Could you tell if those acid burns occurred either
17 around the time of her death, after death or before death?

18 A They looked, and it was really kind of messed up by
19 the writing, because that makes things not nearly as clear,
20 but it looked like something that had happened. And I said
21 perimortem. So, around the time of death. So, not
22 necessarily huge vital reaction, but sometime around death,
23 close to it.

24 Q Okay. And then stab wound one is what you were
25 talking about earlier.

1 A Yes. Is the wound that went through the soft tissues
2 of her skin. And that's another characteristic spot for a
3 defense wound, you know.

4 Q You can have a seat for me.

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

6 Q Going back to the chop wounds one and two that
7 fractured Ms. Garcia's skull, what kind of force has to be
8 used to fracture a skull?

9 A A significant amount of force. A little bit of it
10 depends on this, you know, the state of the skull.

11 She was young. Her skull was healthy. I've heard up
12 to like a thousand pounds of force to fracture a skull.
13 So, a huge amount, a violent blow.

14 Q Okay. And then bleeding on the brain you talked
15 about. What happens when there's bleeding on the brain?

16 A Your brain swells. It irritates the brain. It's
17 very, very irritating to the brain tissues, the brain
18 tissue is so delicate. And it can just lead to death just
19 through the irritation because it's irritating the signals
20 that are occurring in the brain.

21 Q And what can ultimately happen if bleeding on the
22 brain goes untreated?

23 A You'll die for sure. The brain can swell to a point
24 where it no longer fits into the skull.

25 Q Would any of these injuries cause the victim to become

1 incapacitated?

2 A Yes. The blows to her head with the fractures, I
3 would have suspected that those could have knocked her out.

4 Q And you also talked about the -- the slice into her
5 trachea. What is -- what would ultimately happen with
6 that?

7 A Basically, you -- your breathing is messed up because
8 you can control your windpipe up right behind your mouth,
9 but if you just have an opening here, you cannot control
10 the -- your inspirations or expirations. Your ins and outs
11 of breathing get messed up. They're no longer necessarily
12 under your control. So, you have a huge difficulty
13 breathing.

14 Q Can you tell the jury what the difference is between
15 cause of death and manner of death?

16 A So, cause of death is what led to the person's death,
17 was it -- what disease or injury or other has caused this
18 person to die.

19 Manner of death helps explain the circumstances in
20 which that death occurred. So, for instance, if someone
21 has a heart attack, the manner of death is natural. So,
22 natural processes were involved in that heart attack.

23 If someone shoots themselves, the manner of death is
24 suicide, meaning that their life was taken by themselves.

25 We have five manners of death in forensics. They

1 don't correspond to all of the legal definitions of, you
2 know, crimes.

3 We have natural; we have suicide, which is those two
4 I've described. We have homicide. That's where someone's
5 life was taken by someone else. We have accident, and that
6 is where an injury or a toxin kills someone but it wasn't
7 intended to kill them, like a car crash. You don't intend
8 to die when you go to drive. That's an accident. A drug
9 overdose that was accidental, that drug killed them but it
10 wasn't intentional.

11 And then we have undetermined. And that is when, like
12 I said, we don't have enough evidence. If they're a
13 skeleton, we might not know what killed that person, and
14 that's undetermined.

15 Q Okay. Based on the autopsy within the bounds of a
16 reasonable medical certainty, have you formed an expert
17 opinion concerning the cause of death of Ms. Garcia?

18 A I did.

19 Q And what is that expert opinion?

20 A I called it exsanguination due to chopping injuries of
21 head and neck. I had a contribution of sharp-force wounds
22 of head, neck and upper extremity.

23 Q And what is exsanguination?

24 A That's when you lose all of your blood. So, at
25 Ms. Garcia's autopsy she had all of these horrible wounds,

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1 but she also had lost a lot of blood. You can tell that by
2 looking at someone's organs.

3 So, I said her cause of death was exsanguination. So,
4 she bled out, and that was due to the chopping, the
5 chop-force wounds of her head and neck.

6 Q How long would it have taken somebody with these types
7 of wounds to bleed out?

8 A Minutes.

9 Q Okay. And based on the autopsy within the bounds of a
10 reasonable degree of medical certainty, have you formed an
11 expert opinion concerning the manner of death of
12 Ms. Garcia?

13 A I did.

14 Q And what is that expert opinion?

15 A It was homicide. So, her death was the result of
16 someone else. Someone else took her life.

17 Q And based off of these wounds, is this a -- an
18 up-close and personal attack?

19 A This was a brutal, vicious attack, yes, violent.

20 Q And it was a homicide.

21 A And it was a homicide.

22 Q Just briefly with the acid burns. What are -- what
23 are some things that could have caused those acid burns?

24 A Gasoline, a strong cleaning agent, bleach, some sort
25 of acid wash, any other chemicals along those lines.

1 Q And those happened around the time of death.

2 A Yes.

3 Q Okay. would you have been able to smell any of those
4 agents performing the autopsy?

5 A If she had not started to decompose, then, yes. Once
6 the decomposition reached the rate that it was, then, no,
7 you don't smell that any more.

8 Q And I'm going to show you what's been premarked as
9 State's Exhibits 56 and 55. Do you recognize those?

10 A I do.

11 Q And those are the photos or some of the photos taken
12 at the autopsy?

13 A Yes.

14 Q Have they been altered or changed in any way?

15 A No.

16 MS. BARRY: Your Honor, at this time I would like to
17 admit State's Exhibits 56 and 55 into evidence.

18 MR. FARR: No objection.

19 THE COURT: Without objection.

20 (Photograph marked State's Exhibit No. 55; photograph
21 marked State's Exhibit No. 56.)

22 MS. BARRY: Permission to publish.

23 THE COURT: Yes, ma'am.

24 Q Doctor, if you need to step down, you can.

25 (Whereupon, the witness left the stand.)

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1 Q This is State's Exhibit 56. What are we looking at
2 here?

3 A That is the incised wound on her palm that I described
4 earlier.

5 Q And then State's Exhibit 55.

6 A And that is the stab wound to her right forearm that I
7 described earlier. And you can see how the decomposition
8 is just set in. And it is kind of obscuring what would
9 have normally looked like a regular stab wound.

10 Q Thank you very much.

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

12 Q I have no further questions for you, Dr. Rose. If you
13 will, answer any that Mr. Farr may have.

14 MR. FARR: Your Honor, may it please the Court.

15 THE COURT: Yes, sir.

16 MR. FARR: Ms. Barry, Mr. Haney.

17 CROSS-EXAMINATION

18 BY MR. FARR

19 Q Good afternoon.

20 A Hello.

21 Q I'll be very, very quick.

22 Your job is cutting up the body to figure out the
23 manner of death, is that correct?

24 A I perform autopsies --

25 Q Right.

1 A -- to determine the cause and manner of death, yes.

2 Q Are you preserving the body?

3 A Preserving?

4 Q Yes, ma'am. Preserving, finding D.N.A. or anything
5 like that? Is that your role?

6 A To collect D.N.A?

7 Q Yes, ma'am.

8 A Sometimes we do if we're requested to, yes.

9 Q Okay. Were you requested so in this case?

10 A Let me see if I remember. Most of the time we will
11 take a known D.N.A. blood spot card --

12 Q Yes, ma'am.

13 A -- in homicides and submit it to the South Carolina
14 Law Enforcement Division. I want to refresh my memory in
15 this case because of the decomposition.

16 Q Right.

17 A We collected a D.N.A. blood spot card, yes.

18 Q Okay. The solicitor asked you a question about the
19 stab wound. I'm just looking at your diagram right here.

20 A Yes.

21 Q And I notice she had the photo of this one, which is
22 No. 55. You said it's just a normal stab wound, is that
23 correct?

24 A I said it, the decomposition, was obscuring the
25 normal, what would have looked more like a regular stab

320 Dr. Kelly Rose
Redirect examination by Ms. Barry

1 wound.

2 Q Okay. Or would it be -- in your expert opinion is it
3 the same weapon?

4 A It could have been the same weapon. It could have
5 been the tip of the same weapon, yes.

6 Q Okay.

7 MR. FARR: That's all the questions I have, Your
8 Honor.

9 THE COURT: Okay. Anything from those couple of
10 questions?

11 MS. BARRY: Just briefly.

12 REDIRECT EXAMINATION

13 BY MR. BARRY

14 Q You said you collected a known blood spot card. Who
15 did you give that to?

16 A That was transferred to, I believe, Coroner Fowler as
17 evidence.

18 We take the standard and we seal it up and treat it as
19 evidence. And then it gets assigned for a body, whomever.
20 In this case I believe it was Coroner Fowler. Yes. It
21 was.

22 MS. BARRY: Your Honor, I have further questions for
23 Dr. Rose.

24 THE COURT: Thank you so much, Doctor. Please be
25 careful stepping down.

1 MS. BARRY: Your Honor, may this witness be excused?

2 MR. FARR: No objection, Your Honor.

3 THE COURT: Doctor, you may stay or go, whichever you
4 choose.

5 (Whereupon, the witness was excused.)

6 MS. BARRY: Your Honor, the state has no further
7 witnesses and the state rests.

8 THE COURT: The state rests.

9 Madam Forelady and ladies and gentlemen, the state has
10 now rested it's, what known as, case in chief, meaning the
11 state does not intend to call another witness, introduce
12 another document, what have you.

13 That brings us to some motions, some motion practice,
14 which means I've gotta -- under our rules I've got to make
15 a few rulings outside of your presence regarding some legal
16 matters that do not concern facts. Concern legal matters.

17 So, with that, I'm going to ask you to step back into
18 your jury room. This might take a good 15 minutes or so,
19 and then I'll have you back in the courtroom.

20 Don't talk about the case. It's certainly not over,
21 but it's getting there.

22 Madam Forelady.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: The state has rested. Matters from the

1 state?

2 MS. BARRY: Nothing from the state, Your Honor.

3 THE COURT: Okay. Matters from the state -- from the
4 defense?

5 MR. FARR: Your Honor, I have a motion for a directed
6 verdict at this time.

7 As you know, there are three elements to prove in this
8 case -- the killing of another person with malice
9 aforethought.

10 The state has not produced any direct evidence that my
11 client has killed his wife in this case.

12 Judge, even with -- if the Court takes up all the
13 circumstantial evidence, they still have not met that
14 burden at this time that proves by the preponderance of the
15 evidence that there's even an inkling that my client had
16 killed his wife in this case.

17 Judge, we're asking for a directed verdict at this
18 time. Thank you.

19 THE COURT: Solicitor.

20 MS. BARRY: Thank you, Your Honor.

21 As the Court is well aware, it is a scintilla of
22 evidence that is required to surpass a directed verdict
23 motion.

24 There has been a plethora of circumstantial evidence
25 in this case for it to go to a jury for a jury to make a

1 determination in this case.

2 So, I would ask that the defense's motion to have a
3 directed verdict be denied.

4 THE COURT: I've listened carefully, as everyone here
5 has, and I appreciate everyone's attention. And this
6 certainly is a circumstantial-evidence case. I agree with
7 counsel on that.

8 But the standard is that the Court does not weigh the
9 evidence. The Court determines whether or not there is any
10 evidence, and there is circumstantial evidence. Therefore,
11 there is some evidence for it to go to the jury.

12 So, the motion will be denied, but you're protected on
13 the record, sir.

14 MR. FARR: Judge, if you could give me about ten
15 minutes to talk to my client just -- and go over his
16 rights, then let me come back to court.

17 THE COURT: Yes, sir. I will certainly do that.

18 I'll get off the bench and let you talk to him, and
19 also talk to him about whether or not the defense is going
20 to put up any kind of case, and also ask, if not, then I
21 will have a colloquy with him about that.

22 MR. FARR: Yes, sir.

23 THE COURT: Okay. We'll get off the bench for a few
24 minutes.

25 (Whereupon, a recess was taken.)

1 THE COURT: Okay. Mr. Farr.

2 MR. FARR: Judge, may it please the Court. Zac Farr
3 here.

4 Long discussions. He was previously before the Court
5 even without standing back on the record on Tuesday of this
6 week. It is the same intentions. Client does not want to
7 testify. I've explained to him his right to testify and
8 not to testify. He would like not to testify or present
9 anything as well.

10 Judge, so, when the jury comes back, we will rest as
11 well.

12 THE COURT: Okay. Let's ask him to stand, please, and
13 be sworn.

14 (Whereupon, the oath was presented by the clerk.)

15 THE INTERPRETER: I will -- I will speak the most
16 important. I believe in God. The Holy Spirit is in my
17 heart and I'm not going to speak. It can be your decision.

18 THE COURT: No, sir. Do you swear to tell the truth,
19 or not?

20 THE INTERPRETER: I can't swear because the Bible says
21 I can't swear.

22 THE COURT: Do you affirm?

23 THE INTERPRETER: I affirm, yes.

24 THE COURT: Thank you.

25 Sir, at this time I'm going to tell you about certain

1 rights that you have. If you do not understand something,
2 please stop me, and I'll let you talk to your lawyer.

3 We have reached the stage of this trial where you may
4 present a defense.

5 You have the right to claim the protections given to
6 you by the Fifth Amendment to the Constitution of the
7 United States, which says, in part, no person shall be
8 compelled in any criminal case to be a witness against
9 himself.

10 You have the right to claim the protections given to
11 you by Article One, Section 12, of the South Carolina
12 Constitution, which states, in part, no person shall be
13 compelled in a criminal case to be a witness against
14 himself.

15 That means you cannot be required to testify. You
16 have the right to testify, but no one can make you do so.
17 This is a personal right, and no one can waive it except
18 you.

19 If you decide to testify, you will be subject to the
20 same rules that govern other witnesses, and you may be
21 examined and cross-examined on any relevant issue.

22 If you have any convictions involving dishonesty or a
23 false statement or for crimes punishable by imprisonment
24 for more than one year and this Court determines the
25 evidence outweighs any prejudicial effect to you, the

1 solicitor will be able to introduce your record to attack
2 your credibility.

3 If you decide to testify, your decision must be
4 freely, intelligently and voluntarily made with knowledge
5 of the protections given to you by the Constitutions of the
6 United States and the State of South Carolina and the
7 consequences of your decision.

8 If you do not testify, I will instruct jurors they can
9 give no weight to the fact you did not testify, and there
10 should be no prejudice to you because you did not testify.

11 Do you understand what I have told you?

12 THE INTERPRETER: Yes.

13 THE COURT: Do you have any questions about what I
14 have explained?

15 THE INTERPRETER: No. Well, no. I repeat. I'm
16 leaving this in God's hands, and honestly I can't say
17 anything because God has created a new heart in me, and I
18 believe in the Holy Spirit. And I can't speak lies any
19 more or say anything else.

20 I forgave her. I forgive everyone because I want
21 eternal life. And that's it. Thank you.

22 THE COURT: Have you -- have you discussed this matter
23 with your lawyer?

24 THE INTERPRETER: I've spoken a little with him,
25 because he doesn't understand me, but this is different.

1 This is God's law. And I understand it because he lives in
2 my heart, but I haven't really talked to him.

3 THE COURT: Do you wish to talk to your lawyer about
4 your decision to testify or not testify?

5 THE INTERPRETER: We already spoke, and I said I would
6 not testify because I putting this in God's hands.

7 THE COURT: And do you wish to testify? Yes or no.

8 THE INTERPRETER: No. I'm leaving this in God's
9 hands.

10 THE COURT: Thank you, sir. You may be seated.

11 Okay. Is the defense putting up anything at all?

12 MR. FARR: No, Your Honor.

13 THE COURT: All right. Let's do it this way.

14 Well, it doesn't matter. I'm going to be sending them
15 home anyway. We're going to close in the morning.

16 MR. FARR: Yes, sir.

17 THE COURT: Okay. We're a little bit early, but I
18 promised you that's what we would do. So that's what --
19 we'll stick to the plans.

20 When I bring the jury back in, then you can rest on
21 the record, and I'll instruct them to return.

22 Ms. Brandy, I guess we'll order lunch first thing in
23 the morning and have it ready by 12:00 or something like
24 that.

25 And you have the jury charge.

1 MS. BARRY: We have the latest one. I think it came
2 in when we were up here. I haven't had a chance to look at
3 it yet, so.

4 MR. FARR: I have mine.

5 THE COURT: I'll need it this afternoon. Let's make
6 sure before we leave here that we're in agreement about a
7 jury charge so that we can go straight to work.

8 All right. We'll have the jury.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Thank you, Madam Forelady.

12 Give your attention to the defense counsel.

13 Mr. Farr.

14 MR. FARR: Your Honor, may it please the Court -- Ms.
15 Barry, Mr. Haney.

16 Judge, at this time the defense rests.

17 THE COURT: Okay. Madam Forelady and ladies and
18 gentlemen, that means that the defense is -- does not
19 intend to call any witness, does not intend to put up any
20 other picture or document that's not already in evidence.

21 They have now rested.

22 Now, let me tell you what that means for you. It
23 means in just a few moments I'm going to send you home for
24 the afternoon and ask you to be back here in the morning no
25 later than 9:00 a.m. I'll take the bench at 9:00 tomorrow

1 evening with the charge that I said all week. Do not do
2 any independent investigation; do not try to learn anything
3 about it. You and I have to learn about this case here,
4 and only here.

5 Okay. Anything from the state before I release them?

6 MS. BARRY: No, sir, Your Honor.

7 THE COURT: From the defense?

8 MR. FARR: No, Your Honor.

9 THE COURT: Okay. With that, Madam Forelady, you take
10 the jury out, be excused for the evening. I'll see
11 everyone in the morning. Don't forget. Good coffee in the
12 morning.

13 Madam Forelady.

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

16 THE COURT: Matters from the state?

17 MS. BARRY: Nothing from the state, Your Honor.

18 THE COURT: From the defense?

19 MR. FARR: Just renew my motion for a directed
20 verdict, Judge.

21 THE COURT: Yes, sir. You need to renew your motion.
22 And anything?

23 MS. BARRY: Yes, sir. Arguments from earlier.

24 THE COURT: And that motion is denied again, but
25 you're protected on the record for the reasons heretofore

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1 enunciated on the record.

2 Anything else from anybody?

3 MR. FARR: No, sir.

4 THE COURT: Make sure we've got everything, and then
5 let's -- I'll be here, and let's talk about the jury charge
6 so we'll be ready to go.

7 END OF PROCEEDINGS JANUARY 25, 2024

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1 (Proceedings January 26, 2024)

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

4 THE COURT: Everybody ready?

5 MS. BARRY: Yes, sir.

6 MR. FARR: Yes, Your Honor.

7 THE COURT: We'll have the jury.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 Madam Forelady, everybody good?

12 THE FOREPERSON: Yes, sir.

13 THE COURT: Give your attention to the solicitor.

14 MS. BARRY: Thank you, Your Honor. May it please the
15 Court -- Mr. Farr.

16 Good morning, ladies and gentlemen. I know it's been
17 a little bit of a long week, but we made it. And I just
18 want to thank you for your time, for your attention. And
19 just know that our system could not work without you. You
20 serve a very important role, and I thank you for that.

21 So, when I started on Tuesday, I told you that I would
22 prove that the defendant Dionicio Abarca was guilty of
23 murder and possession of a weapon during the commission of
24 a violent crime.

25 And I also told you that the judge is going to charge

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1 you on the law. There's a lot of law that he's going to
2 charge you on.

3 So, if I quote the law and it contradicts what Judge
4 Kelly says, go with what he says.

5 He's going to charge you on murder. Murder is the
6 intentional, unlawful killing of another person with malice
7 aforethought.

8 He's going to charge you on malice, and malice is an
9 evil mind or depraved heart.

10 And what is aforethought? well, aforethought means
11 that malice has to exist right before the killing and
12 during the killing. And it can be just like that. Doesn't
13 have to be premeditated. It can be in the mind of the
14 killer right before the murder. And in my case I would
15 argue that this is premeditated.

16 And he's also going charge you on my burden of proof,
17 and my burden of proof is beyond a reasonable doubt.
18 That's not beyond all doubt; that's not beyond a shadow of
19 a doubt. I have to firmly convince you that that defendant
20 murdered his wife and he did it with a weapon, because
21 murder is a violent crime.

22 Now, the defense is probably going to get up here and
23 talk about how his client's D.N.A. wasn't found on
24 anything, his prints weren't found on anything.

25 But when you listen to the judge charge the law, you

1 are not going to hear him say that I have to prove my case
2 through D.N.A., through fingerprints, through an eye
3 witness. No. We do not have an eye witness to this crime.
4 She's dead. She can't tell you what happened. He made
5 sure of that. So, are you firmly convinced? You should
6 be.

7 So, who did you hear from first? You had the
8 opportunity to hear from 16-year-old Daniel Juan -- I know
9 him as Daniel, and Dulce, and their 9-1-1 call on July the
10 19th of 2020.

11 Daniel makes that call and he sets up our timeframe
12 for us.

13 His parents left the day before, July 18th of 2020,
14 about 3:00 o'clock. And that's important because of the
15 video that was put in evidence. And that video shows a
16 truck matching the defendant's going by the church a little
17 before 3:00.

18 And then you heard from Dulce. Dulce is 12 years old.
19 She's just spent the night by herself with her two brothers
20 and no parents, and she's upset. She's crying.

21 And she says something that I find very interesting.
22 Her dad ran away. Because that's what he did, ladies and
23 gentlemen. He ran away after killing her mother.

24 Now, sure, she says on the 9-1-1 call that he ran away
25 to go to Alabama to look for work. The defense is going to

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1 bring that up.

2 But when she testified later she said that, well, he
3 had mentioned that way before he left. And then you also
4 heard on the 9-1-1 call that they fought the night before
5 they left. The defendant accused Alicia of cheating on
6 him. And that was the last time he thought she was going
7 to cheat on him.

8 So, then you got to hear from the witness stand Daniel
9 and Dulcet, now 20 and 16. Three-and-a-half years, almost
10 four years, have gone by since the last day that they saw
11 their mother alive.

12 And you heard from Daniel. Daniel said that they left
13 together in the brown truck to go to the field, the rental
14 property and Wal-Mart.

15 And I asked him, you know, this field, what kind of
16 field was this, was this a personal field. Yes. It was
17 their personal garden. It's where they would go. It's
18 where they would all use these tools except for Dulce,
19 because she was 12 and couldn't use the machetes. And they
20 would farm this field together. And this field, Captain
21 Parnell was able to determine, belonged to the defendant.

22 And then Dulce took the stand. Dulce pointed out her
23 dad in the courtroom. And she also said that they left
24 together in the brown truck and she asked to go but her dad
25 told her no, you can't go. why?

1 well, I'm here to tell you that he didn't want a
2 witness to what he was about to do to her mother. She
3 needed to stay home. He had this planned.

4 She had cheated on him and he was going to get rid of
5 her. And Dulce was going to be one more person that he was
6 going to have to plan for.

7 And both children testified that the defendant worked
8 for a pallet place. His farm was a side business that he
9 had for personal use.

10 why is this important? Because why is a man with a
11 pallet job going to Alabama to look for more work? He's
12 not. He's not looking for more work.

13 And she also confirmed that they fought the night
14 before and he accused her of cheating on him.

15 So, after Dulce got down, we heard from Lieutenant
16 Mullinax who was our crime scene investigator at the time,
17 and we put in a lot of pictures. You saw a lot of stuff
18 through Lieutenant Mullinax.

19 Now, Lieutenant Mullinax was able to give us his
20 process when he investigated that crime scene, and he was
21 able to show you how this crime scene kinda changes.

22 It starts out that this field, it's all grass, easy to
23 get on. You have to drive off the road to get onto this
24 grass. But then the foliage starts to change. It starts
25 to get deeper; it starts to be more crowded. It becomes an

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1 easy place to take your wife where nobody is going to see
2 you and kill her.

3 And he also walked you through the field of how they
4 came in. And her body is found over here.

5 Now, notice where that is located in conjunction with
6 the surrounding houses. Nobody's going to see her.

7 Nobody's going to see them in these tall cornstalks.

8 That's why we don't have an eye witness, is he planned it
9 that way. That's how he wanted it.

10 So, Lieutenant Mullinax takes those pictures, and then
11 he comes upon Alicia's body, and he shows you how they
12 found her.

13 Now, ladies and gentlemen, had Alicia not been found,
14 her grave marker would have been a wooden stake and a hat.
15 And that hat, the picture of that hat that's on top of her
16 body, matches or is very similar to a hat that was found in
17 the defendant's truck.

18 And then they start to uncover Alicia. They start to
19 figure out something's been done to her. They see the
20 wounds to her face; they see the wound to her neck; they
21 see the blood all over her shirt.

22 That's just the tip of the iceberg, ladies and
23 gentlemen. They actually don't know what all has been done
24 to her. And that wound to her neck was so deep that it was
25 described to the coroner -- to the pathologist before she

1 did her autopsy that her throat had been cut.

2 So, here we have these lacerations, the steep wound.
3 So, law enforcement realizes that they need to start
4 looking for sharp tools. That's what's caused these
5 injuries.

6 So, from ■■■ Concord Heights, the field that belongs
7 to the defendant, they go to ■■■ Small Farm Road, the
8 rental property also mentioned by the children.

9 But instead of going together like they said they
10 were, the defendant is the only one who walked out of that
11 field and went to that rental property.

12 So, when they get to the rental property, the first
13 thing that they kind of notice is the defendant's truck,
14 which they call in to dispatch, comes back to the
15 defendant. Mail in the truck belongs to the defendant.

16 It's parked in the back. You can't see it when you
17 first pull in. It's hidden.

18 They get out. They take pictures of it. And I'm
19 going to argue that they find a treasure truck, because in
20 the defendant's truck they find machetes.

21 Now, I'm not trying to tell you that the machetes that
22 they found are any of the murder weapons in this case.
23 That's not what I'm trying to tell you, because they didn't
24 find blood on any of these machetes. But what you need to
25 realize is that that man had access to this.

1 Dr. Rose testified that the wounds to Alicia were
2 consistent with a machete type weapon, a machete type
3 weapon that he had access to.

4 what else did they find? well, do you remember when
5 Dr. Rose testified to the acid burns on Alicia? She said
6 it could be caused by something like gasoline or bleach.

7 well, when law enforcement searched the defendant's
8 truck, guess what's in it? A bottle of Clorox right there.
9 They didn't know at the time because they didn't uncover
10 her -- they don't know what acid burns look like -- how
11 important that's going to become. So, not only did he
12 attack her with a machete, but then he poured bleach on
13 her.

14 So, then they go inside the trailer. what do they
15 find? Not -- not much. Nobody lives in that trailer. But
16 they find in the bathtub what looks to be fresh mud and
17 water, and it looks like somebody has tried to clean
18 themselves up. Because remember law enforcement testified
19 that the field was muddy. So, he got it on him and he
20 needed to clean up before he got the heck out of Dodge.

21 And then after Lieutenant Mullinax, ladies and
22 gentlemen, you heard from SLED. SLED didn't find anything.
23 But you know what? I'm going to say to you so what. what
24 if they had found the defendant's D.N.A. on these machetes?
25 what if they had found his fingerprints? They're his

1 machetes. They're in his truck. That's not really going
2 to show us a whole heck of a lot.

3 So, don't let the defense attorney throw that
4 smokescreen up there and muddy the waters, because it
5 doesn't matter.

6 And then you heard from Luis. Now, Luis was a
7 17-year-old boy at the time that this happened who had no
8 clue what he had gotten himself into.

9 He was going to drop off rent money to his uncle and
10 then he was going to go hang out with some friends. But
11 the defendant asked him for a ride. Nothing abnormal about
12 that. He had given his uncle rides before.

13 But that's where the normalities stop, because he got
14 in the back passenger seat and he said get on I-85 and go
15 south and don't stop driving, keep driving, don't turn
16 around.

17 And Luis wanted to stop. The further and further they
18 get away, Luis is, like, something's not right here, please
19 let me turn around, my parents don't know where I am,
20 they're not going to know that I'm this far away, I'm not
21 allowed to go this far from home without my parents knowing
22 about it. No. Keep driving. Actually, turn off your
23 phone and put Houston, Texas, in the G.P.S.

24 So, Luis goes through South Carolina, he goes through
25 Georgia, and he almost goes all the way through Alabama.

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1 He's about an hour from the Mississippi line before he has
2 to stop. He can't go any further. He's tired. He's
3 worked all day and he needs to sleep. That made the
4 defendant unhappy. That's what he said.

5 So, I asked Luis what were the conversations like on
6 his long trip, this hours-long drive. Did he talk about
7 his kids? No. Did he talk about his wife? No. Did he
8 have anything with him like luggage or anything like that?
9 No. Did he take a phone call? No.

10 Because remember Dulce says that they tried to call
11 both of their parents when they went missing. And he
12 didn't answer. Their mom couldn't answer. She's dead in a
13 field.

14 So, when they get to that gas station in Alabama,
15 that's really the first place that Luis is able to stop.

16 I mean, they stop at a gas station in Atlanta, it
17 sounded like, and he went in. He lost sight of the
18 defendant for a little while. He didn't tell anybody about
19 what was going on. I asked him why, and he said that this
20 is his uncle. This is somebody who is a family member, who
21 he has told that he needs to respect. And he's telling him
22 to drive, so he's going to do it.

23 But he's going to be scared at the end, ladies and
24 gentlemen. And that's corroborated by Deputy Pate Cardwell
25 from the Baldwin County Sheriff's Office in Alabama.

1 He testified that he was doing routine patrol and he
2 saw this car at an abandoned gas station they had issues
3 with and when he pulled in two heads pop up.

4 Now, Luis testified that when he had fallen asleep, he
5 hadn't been asleep very long before the defendant was
6 shaking him awake, drive, you need to drive.

7 But Luis found safety. It was law enforcement and he
8 wasn't going to do something to get away from law
9 enforcement.

10 So, Deputy Cardwell gets him out of the car. Now,
11 yes, Luis tells a story that is not true. He tells the
12 story that they're going to Louisiana to visit somebody
13 with COVID. But he knows that it's going to spark
14 something with somebody, because we're at the height of
15 COVID at this point. And Deputy Cardwell knows something's
16 not right.

17 So, then Luis says I'm scared, pull me away from the
18 car. And that's what Deputy Cardwell does. And when he
19 does, that's when Luis tells him I think my uncle's done
20 something bad, this is how he's been acting, he wouldn't
21 let me turn around, he wouldn't let me stop driving, he
22 wouldn't let me stop.

23 So, Deputy Cardwell searches the car. And what does
24 he find? Two passports belonging to the defendant and a
25 thousand dollars in cash. That's it.

1 If a man is going to look for work, why is all he has
2 are two passports and a thousand dollars in cash? Again,
3 he wasn't looking for work.

4 Deputy Cardwell even testified that Luis was so scared
5 of what that man was going to do to him that he asked to be
6 put in handcuffs if they were going to put the defendant in
7 handcuffs because he didn't want him to think he had told
8 on him. Thank God for Deputy Cardwell.

9 So, Luis is able to return home. He's able to
10 cooperate with law enforcement. And here we are today.

11 So, then we put the church video in. You will get to
12 watch that, and that's important for several reasons. I've
13 already stated them, but I'll state them again.

14 It has the defendant's truck, that little brown truck,
15 going by the church on Concord Road right here. This is
16 Concord Baptist Church and here is Concord Heights. And it
17 turns right onto Concord Heights Road and comes down and
18 stops at this dead end.

19 And he's there for about 30 minutes -- 30 minutes for
20 him and his wife to get out of their truck, walk into this
21 field, go into the cornfield for the defendant to kill her,
22 put her in a shallow grave, cover her with dirt and
23 cornstalks and then walk right back out, get in his truck
24 and come back down Concord Heights and then back down
25 Concord Road, which you also see on the video.

1 And we also heard from Captain Parnell, and I think
2 Captain Parnell said it best when he was talking about his
3 investigation process and how you investigate crimes and
4 how each investigation is different.

5 Some investigations have a little bit of evidence;
6 some investigations have a lot of evidence; some
7 investigations have eye witnesses, and some don't.

8 So, the judge is going to charge you, again, on what
9 we call circumstantial evidence. And circumstantial
10 evidence boiled down to it's very basic idea is that all of
11 the circumstances surrounding the crime line up to the
12 point where you can conclusively say that the defendant is
13 guilty beyond a reasonable doubt.

14 So the circumstances? Again, they leave together.
15 I'm sure that you're sick of hearing me say that. But they
16 leave together in the little brown truck. They have no
17 plans to split up. That's what their children said.

18 They go into that field. Alicia doesn't come out but
19 the defendant does in his little brown truck that comes
20 back by that church.

21 He goes to the rental property, cleans himself up.
22 Luis shows up, and he flees the state. What innocent man
23 flees the state? He was trying to get away with two
24 passports and a thousand dollars in cash leaving his three
25 young children behind with no mother. They were left to

1 fend for themselves.

2 So, then we heard from Dr. Rose. But really, ladies
3 and gentlemen, through Dr. Rose we heard from Alicia
4 herself.

5 We got to hear about every slice to Alicia, every
6 single slice, to her face in several places. We got to
7 hear about her chop wounds.

8 We got to hear about chop wound one, which was to the
9 back of her head. And what did chop wound one do to
10 Alicia? It fractured her skull. It caused her brain to
11 bleed.

12 Chop wound two. Chop wound two fractured her skull.
13 It caused her brain to bleed. What type of force is
14 necessary to crush someone's skull? A thousand pounds of
15 pressure with a weapon like this. She didn't stand a
16 chance.

17 Chop wound three right here and right here. It was so
18 deep it cut her trachea, her airway. So, not only is she
19 bleeding out. She can't breathe. She's breathing in her
20 own blood. And she bled out in minutes, ladies and
21 gentlemen.

22 Chop wound four was to her cheek, soft tissue damage.

23 But then she had cuts to the back of her head and,
24 again, to the side of her face. And then she had defensive
25 wounds. She tried to defend herself.

1 But, ladies and gentlemen, she never saw it coming --
2 never saw it coming. She laid in that field while her
3 children worried about where she was. She laid in that
4 field because of what that man did to her and then left,
5 left her to bleed out.

6 Ladies and gentlemen, Alicia will never get to see her
7 children again. She will never get to see them graduate;
8 she will never get to see them grow up, have families of
9 their own, because that man right there, sitting right
10 there, thought that she was cheating on him.

11 Dr. Rose testified that this attack was brutal. It
12 was vicious. It was up close and it was personal.

13 So, ladies and gentlemen, are you firmly convinced
14 that he murdered her and then fled the state? You should
15 be. He's guilty, and I ask that you find him guilty.
16 Thank you.

17 THE COURT: Counsel.

18 MR. FARR: Your Honor, may it please the Court --
19 Ms. Barry, Mr. Haney.

20 Ms. Barry, do you mind if I take this down?

21 MS. BARRY: It's up to you.

22 MR. FARR: On Tuesday I read y'all at the very
23 beginning what the law is. I also went into what is beyond
24 a reasonable doubt. I also told you it's the state's job
25 to prove their case.

1 I'll start again by reading the exact same thing to
2 y'all, which is the law. And, again, the judge is going to
3 read you the law and make sure y'all understand, but it's
4 the same thing I'm reading to you again.

5 "In order to prove this crime, the state must prove
6 that the defendant killed another person." So, first
7 element, like I told y'all, is kill.

8 The second part is another person, "With malice
9 aforethought, either expressed or implied." Those are the
10 three elements I told the state had to prove.

11 Okay. I told y'all about malice. Malice is hatred,
12 ill will, hostility towards another person. "It is the
13 intentional doing of a wrong act without just cause or
14 excuse." Exact same words that I used in opening.

15 I also talked to you about beyond a reasonable doubt.
16 I told you our court system in criminal court is the
17 highest standard. Okay. There are other court systems --
18 common law. When I say common law, back in the old days.

19 Okay. We got common pleas; we got family court; we
20 got those other standards that are lower. Okay. This is
21 the highest standard.

22 The state has the burden to prove each and every
23 element beyond a reasonable doubt. Okay. Reasonable doubt
24 is proof that leaves you firmly convince of the defendant's
25 guilt. Actually, she just said it at the very end right

1 there.

2 A reasonable doubt, as I told y'all, describes the
3 kind of doubt that would cause a reasonable person to
4 hesitate to act. Okay. Reasonable doubt may also arise if
5 the evidence in the case, or from the absence or lack of
6 evidence, for reasonable doubt.

7 I tell y'all that because there is doubt in this case.
8 Okay. The state, as I look at it as there's a C.E.O., and
9 a C.E.O. has people under him, okay, to check to make sure
10 they're doing their job and then present that to -- to
11 y'all.

12 Okay. In this case, the C.E.O. in this case is
13 Captain Parnell. Okay. As I -- he testified right there.
14 I asked him specific questions about his background, about
15 his training and to get a better understanding of how he
16 put this case together.

17 Okay. When he sat there, I asked how much training he
18 had. He said the academy. Then he moved up to
19 investigations. I asked if there was any more training or
20 anything else to be an investigator. No. Just got the
21 academy, that's what it is.

22 So, I asked him who put the file together. When I say
23 file, it's what he gives to the state, gives to me. He
24 said he put that file together.

25 Okay. So, I'll tell you what he did. He put the file

1 together. He did search warrants, okay, on the houses. He
2 did five search warrants on the house. Concord, he did
3 two; ■■■, he did three. Okay. He didn't tell you when he
4 did those search warrants, but he did five of them.

5 He also did cell phone search warrants. Okay. But he
6 never followed back up with that.

7 Okay. He did the D.M.V., went on to there that he has
8 access to. He went on the D.M.V. to find a little brown
9 truck to see if it matched my client's.

10 Okay. He interviewed Luis three times.

11 He didn't actually get the church video, but he
12 watched it. Okay. One of his other individuals went and
13 got the church video, and he watched it. Okay. And that's
14 when he testified that when he watched it that truck looked
15 similar.

16 That's why when he went over there and looked at those
17 pictures for descriptions, because there are key things on
18 those truck that when you're looking at it to see if it's
19 similar. The back bumper is slanted. Okay. There's a
20 decal.

21 Okay. The reason I say that is because when he
22 testified he said he didn't actually get the video. So,
23 the reason why that's important is you got the church video
24 that goes straight to the road. Then they got another one
25 that goes to -- at an angle.

1 what they didn't present is the one that goes to the
2 right side, because I asked if there was any more video.
3 Guess what that right side would have done. It would have
4 looked at the back of the vehicle, for one, the magnet, and
5 to see if that bumper on the back was slanted down.

6 That is key, but again, he is the C.E.O. of this case.
7 He is the one that put it together. Those are the things
8 that you look for in the case. You really want to prove
9 your case beyond a reasonable doubt, you get that video
10 that shows to the right of the road to see the back bumper.

11 Okay. Cell phones are important. The solicitor just
12 stood up there and talked about a few things about
13 traveling for Luis.

14 Okay. She talked about Alabama corroborated his
15 story, but the Alabama officer at the very beginning of
16 this when he pulled him over talked about a couple of
17 things.

18 He's coming from North Carolina. My client was at his
19 house in North Carolina. That's important because he also
20 talked about G.P.S. Did the Alabama officer actually talk
21 about a G.P.S.? Did he find a G.P.S.?

22 Because they say -- the state -- that Luis was forced
23 to cut his phone off. You're forced to cut your phone off,
24 how do you use your G.P.S. if you don't have one that's
25 monitoring the vehicle? But if you cut your phone off, you

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1 can't use a G.P.S. on a phone if it's cut off.

2 Not only that is the C.E.O., Captain Parnell, didn't
3 even try to get the search warrants for the cell phones,
4 because that would have told you the entire track through
5 the map that the state entered in. They wanted you to have
6 this diagram to tell Luis the track he went, okay, the
7 track.

8 He said he didn't want to get the cell phones because
9 the captain had a vision of this entire case. He had his
10 blinders on. He testified that one to the state, because
11 she brought up the question about a missing person, if
12 they're husband and wife, do you look for anybody else.
13 No. He had his blinders on.

14 Ladies and gentlemen, he didn't want to do any further
15 investigation, because he didn't want to. He felt that he
16 had my client and that's all he was looking for. He wasn't
17 looking for anybody else.

18 He didn't look for any other videos as I questioned
19 him up there about his report, because, again, he is the
20 C.E.O. of this case. He put the case file together.

21 And when I asked him about going to other houses or
22 videos or anything like that, he stated when he testified
23 for the state I went and talked to people. But then when I
24 asked him if it was in his report, no, it's not in my
25 report.

1 I asked him if anybody else did, look in his report.
2 No. But y'all heard Investigator/Lieutenant Hudgens --
3 Hutchens talk about, yeah, I didn't write a report but
4 Officer Singleton wrote the report, he should have it in
5 his report that we went and looked at a video camera and
6 stuff like that. Captain Parnell, the C.E.O. said he
7 looked at it too, but it's not in the report. It's not in
8 evidence.

9 You know what else that didn't happen? Inside the
10 truck. Inside the truck is very important because the
11 state is saying he drove his little brown truck down there,
12 chopped up somebody, went to ■■■, changed, took a shower
13 and everything else.

14 But they didn't -- they didn't comb the truck for
15 blood, for anything else. They were looking for a sharp
16 object. Four officers, including the C.E.O., said the same
17 thing. We were looking for sharp objects.

18 They didn't even look for anything else. They didn't
19 want to. Like I said, he had blinders on. Everything that
20 they wanted to present says it's my client. That's well
21 and done. We don't need to search the vehicle.

22 Okay. Then she said in her closing the treasure trove
23 of tools -- machetes. And she wants to pick this one up
24 and says I'm not telling you that this is actually the
25 murder weapon, okay, but he has access. That's key.

1 She talked about Dulce and Daniel, the daughter and
2 son. They talked about a shed on the actual home property.

3 Again, the C.E.O., Captain Parnell, he didn't get a
4 search warrant for that house. Didn't even look in the
5 shed. Didn't look into the other video -- vehicles or
6 anything else, because Daniel and Dulce both testified, is
7 that was the tools that they have -- shovel, hoe and
8 machetes -- come from the shed.

9 Not one of them testified that they came over there
10 and looked at the shed. They didn't even look at the
11 house. They didn't do anything. Like I said, he had
12 tunnel vision so hard on this case he didn't want to do a
13 search warrant on the house.

14 And here is the other thing. ■■■ is actually owned by
15 another person that's testified to. He didn't even try to
16 check out them because they want to say that he was parked
17 in the back. Guess what? You look at the picture they
18 printed off of ■■■. There's actually stairways to the
19 front of that door.

20 So, when you go back there look at the pictures. It's
21 all got grass and everything else on the steps. They're
22 saying he parked in the back. Technically, if that's the
23 way to go, that would actually be the front of the trailer.

24 Here is the other thing. No. 40. The machete that I
25 think, believe, is No. 40. They had three search warrants

1 for [REDACTED]. Actually, two to Concord Heights, which is the
2 field. They said they searched the field over and over and
3 over and didn't find anything.

4 But then during a break families from both sides went
5 to the field and found a machete. Then they go get another
6 search warrant. They didn't comb that. Like I said, they
7 had so much tunnel vision they weren't looking for
8 anything. She said it. Further track.

9 They thought they were like gold mine -- truck, all of
10 the machetes. Here we are. Nothing else we need to do.

11 She also talks about dirt and [REDACTED]. I asked the
12 specific questions when you walk in there was there a
13 vacuum cleaner or anything else? Mud on the floor,
14 footsteps on there?

15 Now, they said the field is muddy. Mud's in there.
16 They didn't decide to comb up that mud to see if there's
17 any trace D.N.A. or blood or anything else in there. It's
18 mud. It meets their story, meets their theory. He's got
19 the blinders on. He had -- he had to go in there and clean
20 himself off. They didn't find no clothes.

21 Dulce and Daniel didn't say dad went and packed a bag
22 or mom had a bag as well, they changed clothes or anything.
23 They didn't find no clothes. From what Captain Parnell
24 said, they didn't find no clothes at [REDACTED]. They found two
25 footprints. None of those were sent off for analysis to

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1 redo the size of that footprint because they also have
2 pictures. And you'll see some mud boots. They didn't --
3 they didn't try to get an analysis on that.

4 They didn't seize the vehicle. They didn't see if the
5 windows were working, tinted or anything of that. They
6 didn't even see if the toolbox, that left side behind the
7 driver's side, was working, could you close it down or
8 could you open it.

9 They didn't get the wooden stake that was out there
10 tested to see if there's any trace D.N.A. They didn't get
11 any video from Wal-Mart.

12 solicitor keeps saying three places -- Wal-Mart, the
13 field and a rental property. They're important. They
14 don't tell you the distance from [REDACTED], [REDACTED] or Concord
15 Heights. If they left at 3:00 o'clock, as they keep
16 saying, nobody testified the distances between all three of
17 these properties, because, again, Captain Parnell had his
18 blinders on. He focused so hard on this, everything he
19 wanted to say was his.

20 She also mentioned Mullinax going out on the scene and
21 taking the photos and helping execute the search warrant.
22 But one thing that was key when SLED talked up there,
23 because I asked them would another chemical agent affect
24 how you test your objects, he said yes. But he said in his
25 report he didn't have anything. Again, we've got the

1 C.E.O., Parnell. He looks over everything before he sends
2 it off because his name is on it because he's the lead
3 investigator.

4 No one told SLED that they did a chemical agent right
5 over there at the sheriff's office on some of those
6 objects, which they could have done because there was three
7 actual different tests. They did one, two, but they could
8 have switched and done different chemicals on some of those
9 objects.

10 Mullinax also said when he was in the house he did not
11 collect the dirt. He took pictures of the mud.

12 Coroner testified all he did with the body was draw
13 the blood and send it off down to Laurens County, or
14 Newberry. But that's all he said he did. Nothing else.

15 Nobody preserved the body. Nobody testified to that,
16 about taking anything besides a blood draw. Nothing else.
17 No D.N.A. or nothing else on that body.

18 SLED Agent Crooks, he talked about latent prints.
19 Again, he said there should have been a report if they did
20 anything else to those objects that they could have done a
21 different test.

22 Solicitor wants to argue that I'm going to get up here
23 and muddy the water. I haven't done that. I'm telling you
24 what the facts are, what they didn't do.

25 Okay. We got objects. My client's D.N.A. is not on

1 any of them. The one they got is somebody else's. Okay.
2 That's what the facts are. Okay. She thinks I'm coming up
3 here to say something else, but the facts are that she's
4 saying he has access, these are his things. D.N.A. is not
5 found on a single one of them. There's D.N.A. on some of
6 those other ones that didn't go any further. She testified
7 to that -- the SLED agent.

8 Pastor Bridges. All he did was said that that video
9 is what they requested. He didn't have anything else to
10 say about the video because he was requested for specific
11 parts. That's all he said he got.

12 Again, it comes down did Captain Parnell have the
13 tunnel vision not getting anything else because, again, he
14 didn't go get it. Somebody else did. He didn't even
15 request it. Somebody else went and got it.

16 What else is important and wasn't done, Ms. Barry
17 keeps talking about his kids, things, little brown truck.
18 During the investigation they were never shown the video of
19 the church, the little brown truck, to I.D. Again, the
20 C.E.O. had tunnel vision.

21 When I say that, if you're the lead investigator and
22 you want convincing evidence should -- and interview those
23 two children, to watch that church video to see if they can
24 I.D. that -- that truck. They didn't do that. They didn't
25 even go to Wal-Mart because that was one of the things

1 Daniel said, they were supposed to go to Wal-Mart first.
2 And then the field and then the rental.

3 And I told y'all before in the opening, and entered
4 in, that listening to the evidence to see what they have,
5 look at it. Y'all got it. Y'all got videos. You got
6 weapons. You got all of that. Nobody expert-wise said
7 those aren't the weapons. Nobody. They haven't had an
8 expert.

9 They had experts for the D.N.A. and everything else.
10 The D.N.A. says my client's D.N.A. is not on those objects.
11 But nobody's been up here to say those aren't it. That's
12 what they're using.

13 They're the state. They present the evidence, what
14 they want in to give y'all to say this is what we have.
15 However, there is doubt.

16 Reasonable doubt may arise from evidence which is in
17 the case or from the absence or lack thereof in the case.
18 They have not proved their case beyond a reasonable doubt.

19 Ladies and gentlemen, I'm asking y'all, again, to find
20 my client not guilty. Thank you.

21 THE COURT: Madam Forelady and ladies and gentlemen of
22 the jury, you have seen and heard the evidence presented,
23 as well as the arguments of the lawyers.

24 It is now my duty and my obligation to instruct you on
25 the law in this case. It will then be your duty and your

1 obligation to begin your deliberations through which
2 process you will decide the facts, apply the law as I now
3 instruct it and render a fair and impartial verdict.

4 It is your duty to determine what the facts are in
5 this case, and you will do that based on your own common
6 sense evaluation and examination of the testimony and the
7 evidence received during the trial of this case.

8 THE INTERPRETER: Your Honor, could you please go a
9 little bit slower?

10 THE COURT: Yes.

11 You 12 jurors alone will decide what effect, value and
12 weight is to be given to any particular testimony or
13 evidence received. Quite simply, your obligation is to
14 give both the state and this defendant a fair and impartial
15 trial based on the evidence presented and the law in this
16 case.

17 The indictment, 2021-0148, charges this defendant with
18 the offense of murder. The state alleges that he did in
19 Cherokee County, South Carolina, on or about July 18 of
20 2020 feloniously, wilfully and with malice aforethought
21 kill the victim, Alicia Garcia Campos, by striking her
22 about the neck and head with a deadly weapon causing deep
23 lacerations to her neck and to her head and that she died
24 as a proximate result thereof in violation of state law.

25 It further charges this defendant with the offense of

1 having a weapon during the commission of a violent crime.
2 The state alleges that he did in Cherokee County, South
3 Carolina, on or about July 18 of 2020 possess a deadly
4 weapon during the commission of a violent crime, that being
5 murder.

6 I remind you again that the fact that he was arrested,
7 charged and indicted is not evidence and cannot be
8 considered by you as evidence of guilt, nor does it create
9 any presumption or inference of guilt.

10 The indictment is simply a written instrument which
11 contains the charge made against him. It is the document
12 which brings him before the Court for trial.

13 The defendant has pled not guilty to the indictment,
14 and that puts the burden on the State of South Carolina to
15 prove his guilt beyond a reasonable doubt.

16 A person charged with committing a criminal offense in
17 South Carolina is never required to prove himself innocent.

18 I charge you it is a cardinal, important and vital
19 rule of law that in a criminal trial, no matter what the
20 seriousness of the charge may be for which he stands
21 charged, the defendant is presumed to be innocent of the
22 crime for which the indictment was issued unless guilt has
23 been proven by evidence satisfying you of guilt beyond a
24 reasonable doubt.

25 The presumption of innocence does not end when you

1 begin your deliberations. It accompanies this defendant
2 throughout the trial until you reach a verdict of guilt
3 based on the evidence satisfying you of guilt beyond a
4 reasonable doubt.

5 The presumption of innocence is described as a robe of
6 innocence placed about the shoulders of a defendant which
7 remains with him from the moment of his arrest and
8 continues until he has been stripped of his shoulders by
9 evidence satisfying you of his guilt beyond a reasonable
10 doubt.

11 The -- the presumption of innocence is not a legal
12 theory or a legal phrase. It is a substantial right to
13 which each defendant is entitled unless you 12 jurors are
14 satisfied of his guilt beyond a reasonable doubt.

15 I remind you that during the trial you and I have
16 certain duties to perform. As the trial judge it is my
17 responsibility to preside over this case and also my duty
18 to rule on the admissibility of evidence offered during the
19 trial.

20 You are to consider only the evidence before you. If
21 there were any evidence or any testimony ordered stricken,
22 you must disregard it. You are to consider only the
23 testimony presented from the witness stand and the exhibits
24 which have been made a part of the record and any
25 stipulations by lawyers.

1 Additionally, I have the duty to charge you the law in
2 this case. As the presiding judge, I am the sole judge of
3 the law, and it is your duty to accept it and apply it as I
4 now state it to you.

5 Ladies and gentlemen, if you have an idea as to what
6 the law is or what the law ought to be or what the law
7 should be and it does not agree with what I now tell you
8 the law is, you must abandon your idea because you have
9 sworn to accept the law and apply it as I now state it to
10 you.

11 In every case tried in this courtroom before a jury
12 you 12 become the judge of the facts. A trial -- a trial
13 judge in South Carolina is not permitted to make a comment
14 or a statement to a trial jury about a fact in the case.

15 You 12 are the sole judge of the facts, and you are
16 not to infer from anything that I may have said or done
17 during this trial in ruling on the admissibility of
18 evidence that I have an opinion about a fact in this case.

19 I tell you and I charge you the law of this state does
20 not allow me or any other trial judge to have an opinion
21 about a fact in a case.

22 The state has the burden of proving guilt beyond a
23 reasonable doubt. Proof beyond a reasonable doubt is proof
24 that leaves you firmly convinced of the defendant's guilt.

25 There are very few things in this world that we know

1 with absolute certainty. In criminal cases our law does
2 not require proof that overcomes every possible doubt.

3 A reasonable doubt may be described as the kind of
4 doubt that would cause a reasonable person to hesitate to
5 act. If you have a doubt as to the guilt of this
6 defendant, then say so, and he is entitled to a verdict of
7 not guilty.

8 A reasonable doubt may arise from evidence in the case
9 or from the absence or lack of evidence in a case. Based
10 on your consideration if you are firmly convinced that the
11 defendant is guilty of the crime charged, then say so and
12 find him guilty. But if you think there is a real
13 possibility he is not guilty, you must give the defendant
14 the benefit of the doubt and find him not guilty.

15 You 12 alone must make the determination of whether or
16 not reasonable doubt exists as to the guilt of this
17 defendant.

18 Ladies and gentlemen, there are two types of evidence
19 generally presented during a trial, and they are known as
20 direct evidence and circumstantial evidence.

21 Direct evidence directly proves the existence of a
22 fact and does not require deduction.

23 Circumstantial evidence is proof of a chain of facts
24 and circumstances indicating the existence of a fact.

25 Crimes may be proven by circumstantial evidence. Our

1 law makes no distinction between the weight or value to be
2 given either direct or circumstantial evidence, but to the
3 extent that the state relies on circumstantial evidence,
4 all of the circumstances must be consistent with each other
5 and when taken together point conclusively to the guilt of
6 the accused beyond a reasonable doubt.

7 If these circumstances merely portray the defendant's
8 behavior as suspicious the proof has failed. The state has
9 the burden of proving his guilt beyond a reasonable doubt,
10 and the burden rests with the state regardless of whether
11 the state relies on direct evidence, circumstantial
12 evidence or a combination of the two.

13 In determining what the facts are in a case you must
14 pass on the credibility of witnesses who have testified.
15 You are the sole judges of the credibility of witnesses who
16 took the stand.

17 Credibility in our law means believability, can you
18 believe this witness, is this witness credible. The value
19 and the weight to be given to their testimony is in your
20 discretion, and you alone must decide the force and effect
21 of the testimony.

22 In making a determination as to the credibility of a
23 witness there are many factors which you may and should
24 take into consideration such as the appearance or manner of
25 the witness that is testifying, what was known about the

1 witness, does the witness have an interest in the outcome
2 of the trial.

3 Ladies and gentlemen, you may believe one witness
4 over -- over several, or several over one. As jurors you
5 have the right to believe a small portion of a witness'
6 testimony and disregard a larger portion. Again, you may
7 believe one over many, or many over one. It is up to you
8 to give what weight that you believe it deserves.

9 The rules of evidence ordinarily do not permit
10 witnesses to testify to opinions or conclusions. An
11 exception exists where a witness is known as an expert
12 witness.

13 A witness who by education and experience has become
14 an expert in a science or some profession or calling may
15 give an opinion as to the relevant material in which the
16 witness claims to be an expert. You should consider any
17 expert opinion received in this case like all other
18 evidence in giving it the weight you think it deserves.

19 If you decide that the opinion of the expert is not
20 based on sufficient education or experience, or if you
21 conclude the reasons given in support of the opinion are
22 not sound, you may disregard it. An expert witness'
23 testimony is to be given no greater weight than that of
24 other witnesses simply because they were qualified as an
25 expert.

1 A stipulation is an agreement. It's an admission or a
2 concession made in a judicial proceeding by the parties or
3 their lawyers and is binding upon the parties.

4 A stipulation is an agreement, and the Court and the
5 jury must accept it as binding. If counsel for the parties
6 have stipulated to any fact, or any fact has been admitted
7 by the lawyers, you must regard that as being conclusively
8 proven by the parties.

9 I instruct you, and I emphasize, that the fact that
10 this defendant did not testify is not a factor to be
11 considered by you in any of the deliberations or on the
12 question of guilt or innocence. It must not be considered
13 by you.

14 The defendant has a constitutional right to remain
15 silent, and the assertion of this right must not be
16 considered by you. You are to draw no conclusion
17 whatsoever from the fact that he did not testify. The fact
18 that he did not testify should not be discussed in the jury
19 room.

20 Now, criminal intent is a necessary element of each
21 crime that must be proven by the state beyond a reasonable
22 doubt.

23 Criminal intent is a matter that must be determined by
24 you 12 from the circumstances surrounding the situation.
25 There is no way to prove intent to a mathematical

1 certainty.

2 Criminal intent, ladies and gentlemen, is a state of
3 mind which when operated jointly with an act is the
4 commission of a crime.

5 It is a mental state. It is a conscious wrongdoing.
6 So, it is up to you to determine what this defendant
7 intended to do based on the circumstances shown to have
8 existed.

9 I tell you the state must prove criminal intent beyond
10 a reasonable doubt, as it must prove every element beyond a
11 reasonable doubt. And while the state may prove motive, it
12 is unnecessary for the state to do so, but the state must
13 prove criminal intent.

14 Now, murder -- the defendant's charged with murder.
15 In order to prove this crime the state must prove that he
16 killed another person with malice aforethought, either
17 expressed or implied.

18 Malice is hatred; it is ill will; it is hostility
19 towards another person. It is the intentional doing of a
20 wrongful act without just cause or excuse and with an
21 intent to kill as the law would infer an evil intent.

22 Malice aforethought does not require that malice exist
23 for any particular time length before the act is committed,
24 but it must exist in the mind of the defendant just before
25 and at the time the act is committed. There must be a

1 combination of previous evil intent and the act itself.

2 Malice aforethought may be expressed or -- or
3 inferred. The terms do not mean different things -- kinds
4 of malice but merely the manner in which malice may be
5 shown, that is either by direct evidence or by inference of
6 the facts and circumstances which are proven.

7 Expressed malice is shown when a person speaks words
8 which express hatred or ill will for another or when the
9 person prepared beforehand to do the act which was later
10 accomplished. For example, lying in wait for a person or
11 any other fact or act of preparation going to show that the
12 deed was within the defendant's mind would be expressed
13 malice.

14 Malice is a wrongful intent to injure another and it
15 indicates a wicked or depraved spirit intent on doing
16 wrong. It is the doing of a wrongful act intentionally
17 without just cause or excuse.

18 Intent means intending the result which actually
19 occurs, not accidentally and not involuntarily. Intent may
20 be proven by acts and conduct of the defendant and other
21 circumstances from which you may naturally and reasonably
22 infer intent.

23 Evidence of the character of the act, the character of
24 the instrument used, the manner in which it was used, the
25 purpose to be accomplished and the resulting wounds or

1 injuries may be considered in determining the intent with
2 which the act was committed.

3 Now, the defendant is charged with possession of a
4 weapon during the commission of a violent crime. Our code
5 of laws says that a person is in possession of a weapon or
6 visibly displays what appears to be a weapon during the
7 commission of a violent crime and is convicted of
8 committing or attempting to commit a violent crime as
9 defined by law, he is guilty of this crime.

10 Our code of laws provides that murder is a violent
11 crime. For you to find the defendant guilty on the
12 separate offense, possession of a weapon during the
13 commission of a violent crime, you must first find him
14 guilty of either committing a violent crime or attempting
15 to commit a violent crime. In this crime, it would be
16 murder.

17 If you find him guilty of the murder, you must then
18 determine whether the state has proven beyond a reasonable
19 doubt that he was in possession of a weapon or visibly
20 displayed what appeared to be a weapon during the
21 commission of a violent crime.

22 You 12 have been selected as fair and impartial jurors
23 sworn to impartially try and determine the facts in this
24 case. You are to decide the case according to the
25 testimony you have heard from the witnesses along with the

1 evidence produced.

2 Ladies and gentlemen, your verdict must be unanimous.

3 Madam Forelady, when the jury agrees on the verdict,
4 you will indicate the verdict in the space provided on the
5 verdict form which I'll explain momentarily. Knock on the
6 jury room door and inform the bailiff you have reached a
7 verdict, and we will return you to the courtroom to receive
8 your verdict.

9 During your deliberations you may only discuss the
10 case in the jury room with other jurors, because they have
11 seen and heard the same evidence that you have seen and
12 heard. You must not discuss this case with anyone outside
13 of the jury room until a verdict has been reached in this
14 case and the case is ended.

15 Madam Forelady, this is the verdict form of which I
16 speak. My law clerk which has been with me all week
17 prepares this in every case.

18 It has a case number and a caption, and that merely
19 says that it goes with this particular indictment. That's
20 all that means. And it says, we, the jury, unanimously,
21 all 12, find the defendant on the charge of murder not
22 guilty or guilty.

23 I tell you there is no significance as to not guilty
24 coming first on the page and guilty coming second. It's
25 the order my law clerk puts them in in every case we try.

1 You will make a mark, whatever the 12 decide. I don't
2 care if it's initials, a checkmark, an X mark. Only thing
3 I ask is it be unambiguous, it's clear to all what the
4 decision of the 12 is.

5 And it says, "If your answer to question one is not
6 guilty, do not answer question two." You will stop, sign
7 your name and advise the bailiff you have reached a
8 verdict. We will return to the courtroom.

9 If your answer to number one is guilty, please answer
10 question two. Question two is, "We, the jury, unanimously
11 find the defendant on the charge of having a weapon during
12 the commission of a violent crime not guilty or guilty."
13 One or the other, again, checkmark, X mark, initials.
14 Matters not. It has a place for you to sign and put a
15 date.

16 Now, I'm getting ready to send all 14 of you to the
17 jury room. Do not begin your deliberations.

18 I practiced law in this courtroom and other courtrooms
19 across this state for 25 years before they elected me to
20 come up here.

21 It is so very easy to pick up a piece of evidence over
22 there, walk around during the presentation and closing
23 arguments, talk about it to the jury, walk back over to my
24 table, lay it down, lay something on top of it, now it's
25 missing.

1 Madam court reporter has a list of all of the exhibits
2 by number. When the 14 of you leave the room the lawyers
3 are going to come up with my court reporter and all of that
4 evidence and they're going to make sure. They are going to
5 ensure that every piece of it was there.

6 Once they -- once they advise me that it's all there,
7 the bailiffs are going to bring that evidence to madam
8 forelady, along with this form.

9 When the bailiffs do that that is your signal to begin
10 your deliberations.

11 When the bailiffs leave after depositing the evidence
12 with madam forelady, you two will return to my courtroom.
13 And on the record here I will dismiss you both. It would
14 not be proper for you to be with the 12.

15 Okay. Madam Forelady, if you will, take all 14 out
16 and wait for the evidence.

17 (Whereupon, the jury retired to deliberate at
18 10:16 a.m.)

19 THE COURT: Anything from the state?

20 MS. BARRY: No, sir, Your Honor.

21 THE COURT: From the defense?

22 MR. FARR: No, sir.

23 THE COURT: Okay. The lawyers please gather up and
24 make sure we have it.

25 (Pause.)

1 THE COURT: Anything from the state or the defense?

2 Anything from the state or defense?

3 MS. BARRY: No, sir, Your Honor.

4 THE COURT: Anything from the defense?

5 MR. FARR: No, sir.

6 THE COURT: Okay. I enjoyed working with all three of
7 you. We are going to release our alternates.

8 (Whereupon, the alternate jurors returned to the
9 courtroom.)

10 THE COURT: Okay. Gentlemen, thank you so very much
11 for your service. That concludes your service. You can
12 turn your badges in. Ms. Brandy has your pay -- pay
13 vouchers. Don't spend all of that million dollars in one
14 place.

15 But anyway with that, you're going to be released and
16 you're free to go. If you want to stay -- and a lot of
17 times alternates do want to stay and see what happened --
18 just have a seat somewhere here with the rest of us. But
19 you're not required to.

20 (Whereupon, the alternate jurors were excused.)

21 THE COURT: Okay. Everybody ready?

22 MS. BARRY: Yes, sir.

23 MR. FARR: Yes, sir.

24 THE COURT: We're ready.

25 (Whereupon, the jury returned to the courtroom at

1 12:42 p.m. to report its verdict.)

2 THE COURT: Madam forelady, has the jury reached its
3 verdict?

4 THE FOREPERSON: Yes.

5 THE COURT: Hand up to Mr. Bailiff, please.

6 Madam clerk will publish.

7 THE CLERK: 2021-GS-11-148, the State of South
8 Carolina vs. Dionicio Abarca, we, the jury, unanimously
9 find the defendant on the charge of murder of Alicia Garcia
10 guilty.

11 As to question two, we, the jury, unanimously find the
12 defendant on the charge of having a weapon during the
13 commission of a violent crime guilty. Signed by forelady,
14 Jessica Dawkins.

15 Ladies and gentlemen of the jury, if this is the
16 verdict of you all, please indicate by raising your right
17 hand.

18 (Whereupon, all responded in the affirmative.)

19 THE CLERK: Thank you.

20 THE COURT: Polling of the jury?

21 MS. BARRY: No, sir, Your Honor.

22 THE COURT: Polling of the jury?

23 MR. FARR: No, sir.

24 THE COURT: Waive polling.

25 Madam Forelady, if you would, come and meet madam

1 clerk. You have the sign the indictment.

2 (Pause.)

3 THE COURT: Madam Forelady and ladies and gentlemen,
4 thank you so very much for your service this week. It's
5 been a full week for sure, but we could not do what we do
6 without you.

7 This is going to end your jury service this week. You
8 can turn your badges in. Madam clerk is going to give you
9 your pay vouchers, and a lot of times jurors want to --
10 because we're going to proceed to sentencing. A lot of
11 time jurors want to finish out their case.

12 If you do -- you are not required to -- but if you
13 wish to stay, once she hands you your pay voucher, if
14 you'll just have a seat anywhere you like in the gallery.
15 This is your courthouse and your courtroom. So, that's up
16 to you.

17 (Whereupon, the trial jury was excused.)

18 THE COURT: Anything from the state?

19 MS. BARRY: No, sir, Your Honor.

20 THE COURT: Anything from the defense?

21 MR. FARR: Renewing all of those previous motions and
22 a motion for a new trial, Your Honor.

23 THE COURT: Motion for a new trial. On what basis?

24 MR. FARR: Judge, I still don't believe they proved
25 their case from this standpoint, Judge, but that's the

1 reason for it, and all of the previous objections I made.

2 THE COURT: Anything from the state?

3 MS. BARRY: Your Honor, unanimous jury found this
4 defendant guilty, and we would ask that that motion be
5 denied.

6 THE COURT: That motion is denied. You are protected
7 on the other motions for the reasons previously enunciated.
8 And the motion for a new trial is denied. There is
9 sufficient evidence to send it to the jury, and they found
10 him guilty.

11 MR. FARR: Yes, sir.

12 THE COURT: Okay. But you're protected.

13 Okay. Have you got sentencing sheets?

14 MS. BARRY: Yes, sir, Your Honor. May I approach?

15 THE COURT: Sure.

16 Anything?

17 MR. FARR: On the sentencing part?

18 THE COURT: Yeah. Do you want anything on the
19 mitigation?

20 MR. FARR: Judge, I'm asking -- my client is 47 years
21 old. I understand what was presented here and everything
22 else.

23 Judge, what I'm asking -- I understand the sentence is
24 30 to life. I'm asking for the minimum here of 30 years.
25 Judge, it is day for day. My client could get out at 50 --

1 if he lives through all of that, he will be 77 years old.
2 Judge, that's what I'm asking for today. I know he would
3 like to speak to the Court as well.

4 THE COURT: Absolutely.

5 Yes, sir.

6 THE INTERPRETER: Have mercy on me. I don't
7 understand. I've suffered a lot through my life. I don't
8 know of anything, and my children are babies. My babies
9 are alone. Mercy. This is my father.

10 THE COURT: Mine too. Thank you.

11 Anything from the state?

12 MS. BARRY: Your Honor, you heard the facts in this
13 case. You saw the photos.

14 His babies are alone because of what he did. So, I
15 would ask that you sentence him accordingly.

16 THE INTERPRETER: Who saw this happen? God's witness
17 to this, and he says forgive so that you can be forgiven.
18 And I also -- that's why I don't want to speak about her.
19 I was -- so, she came to me and she said -- I was sleeping,
20 and she said forgive me. And God said forgive so that you
21 can be forgiven. And that's why I haven't spoken, because
22 I believe in God. I don't want to speak anything about
23 her.

24 And now it's -- and now it's in your hands. If you
25 believe in God and heaven or hell, it's in your hands. It

1 hurts me very much what happened. I still love her. I
2 love my family. And I'm saying the truth. Whenever I
3 would speak to her, she wouldn't mind me.

4 I -- I started getting closer to God -- to God. And I
5 can't say anything else out of respect for her memory. So,
6 now I am asking for mercy. I'm asking for mercy, please
7 mercy.

8 I can barely read a little and God knows this. And I
9 used to -- I used to take care of my children. I used to
10 take care of my children and go to work. May God forgive
11 me. I would go to work.

12 And one time I told her to go get a haircut and she
13 was somewhere else. And one time I saw the car by itself
14 at the dollar store, and she wasn't there. But I just want
15 to say that I want mercy. We all suffer, and just remember
16 that we are all here and God is with you. That's what I'm
17 asking you.

18 THE COURT: Thank you, sir.

19 2021-GS-11-00148 on the murder, you are confined to
20 the Department of Corrections for a period of life.
21 Concurrent. Credit for time.

22 2021-GS-11-148, count two on the weapon, five years in
23 the Department of Corrections concurrent. Credit for time.

24 Best of luck to you, sir.

25 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 County, South Carolina, on the 22nd through the 26th days of January 2024.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 1, 2024

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter



CHEROKEE COUNTY
DEPARTMENT OF COMMUNICATIONS

110 Railroad Avenue
Gaffney, South Carolina 29340
Telephone (864) 487-2747
Telefax (864) 487-2775

E-911

CFS - Command Log

Printed on July 20, 2020

CFS # CFS2035197
Call Taker Holly Thomas
Location [REDACTED] CHESNEE HWY, GAFFNEY, SC 29341
Location Details
Primary Incident Code 10-81 : Missing Person
Use Caution No
Primary Disposition Report Filed
Beat SHERIFF UPPER
Call Time 07/19/20 11:24:19
Completed Time 07/19/20 19:44:33

Reporters

Sex

DOB

Address

Report Time 07/19/20 11:24:19

How Reported 911

From Phone (864) [REDACTED]

Contact Phone

Comments

Other Names

Vehicles

[REDACTED] SC (Other)

Description 1995 Toyota Tacoma

Owner ABARCA NAVA, DIÓNICIO

Responders

100	100 - Mueller, Steve	CCSO (Primary)
105	Anthony, Billy	CCSO (Primary)
106	Parnell, Christopher	CCSO (Primary)
112	Hutchens, Mark	CCSO (Primary)
119 (Primary)	Bolin, Joe	CCSO (Primary)
122	Kelly, Heather	CCSO (Primary)
126	Allen, Terrell	CCSO (Primary)
133	Singleton, Shelby	CCSO (Primary)
135	Lyons, Andrew	CCSO (Primary)
141	Mullinax, Steven (Jacob)	CCSO (Primary)
142	Burrell, Brian	CCSO (Primary)
DSS (Primary)	DSS Active 911, DSS	DSS



Response Times

Assigned 07/19/20 11:27:49 *

Enroute 07/19/20 11:27:49

Made by ZUERCHER

WITNESSES

Cherokee County Sheriff's Office

Heather Wells

DOCKET NO.

21-GS-11-

00148
CLERK OF COURT
CHEROKEE COUNTY, S.C.

The State of South Carolina

2021 MAR 25 PM 1:04

County of Cherokee

BRANDY W. HOBEE

Barry Barnette, Solicitor

ARREST WARRANT NUMBER

2020A1110100739 - (Count One)

COURT OF GENERAL SESSIONS

March 25, 2021 TERM

DIRECT INDICTMENT - (Count Two)

ACTION OF GRAND JURY

TRUETT

VS.

DIONICIO NAVA ABARCA

Debra Kauris
Foreperson of Grand Jury

Date: *3-25-21*

VERDICT

Indictment for

MURDER AND
POSSESSION
OF WEAPON DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-03-0010, 0020; 16-23-490

CDR CODE: 116; 0549

CLASS: FEL-EXM; FEL/F

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on March 25, 2021, the
Grand Jurors of Cherokee County present upon their oath:

COUNT ONE-MURDER

That Dionicio Nava Abarca did in Cherokee County on or about July 18, 2020, feloniously, willfully, and with malice aforethought, kill one Alicia Garcia Campos, by striking her about the neck and head, with a deadly weapon and causing deep lacerations to her neck and to her head. The victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

**COUNT TWO-POSSESSION OF WEAPON DURING
COMMISSION OF A VIOLENT CRIME**

That Dionicio Nava Abarca did in Cherokee County on or about July 18, 2020, possess a deadly weapon, during the commission of a violent crime as defined in Code §16-1-60, to wit: MURDER, in violation of Code §16-23-490, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

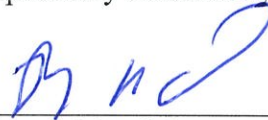
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

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,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 12TH day of May, 2025.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Cherokee County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DIONICIO NAVA ABARCA,

APPELLANT

RECEIVED

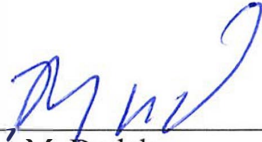
May 12 2025

APPELLATE CASE NO. 2024-000180

SC Court of Appeals

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 J. Anthony Mabry, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); this 12th day of May, 2025.



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT