

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS ERIC MCDOWELL,

APPELLANT

APPELLATE CASE NO. 2024-000226

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #6-9, #20, #24, #27-29 (PHOTOGRAPHS); STATE’S EXHIBIT #37
(DIAGRAM OF RESIDENCE CLOSED); STATE’S EXHIBIT #38 (DIAGRAM OF
RESIDENCE OPEN); and STATE’S EXHIBIT #39 (FBI ANIMATION).**

1 Q. Okay.

2 A. I mean, they definitely knew each other. They were
3 around each other.

4 Q. Okay. But they weren't -- but they weren't definitely
5 in the same -- they were -- you know, each side of the
6 family poker group --

7 A. Correct.

8 Q. -- but there were times when they would play in the
9 same group?

10 A. Correct.

11 Q. Did you know Debbie's children?

12 A. I did, but I didn't. I knew them more later. I knew
13 them when they were -- they were young, they were smaller.

14 Q. Okay.

15 A. So I was around them, but I didn't --

16 Q. Now when did you have your first child?

17 A. On December 29th of '85.

18 Q. So sometime after you had your child, you were a new
19 mom, do you remember something happening with one of
20 Debbie's children?

21 A. Yes.

22 Q. And what was that?

23 A. She was kidnapped.

24 Q. And how did you find out about that?

25 A. My mom. I'm sure the news as well, but my mom.

1 Q. Okay. And at that point, did you -- were you still
2 seeing Shirley and Tommy on a somewhat regular basis?

3 A. Yes.

4 Q. And after the point where you heard that Debbie's
5 daughter had gone missing, did you see Tommy again?

6 A. Yes.

7 Q. And when was that?

8 A. I don't know at what point. I just know after that I
9 did see him and --

10 Q. Okay. Did anything stand out to you?

11 A. Yes, he had cut his hair and his beard and no longer
12 wore the cowboy hat.

13 Q. And when you say cut his hair, how would you describe
14 that?

15 A. Not skin because that's what my boys call it, but
16 short. Like -- like you were going on a job -- like you
17 were going for a job interview, so you clean yourself up
18 and whatever.

19 Q. Okay. And you said he cut his beard?

20 A. Correct.

21 Q. How was it?

22 A. Shaven.

23 Q. Shaved. He was clean shaven?

24 A. Correct.

25 Q. And no cowboy hat?

1 A. No.

2 Q. And how many times do you remember seeing him like
3 that that summer?

4 A. Before that?

5 Q. Before that, sure.

6 A. No, none.

7 Q. Okay. And what about that summer? Did you see him
8 like that more than once?

9 A. Yes.

10 Q. Okay. And since that summer, have you talked -- seen
11 or talked to Tommy since?

12 A. No.

13 Q. Thank you.

14 MS. WEISS: I have no further questions. Please
15 answer any questions the defense may have.

16 THE WITNESS: Okay.

17 THE COURT: Ms. Mauldin.

18 MS. MAULDIN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. MAULDIN:

21 Q. Good afternoon, Ms. Carvi -- Carnaggio.

22 A. Carnaggio.

23 Q. Carnaggio. Thank you. I learned Brakefield in the
24 materials. Sorry. And how old would you have been in
25 June of '86?

1 A. I would have been nineteen.

2 Q. Nineteen. And so how old would Tommy have been then?

3 A. He's six years older than me I think, so he would be
4 twenty-five.

5 Q. Okay.

6 MS. MAULDIN: Nothing further, Your Honor.

7 THE COURT: Any redirect?

8 MS. WEISS: No, Your Honor.

9 THE COURT: May I let this witness be excused?

10 MS. WEISS: Please. She may be excused from
11 her subpoena.

12 THE COURT: You may be excused. Thank you for
13 coming.

14 THE WITNESS: Thank you.

15 (Witness excused.)

16 THE COURT: Madam Forelady, the jury okay?

17 FOREPERSON: Yes, ma'am.

18 THE COURT: You can call your next witness.

19 MS. WEISS: Your Honor, we're checking to see who's
20 here.

21 Your Honor, the State calls Clarissa Boyd.

22 THE CLERK: Please raise your right hand and place
23 your left on the Bible.

24 (Whereupon, Clarissa Boyd was duly sworn by the
25 Clerk of Court.)

1 THE CLERK: Would you, please, have a seat in the
2 witness box. State your full name and spell your last
3 for the record.

4 THE WITNESS: Okay. Clarissa Boyd. B-O-Y-D.

5 CLARISSA BOYD,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. WEISS:

9 Q. Good afternoon, Ms. Boyd?

10 A. Good afternoon.

11 Q. Where are you employed?

12 A. South Carolina DMV.

13 Q. Okay. And how long have you been employed there?

14 A. Twenty years.

15 Q. Do you work with the records at the DMV?

16 A. Yes, ma'am.

17 Q. And you're familiar with those?

18 A. Yes, ma'am.

19 (State's Exhibit Number 44 was marked for
20 identification.)

21 BY MS. WEISS:

22 Q. I'm gonna show you what's been marked as State's
23 Exhibit 44 for identification.

24 A. Yes.

25 Q. Do you recognize what this is?

1 A. Yes, ma'am.

2 Q. Okay. And could you tell what it is?

3 A. This is a legacy printout showing vehicle ownership,
4 VIN number, year, make and title number.

5 Q. Okay.

6 MS. WEISS: Your Honor, at this time I'd like to
7 admit State's Exhibit 44 into evidence.

8 THE COURT: Any objection?

9 MR. MAULDIN: No objection, Your Honor.

10 THE COURT: It's admitted.

11 (State's Exhibit Number 44, DMV legacy printout,
12 was admitted into evidence.)

13 MS. WEISS: Thank you. I have no further questions.
14 Please answer any questions defense may have.

15 MR. MAULDIN: I've got no questions for this witness.

16 THE COURT: All right. May I excuse this witness,
17 please?

18 MS. WEISS: Yes, Your Honor. Thank you.

19 THE COURT: Thank you for coming. You're excused.

20 (Witness excused.)

21 THE WITNESS: Do you want to call your next witness?

22 MS. ABEE: Yes, Your Honor.

23 The State calls David Pritchard.

24 THE CLERK: Please raise your right hand and place
25 your left on the Bible.

1 (Whereupon, David Pritchard was duly sworn by the
2 Clerk of Court.)

3 THE CLERK: Would you, please, have a seat on the
4 witness stand. State your full name and spell your last
5 for the record.

6 THE WITNESS: David Pritchard. P-R-I-T-C-H-A-R-D.

7 DAVID PRITCHARD,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ABEE:

11 Q. And are you currently employed?

12 A. Yes, ma'am.

13 Q. Where at?

14 A. Lexington County Sheriff's Department.

15 Q. How long have you been in law enforcement?

16 A. Twenty-seven years.

17 Q. And how many of those twenty-seven years have you been
18 with the Lexington County Sheriff's Department?

19 A. Twenty-seven years.

20 Q. All right. What's your current position there?

21 A. I'm a sergeant in our training division.

22 Q. And what are some of the other roles and duties and
23 positions you've held at the Lexington County Sheriff's
24 Department?

25 A. I started out on the road as a patrol deputy, moved up

1 to resident deputy, then I was a major crimes investigator
2 for a few years and then I've been in training for a number
3 of years.

4 Q. Now we've throughout this week have heard about the
5 disappearance of Jessica Gutierrez, which took place in
6 June of 1986. You working at the Lexington County
7 Sheriff's Department in June of 1986?

8 A. No, ma'am.

9 Q. Okay. Were you involved in the initial investigation
10 of this case at all?

11 A. No, ma'am.

12 Q. Did you ever become involved in this case?

13 A. Yes, ma'am.

14 Q. Okay. Tell us when and how you became involved.

15 A. I became involved in June of 2006. That was the
16 20-year anniversary and I was asked to pull the case file
17 out and look through it to see if there's anything that
18 could be developed.

19 Q. Now prior to you getting involved in 2006, did you
20 know much about this case?

21 A. No, ma'am.

22 Q. Okay. And when you started to review that case file,
23 did you already have a suspect in mind or anything like
24 that?

25 A. No, ma'am.

1 Q. Okay. Walk us through your process of re-looking at
2 this case.

3 A. What I did, I went and pulled the case file out and
4 took it to my desk and just started going through the
5 information that was there piece by piece trying to get an
6 idea of -- of what the case was all about.

7 Q. And so did you review everything that was already
8 within that file?

9 A. Yes, ma'am.

10 Q. Did that include any statements given by individuals?

11 A. Everything that was in there. Yes, ma'am.

12 Q. Okay. A review of the evidence itself?

13 A. Yes, ma'am.

14 Q. And then did you do additional things as well
15 throughout the investigation?

16 A. Yes, ma'am.

17 Q. Okay. Like what?

18 A. What I did to the -- to the best of my ability was
19 to go through and try to confirm things that had already
20 been done by the previous detective and then just tried
21 to re-interview people that I could make contact with and
22 re-interview.

23 Q. And if any new named popped up, did you interview that
24 individual?

25 A. I made every attempt I could. Yes, ma'am.

1 Q. All right. And approximately how many people do you
2 think you interview once you reopened this case in 2006?

3 A. A large number. I can't give you the exact number.
4 I'm sorry.

5 Q. Would it be greater than, say, five?

6 A. Oh, definitely. Yes, ma'am.

7 Q. All right. I think large is kind of relative --

8 A. It is.

9 Q. -- so tell us for you what is a large number?

10 A. I would say I probably -- in the initial investigation
11 when I got it, probably forty or fifty people.

12 Q. And so in this case we've seen certain pieces of
13 evidence that were collected throughout this case. What
14 did you as the new investigator do with this evidence?

15 A. When I was going back through the case and I noticed
16 that some evidence had been collected during the initial
17 investigation, so I just resubmitted that evidence to SLED.

18 Q. And why would you do that?

19 A. To see if anything else could be done with it.
20 Twenty years had lapsed and I knew that technology had --
21 had advanced and sciences had advanced and so I just
22 resubmitted it to see if there were some things that could
23 be done with it at that time that could not have been done
24 twenty years prior.

25 Q. And earlier today we heard about a fingerprint that

1 was identified in this case. Did you also resubmit that
2 fingerprint for identification?

3 A. Yes, ma'am.

4 Q. And why did you do that?

5 A. Just to confirm it. I -- I didn't want to go solely
6 off of what had been done previously. I did it for my own
7 benefit just to make sure everything was confirmed.

8 Q. And you said you started this back in 2006. Was there
9 ever a point in time that you decided to talk to Tommy
10 McDowell?

11 A. Yes, ma'am.

12 Q. Okay. And approximately how much time had passed
13 between you reopening this case and you talking to Tommy
14 McDowell?

15 A. A little over two years.

16 Q. Okay. So it had been a decent amount of time before
17 you decided to go speak to Mr. McDowell; is that fair?

18 A. Yes, ma'am.

19 Q. You didn't jump right in and immediately go right to
20 him; is that right?

21 A. No, ma'am.

22 Q. Okay. And why did it take that amount of time to
23 decide to go talk to Mr. McDowell?

24 A. Part of that time was waiting on the evidence to get
25 turned back to see if anything else could be done with it

1 and, again, I was taking that time to go through and then
2 try to re-interview people and continuing to go through the
3 case.

4 Q. Is it fair to say that you were trying to gather as
5 much information as you could prior to speaking to
6 Mr. McDowell?

7 A. Yes, ma'am. That's fair.

8 Q. Now at the point in time that you spoke to
9 Mr. McDowell, was he a suspect for you?

10 A. At that time, yes, ma'am.

11 Q. Okay. Had his fingerprint already been matched to
12 the window?

13 A. Yes, ma'am.

14 Q. And we had previously heard from Michael Fowler who
15 testified that Mr. McDowell had told him that he committed
16 a crime, went through a window with a little girl here in
17 South Carolina. Had you reviewed that information also
18 prior to meeting with Mr. McDowell?

19 A. Yes, ma'am.

20 Q. And did you go meet with Mr. McDowell?

21 A. Yes, ma'am.

22 Q. Where was this at?

23 A. The Wake Forest Police Department in North Carolina.

24 Q. And why were you up there?

25 A. Because that's where Mr. McDowell was living.

1 Q. And did Mr. McDowell come and talk to you?

2 A. Yes, ma'am.

3 Q. Okay. And did he provide information to you regarding
4 this case?

5 A. Yes, ma'am.

6 Q. Did he write a statement?

7 A. Yes, ma'am.

8 (State's Exhibit Number 45 was marked for
9 identification.)

10 MS. MAULDIN: Your Honor, I renew my objection.

11 THE COURT: So noted for the record.

12 BY MS. ABEE:

13 Q. Sergeant Pritchard, I'm approaching you with what's
14 been premarked as State's Exhibit Number 45. Do you
15 recognize this?

16 A. Yes, ma'am.

17 Q. And what is this?

18 A. This is the written statement provided by Tommy
19 McDowell.

20 Q. And is this the actual statement that Mr. McDowell
21 wrote himself?

22 A. Yes, ma'am.

23 MS. ABEE: Your Honor, the State moves State's
24 Exhibit 45 into evidence.

25 THE COURT: Okay. Can I see the lawyers just for a

1 second?

2 (Proceedings held at the bench; not reported.)

3 THE COURT: I apologize. Go on forward, I just
4 wanted a copy for myself.

5 MS. ABEE: And, Your Honor, just confirming that
6 State's Exhibit 45 has been admitted into evidence.

7 THE COURT: Okay. Thank you.

8 (State's Exhibit Number 45, a written statement,
9 was admitted into evidence.)

10 MS. ABEE: Permission to publish the exhibit?

11 THE COURT: Yes.

12 BY MS. ABEE:

13 Q. Sergeant Pritchard, I'm gonna start by focussing up
14 on the top part of this. Now talk to us about somebody's
15 rights under Miranda or advising somebody of their rights
16 under Miranda. Did you do that in this case?

17 A. Yes, ma'am. I did.

18 Q. Okay. And talk us through that process?

19 A. Generally what I do is -- whenever I'm interviewing
20 someone and I am interviewing them as a suspect, I do
21 provide them with their rights, and in this case usually
22 I'll use this particular form that has the rights written
23 on there and I will read them each individual right and
24 then have them initial after each one. That initial by
25 them is what I ask them to do if they do understand that

1 right.

2 Q. Okay. So these TM's that we see here beside these
3 rights, did you write those or did Mr. McDowell?

4 A. Mr. McDowell did.

5 Q. Okay. And did it appear while he was, you know,
6 signing this paper that he understood everything as you
7 were telling him?

8 A. Yes, ma'am.

9 Q. Did he appear to be confused in any way?

10 A. No, ma'am.

11 Q. Did he appear to be under the influence of drugs or
12 alcohol or anything like that?

13 A. No, ma'am.

14 Q. Okay. And, Sergeant Pritchard, did you force or
15 coerce him to sign away these rights?

16 A. No, ma'am.

17 Q. Okay. And did it appear as if he did so freely and
18 voluntarily?

19 A. Yes, ma'am.

20 Q. And so after this did you talk with Mr. McDowell?

21 A. Yes, ma'am.

22 Q. Okay. And did you find out whether or not he knew of
23 Jessica Gutierrez?

24 A. Yes, ma'am.

25 Q. Okay. And did he know of her?

1 A. Yes, ma'am.

2 Q. And did he provide you information about how he knew
3 of Jessica Gutierrez?

4 A. He said that he and Debbie had dated.

5 Q. Okay. And did he reference whether or not he had ever
6 been to that home located on South Lake Drive?

7 A. Yes, ma'am.

8 Q. And did he say why he was there?

9 A. He was there to do some work for her. I think put up
10 an awning and a shed.

11 Q. And did he say how much time had passed between the
12 time that he was there at the property and when Jessica
13 disappeared?

14 A. He said he couldn't remember exactly, but it was at
15 least December of -- of 1985.

16 Q. And at this point I'm gonna publish the rest. Can you
17 see that, Sergeant Pritchard?

18 A. Yes, ma'am.

19 Q. Okay. And can you read aloud to us what it is that
20 Mr. McDowell wrote down regarding the case?

21 A. Do you want me to read the entire statement?

22 Q. Yes, please.

23 A. Okay. I met Debbie around 1985 while at a card game.
24 We became interested in each other and dated for about
25 two months. The relationship didn't work out, so we

1 stopped seeing each other. I met her children while we
2 were together. I learned of Jesse from my mom. I don't
3 know much about the case other than what I learned from
4 her, in parentheses, my mom. I did work at Debbie's house
5 on an awning for about one day. I believe it had been more
6 than six months before Jesse disappeared that I was at her
7 house.

8 Q. All right. So Mr. McDowell told you that he was aware
9 of the children that were in the Gutierrez home?

10 A. Yes, ma'am.

11 Q. Okay. And that he only knew about Jessica's
12 disappearance from his mom?

13 A. Yes, ma'am.

14 Q. Okay. But that he had dated Debbie?

15 A. Yes, ma'am.

16 Q. Okay. And then he said regarding how much time he
17 had spent at the house, he said he had put an awning on the
18 house for about one day; is that right?

19 A. Yes, ma'am.

20 Q. And that had been roughly -- more than six months
21 before Jesse had disappeared?

22 A. Yes, ma'am.

23 Q. Now, Sergeant Pritchard, throughout this entire
24 investigation have there been attempts to locate the body
25 of Jessica Gutierrez?

1 A. Yes, ma'am.

2 Q. Okay. What are the various locations where -- that
3 have been searched?

4 A. Initially the investigating officer searched around
5 the house. They did ground searches around the house.
6 They covered several square miles. They searched by foot,
7 searched by four-wheeler, they search by airplane, they
8 searched by helicopter, they searched a pond that was
9 located a little bit of ways behind the house. Also the
10 area behind the landfill off of 321 over near Bray
11 ballparks. That area was searched back then. It has been
12 searched a couple of times since then. We've also searched
13 an area over at Peachtree Rock as well.

14 MS. ABEE: I beg the Court's indulgence, Your Honor.

15 THE COURT: Take your time.

16 BY MS. ABEE:

17 Q. All right. Sergeant Pritchard, I'm gonna show you
18 what's been entered as State's Exhibit Number 5. You just
19 talked about some areas that had been searched. You said
20 the Bray Park area and, if you could, I believe you might
21 have a laser pointer as well. What's your understanding of
22 where Bray Park is in relation to the where the landfill
23 would have been in 1986?

24 A. In 1986, the landfill would have been up in this
25 general area and this would be the ball fields right there

1 located off of Bray Park Road.

2 Q. Okay. And do you know anything about what was in this
3 area over here back in '86?

4 A. Looking at maps from back then, all this appeared to
5 be wooded back at that time, and my understanding in
6 talking with some people that were very familiar with the
7 area that periodically --

8 MR. MAULDIN: Objection. Hearsay.

9 MS. ABEE: We can move on from that, Your Honor.

10 THE COURT: Thank you.

11 BY MS. ABEE:

12 Q. Okay. But it was woods up in that area; is that
13 right?

14 A. Yes, ma'am.

15 Q. Okay. And so to your knowledge were these areas
16 searched?

17 A. Yes, ma'am.

18 Q. And was Jessica Gutierrez's body ever located?

19 A. No, ma'am.

20 Q. Now where -- are you familiar with where the Gutierrez
21 trailer was located in '86?

22 A. Yes, ma'am.

23 Q. And where was that at?

24 A. 2779 South Lake Drive.

25 Q. And is that located in Lexington County?

- 1 A. Yes, ma'am.
- 2 Q. Is that here in the state of South Carolina?
- 3 A. Yes, ma'am.
- 4 Q. Now approximately how far is that trailer from this
- 5 area right here?
- 6 A. Approximately ten miles by road.
- 7 Q. So ten miles by road to get to this area?
- 8 A. Yes, ma'am.
- 9 Q. Now, Sergeant Pritchard, even though you became
- 10 involved in 2006, did your involvement in this case end at
- 11 that point in time?
- 12 A. No, ma'am.
- 13 Q. And did you stay involved all the way through?
- 14 A. Yes, ma'am.
- 15 Q. And were you involved in an FBI deployment that took
- 16 place in September of 2021?
- 17 A. Yes, ma'am.
- 18 Q. Okay. And generally explain to us what that was.
- 19 A. Generally what happens is periodically the FBI will
- 20 select a case, generally a child abduction case, and they
- 21 will put resources together with local law enforcement and
- 22 help with the case to try to come to some resolution.
- 23 Q. And were you a part of that deployment?
- 24 A. Yes, ma'am.
- 25 Q. Okay. And you told us that when you got involved in

1 2006 you kind of started fresh, looked at everything from
2 beginning to end. In 2021, was this another occurrence
3 where everything was looked at beginning to end again?

4 A. Yes, ma'am.

5 Q. Okay. And was the Lexington County Sheriff's
6 Department involved in that case, in that deployment?

7 A. Yes, ma'am.

8 Q. And even though you had identified Tommy McDowell
9 as a suspect, at any point in time did you attempt to
10 influence the FBI and their investigation reviewing this
11 case?

12 A. No, ma'am.

13 Q. And we've been talking about Thomas McDowell or Thomas
14 Eric McDowell throughout of the course of this trial and do
15 you see that individual in the courtroom today?

16 A. Yes, ma'am.

17 Q. If you could, tell us where he's seated and something
18 that he's wearing, please.

19 A. He is sitting over at the defendant's table. He has
20 eyeglasses on and a suit with a blue shirt.

21 MS. ABEE: Your Honor, for the record the witness
22 has identified Thomas Eric McDowell as the defendant.

23 THE COURT: The record so notes.

24 BY MS. ABEE:

25 Q. And, Sergeant Pritchard, before we move on or go back

1 to this FBI deployment, I want to ask you one more thing
2 about that handwritten statement that I forgot to ask you.
3 When Mr. McDowell was writing, did you take note of which
4 hand Mr. McDowell wrote with?

5 A. Yes, ma'am.

6 Q. Okay. What hand was that?

7 A. His left hand.

8 Q. So when the FBI got involved in 2021, Lexington
9 County stayed involved as well. What was your all's role
10 throughout that deployment?

11 A. Our role was basically like the lead investigative
12 agency and they were assisting us, so we just basically
13 worked together teaming up with many times an FBI agent and
14 a Lexington County investigator going out and conducting
15 interviews.

16 Q. And throughout all of this time in your review, you
17 know, had attempts been made to locate people that are
18 Jessica Gutierrez?

19 A. Yes, ma'am.

20 Q. Okay. And have any individuals ever called in and
21 said that they thought that they might be Jesse?

22 A. Yes, ma'am.

23 Q. And tell us what your standard protocol or procedure
24 was when someone would do that.

25 A. Generally when anyone would call in thinking they

1 may be the missing child Jesse, all those calls would get
2 forwarded to me. I would make phone contact with them
3 and talk with them and then ultimately we would get a DNA
4 sample for them for elimination purposes.

5 Q. And did you send those off to SLED?

6 A. Yes, ma'am.

7 Q. Okay. And also throughout all of this time what type
8 of attention has attempted to be drawn to the case to try
9 to sum up tips or anything like that?

10 A. From day one?

11 Q. From day one. Yes, sir.

12 A. Multiple attempts. There have been multiple agencies
13 been involved. As far as organizations, the National
14 Center for Missing and Exploited Children, National
15 Center for Missing Youth, Kevin Collins Foundation, Crime
16 Stoppers, Unsolved Mysteries, American's Most Wanted, and
17 there's just a myriad of different organizations been
18 involved.

19 Q. And were missing posters persons generated?

20 A. Oh, yes, ma'am.

21 Q. And how about over time had age progression photos
22 been generated?

23 A. Yes, ma'am.

24 Q. And then continued ground searches, has that happened
25 if there's been any credible information regarding where

1 Jessica Gutierrez may be?

2 A. Yes, ma'am.

3 Q. Okay. And throughout all of that information has
4 Jessica Gutierrez ever been located?

5 A. No, ma'am.

6 Q. And ultimately did you get arrest warrants in this
7 case in connection to the disappearance of Jessica
8 Gutierrez?

9 A. Yes, ma'am.

10 Q. Okay. And who did you get those warrants for?

11 A. Tommy McDowell.

12 MS. ABEE: Your Honor, may I beg the Court's
13 indulgence?

14 THE COURT: Take your time.

15 MS. ABEE: Your Honor, I have no further questions
16 of this witness at this time.

17 THE COURT: Ms. Mauldin.

18 MS. MAULDIN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. MAULDIN:

21 Q. Good afternoon, Detective Pritchard.

22 A. Good afternoon, ma'am.

23 Q. So back in 2006 when you got involved, that was after
24 Debra Gutierrez had kind of pushed for law enforcement to
25 take another look at the case, right?

1 A. She had called and that's -- that's what be kicked it
2 back off. Yes, ma'am.

3 Q. And that's how you sort of got assigned to it?

4 A. Yes, ma'am.

5 Q. Okay. And then as a police officer, you've had
6 occasions to go to a magistrate and get arrest warrants,
7 right?

8 A. Are you talking about in this case?

9 Q. In any case.

10 A. Oh, yes, ma'am.

11 Q. And you know that if the police believe they have
12 grounds for a warrant, they can go to a magistrate and if
13 the magistrate agrees, then he or she will issue an arrest
14 warrant, right?

15 A. Normally we do that on our own, but sometimes other
16 means are -- are taken.

17 Q. Okay. And there's another way that a case can be
18 charged and that's for the prosecuting agency to send
19 the case to the grand jury to see if they'll issue an
20 indictment, right?

21 A. Yes, ma'am.

22 Q. And if a case is gonna go to trial, then you have to
23 have an indictment, right?

24 A. Yes, ma'am.

25 Q. And it's possible for a prosecuting agency to sort of

1 skip over the arrest warrant part and just go straight and
2 get indictment on their own, right?

3 A. You say the prosecuting agency?

4 Q. Yeah, a solicitor --

5 A. Right.

6 Q. -- can go straight to the grand jury.

7 A. Yes, ma'am.

8 Q. They don't have to wait for the sheriff to get an
9 arrest warrant, right?

10 A. Correct.

11 Q. Okay. And in this case no police agency and no
12 prosecuting agency tried to get an arrest warrant or an
13 indictment until after the FBI redeployed on the case,
14 correct?

15 A. Right.

16 Q. And so you never went to a magistrate judge and asked
17 for a warrant on the case?

18 A. Not officially.

19 Q. Did you ever go before a magistrate and ask him to
20 issue a warrant on --

21 A. Not to issue one. No, ma'am.

22 Q. Okay. And so no warrant was ever issued on this case
23 up until very recently, right?

24 A. Correct.

25 Q. And just to be clear, this case came up in Lexington

1 County, the prosecuting body that has jurisdiction over
2 that would be the Eleventh Circuit Solicitor's Office,
3 right?

4 A. For prosecuting purposes, yes, ma'am.

5 Q. And so they never took the case to the grand jury?

6 A. As far as I know they didn't.

7 Q. And no -- the Attorney General's Office conceivably
8 could have back then, but they didn't until after the
9 arrest warrant was issued towards the end, right?

10 A. Correct.

11 Q. Okay. And so Mr. McDowell was -- okay.

12 All right. You were the officer that ultimately went
13 to a magistrate judge and asked for the warrant, right?

14 A. Yes, ma'am.

15 Q. And so you went before the judge and the judge issued
16 the warrant on January 4th of 2022?

17 A. I think that's the correct date. Yes, ma'am.

18 Q. If I show you the warrant would that refresh your
19 recollection?

20 A. I know it was -- it was early 2022. Yes, ma'am.

21 Q. (Hanging.)

22 A. Yes, ma'am.

23 Q. And you got all the warrants on the same day?

24 A. Yes, ma'am.

25 Q. Okay. And I want to be clear, too, that once the

1 warrant was issued you had the power to arrest him, right?

2 A. Yes, ma'am.

3 Q. And so he was arrested either on January 6th or 7th?

4 A. I don't -- I don't remember the exact date, but it was
5 shortly thereafter. Yes, ma'am.

6 Q. Like two or three days, right?

7 A. Okay.

8 Q. Am I right about that? It was --

9 A. Yeah, it was a short time. Yes, ma'am. Yes, ma'am.

10 Q. And he was arrested in North Carolina?

11 A. Correct.

12 Q. And that's because he lived in North Carolina, right?

13 A. Yes, ma'am.

14 Q. This was not a situation where the police had been
15 looking for him or, you know, could not locate him, you
16 know, since 1986?

17 A. Correct.

18 Q. It's the warrant wasn't issued until January of 2022
19 and once you got it he was real easy to find?

20 A. Yes, ma'am.

21 Q. Okay. And just to be clear, too, and bear with me,
22 but are you aware of a search warrant that was issued
23 around the time of his arrest for his person?

24 A. Yes, ma'am.

25 Q. And so a judge gave permission for photographs to be

1 taken of Mr. McDowell?

2 A. Yes, ma'am.

3 Q. And so the judge gave the authority to take pictures
4 of his penis; is that right?

5 A. At that time. Yes, ma'am.

6 Q. And those were taken?

7 A. Yes, ma'am.

8 Q. Okay. And so going back to the very beginning of
9 this, the -- well, first let me ask you this. Have you
10 been around when people have been booked into the Lexington
11 County jail?

12 A. Yes, ma'am.

13 Q. And so you're -- you're familiar with what a booking
14 officer would do?

15 A. Yes, ma'am.

16 Q. And the person normally doesn't pull out a scale and
17 make, you know, the person that's being arrested stand on
18 the scale and get their accurate weight then and there, do
19 they?

20 A. No, ma'am.

21 Q. And they don't pull out a tape measurer and measure
22 them?

23 A. No, ma'am.

24 Q. Okay. And so you weren't around in Polk County, North
25 Carolina back then, so you don't know what procedures were

1 used to determine Mr. McDowell's height and weight back
2 then?

3 A. No, ma'am.

4 Q. Okay. Is it normally where somebody just kind of
5 eyeballs them and writes it on the paper or the person
6 might give it themselves?

7 A. I think they normally ask them.

8 Q. Okay. All right. And the lead detective on the case
9 was Bob Bartlett and he passed away a few years ago?

10 A. Correct.

11 Q. He's the one that had investigated and interviewed
12 all of the witnesses on the -- the front end of this,
13 right?

14 A. Yes, ma'am.

15 Q. And these days usually if a police officer talks to
16 a witness or does a certain thing in a case, then that
17 officer will write down his or her own account on their
18 individual report and those would be all collected
19 together, right?

20 A. Yes, ma'am.

21 Q. And back then Bob Bartlett kind of did all of the
22 writing for the whole investigation for the most part?

23 A. Yes, ma'am. That's the way it appeared.

24 Q. Okay. And so that means that if somebody comes into
25 court and says something different than what they told him,

1 I don't have a way of calling them to the stand to say what
2 they told him instead?

3 A. Correct.

4 Q. And you're aware that Mr. McDowell's mother had passed
5 away?

6 A. That she did pass away?

7 Q. Yes.

8 A. Yes, ma'am.

9 Q. And you're aware that he had been living with her back
10 then or she had been living with him rather?

11 A. As I recall, I believe that's the arrangements.

12 Q. Okay. And Bob Bartlett was the lead agent from the
13 sheriff's department, but SLED was also involved with this
14 and the lead agent on that was Jenny Jacobs, right?

15 A. I -- I know her name was in the case file several
16 times and I -- she was heavily involved. Now whether or
17 not she was the lead, I don't know.

18 Q. Okay. Maybe that wasn't her title, but she seemed to
19 be doing the majority of the work for SLED?

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

21 Q. And she's up in age and physically infirm now, right?

22 A. Yes, ma'am.

23 Q. Okay. And going back now to 1986, the sheriff's
24 department was sort of the lead agency involved. They're
25 the ones who got involved first?

1 A. Yes, ma'am.

2 Q. Now was there a 9-1-1 tape on this?

3 A. That I don't know. I don't know what number was used
4 to call in.

5 Q. Okay. But in your review of the records, no one has
6 preserved a 9-1-1 tape of any kind?

7 A. None that I have found. No, ma'am.

8 Q. And once the sheriff's department responded, it was a
9 big effort. This wasn't just a couple of officers that
10 showed up. This was everybody, right?

11 A. As I understand, yes, ma'am.

12 Q. And then the same day SLED got involved, June 6th?

13 A. Correct.

14 Q. And so they also brought a mass of officers to work
15 the case, too?

16 A. I assume. Yes, ma'am.

17 Q. And the next date is when the FBI first got involved?

18 A. A day or two later. Yes, ma'am.

19 Q. Okay. And so they brought there resources, too?

20 A. Yes, ma'am.

21 Q. And with all of those officers from those three
22 agencies there appear to be no written police reports,
23 correct? Excuse me. I mean, no written statements from
24 any of the -- the witnesses?

25 A. When you say the witnesses, are you talking about the

1 family members?

2 Q. Well, I should clarify. Yes. People like the
3 witnesses in this trial. Debra Gutierrez didn't write
4 anything down?

5 A. No, ma'am.

6 Q. Nobody had her write a statement of what happened?

7 A. None that I found.

8 Q. And Becky, who had finished the first grade, going
9 into the second, we don't know if anybody asked to see if
10 she could try to write down something?

11 A. No, ma'am.

12 Q. And back then there were tape recorders. Nobody took
13 down a tape recorded interview of what happened?

14 A. None that I found.

15 Q. And so that meant that we don't have any sort of
16 recorded document or tape of exactly how the person was
17 described?

18 A. Correct.

19 Q. And when you got involved in 2006, that's when you
20 had people write statements?

21 A. Yes, ma'am.

22 Q. And did that include Debra and Rebecca, who've
23 testified?

24 A. Yes, ma'am.

25 Q. So the first statements that they ever wrote on this

1 case came about -- about twenty years later?

2 A. As far as I know. Yes, ma'am.

3 Q. And going back to then, there -- there was a lot of
4 media attention on this and there were -- there was a
5 lot of attempts in the news to spread the word so that
6 everybody could help find Jessica, right?

7 A. It appear that way. Yes, ma'am.

8 Q. And so this was a thing that was kind of common
9 knowledge and it was sort of a big thing back then?

10 A. Yes, ma'am.

11 Q. And I believe that Ms. Gutierrez was upset that her
12 case didn't get as much attention as the case of another
13 missing girl from Lexington?

14 A. Correct.

15 Q. Okay. And the police did not keep all of the details
16 secret. I mean, it was public knowledge that there was a
17 window involved and things like that, right?

18 A. I'm not sure how much of that was disclosed, so I
19 honestly can't say, ma'am.

20 Q. Do you recall seeing anything in any of the reports to
21 indicate that anybody tried to keep certain details private
22 so they wouldn't get out?

23 A. I don't know of any specifics. I just know that's
24 kind of the standard procedure is to not give everything
25 out, so I really can't say for sure, ma'am.

1 Q. Of course, the standard procedure would also be to
2 take statements?

3 A. I don't know about back then.

4 Q. Right. Right.

5 A. That was a few years ago.

6 Q. Fair. Fair. And Ms. Gutierrez has been involved with
7 the case since the beginning?

8 A. Oh, yes, ma'am.

9 Q. So she has repeatedly gone to law enforcement and
10 asked for detail and asked for information?

11 A. Yes, ma'am.

12 Q. And you've been open and honest with her about the
13 case?

14 A. Yes, ma'am.

15 Q. And is there anything to indicate to you in your
16 review of the file that that was not the case early on?

17 A. I can't -- I honestly can't say yes or no, ma'am.
18 I'm sorry.

19 Q. Okay. And when you talked to her in 2008 and she
20 wrote, well, multiple statements for you, but that's when
21 she drew that diagram of the house; is that right?

22 A. Yes, ma'am.

23 Q. So that's in 2008. That's not something from back in
24 '86?

25 A. Correct.

1 Q. Okay. And when you interviewed Mr. McDowell back in
2 November -- this was back in 2008, it was November of 2008,
3 right?

4 A. Yes, ma'am.

5 Q. And at that time he was living in North Carolina,
6 right?

7 A. Yes, ma'am.

8 Q. And he was doing construction work?

9 A. Yes, ma'am.

10 Q. So he was easy to find then, too, to come and talk
11 to?

12 A. Yes, ma'am.

13 Q. But even then back in 2008 that would have been
14 twenty-two years after all this stuff happened?

15 A. That's correct.

16 Q. Okay. And to be clear, when you got into this and
17 you did all of your work in 2006 and through 2008, you did
18 not go to a magistrate and a hearing and ask for a warrant
19 at that point either?

20 A. No, ma'am.

21 MS. MAULDIN: No further questions, Your Honor.

22 THE COURT: Any redirect?

23 MS. ABEE: Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. ABEE:

1 Q. Sergeant Pritchard, you stated that it would be normal
2 protocol not to release all of the details of a crime to
3 the media. Why is that?

4 A. Well, there's several reasons. Obviously some of
5 the information we don't want to get out because of
6 the sensitive nature and obviously we're -- as we're
7 interviewing people, we don't want them to have the
8 information that we have. That way we can determine if
9 they have more information than they should have.

10 MS. ABEE: I have no further questions, Your Honor.

11 RE CROSS EXAMINATION

12 BY MS. MAULDIN:

13 Q. I understand that's the procedure now, but can you
14 here and now say that any particular details were concealed
15 back then?

16 A. Honestly I can't.

17 MS. MAULDIN: Okay. Thank you, Your Honor.

18 THE COURT: Okay. Anything else?

19 MS. ABEE: No, Your Honor.

20 THE COURT: Can I let the detective return to the
21 table? I'm not excusing you. I'm gonna let you go to the
22 table.

23 THE WITNESS: Okay. Thank you.

24 MS. WEISS: Yes, Your Honor.

25 (Witness excused.)

1 THE COURT: How about we take a leg break? Ten
2 minutes.

3 Remember, Madam Forelady, there's no talking in the
4 jury room about this case.

5 FOREPERSON: Yes, ma'am.

6 THE COURT: Thank you.

7 (Whereupon, the jury retires to the jury room at
8 3:02 PM.)

9 (Recess taken at 3:02 PM.)

10 (Back on the record at 3:20 PM.)

11 BAILIFF: Court come to order. Keep your seats.

12 MS. WEISS: State's ready, Your Honor.

13 THE COURT: Defense ready?

14 MS. MAULDIN: Yes, Your Honor.

15 THE COURT: All right. Let's bring the jury in.

16 (Whereupon, the jury return to the courtroom in at
17 3:21 PM.)

18 THE COURT: All right. Madam Forelady, the jury
19 ready?

20 FOREPERSON: Yes, Your Honor.

21 THE COURT: Please be seated.

22 You can call your next witness.

23 MS. WEISS: Thank you, Your Honor.

24 The State calls Adrienne Hefney.

25 (Whereupon, Adrienne Riley Hefney was duly sworn by

1 the Clerk of Court.)

2 THE CLERK: Would you, please, have a seat in the
3 witness box. State your full name and a spell your last
4 for the record.

5 THE WITNESS: Adrienne Riley Hefney. H-E-F-N-E-Y.

6 ADRIENNE RILEY HEFNEY,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. WEISS:

10 Q. Good afternoon, Ms. Hefney.

11 A. Good afternoon.

12 Q. Can you, please, tell the jury where you're employed.

13 A. Sure. I'm with the State Law Enforcement Division,
14 more commonly known as SLED.

15 Q. And what is your position there?

16 A. I'm a forensic DNA analyst.

17 Q. And how long have you been employed with SLED?

18 A. I started with SLED in November of 1997 as a non-sworn
19 technician, was promoted to a DNA analyst in March of 1999.
20 I've been over there a little bit over twenty-six years.

21 Q. And how many of those years have you been a forensic
22 DNA analyst?

23 A. Since '99, so that's about twenty -- almost
24 twenty-five of those, twenty-six.

25 Q. Can you, please, tell the jury a little bit about

1 your training and experience as a DNA analyst?

2 A. Sure. I was trained on the job by a court-qualified
3 analyst, but I also have to have an educational background.
4 I have my bachelor's of science degree in biology from
5 the University of South Carolina. I also went back and?
6 got an MBA degree from Winthrop University. I've taken
7 postgraduate courses in the field of genetics and molecular
8 biology, as well as population statistics. And we also
9 have to continue -- do eight hours of continuing education
10 each year, and that includes maybe attending a symposium to
11 learn about any new developments in the field of forensic
12 DNA analysis.

13 Q. Have you ever been qualified as an expert?

14 A. I have.

15 Q. Approximately how many times?

16 A. 101 times.

17 MS. WEISS: Your Honor, at this time I'd like to
18 offer Ms. Hefney as an expert in forensic DNA analysis.

19 THE COURT: Any objection?

20 MR. MAULDIN: No objection. 102.

21 THE COURT: And I'm gonna tell the jury again we
22 have an expert who's going to be allowed to give her
23 opinion because of education and experience. Please
24 give her testimony the weight that you think it deserves.

25 BY MS. WEISS:

1 Q. Okay. Ms. Hefney, if you would, explain to the jury
2 about -- I'm trying to think of the best way to ask you
3 this. As an analyst, do you go out and actually collect
4 the items from crime scenes? Where do you come into the
5 process?

6 A. Well, I used to way back in the day, but now the
7 evidence is brought to us by submitting agencies or our
8 crime scene unit.

9 Q. Okay. And were you in the crime scene unit or an
10 analysis in 1986?

11 A. I was not. I was not at SLED then.

12 Q. So at which point -- once the evidence is brought into
13 SLED, can you talk about what process it goes through once
14 it's brought in?

15 A. Sure. Once evidence is brought into SLED, it's routed
16 to whatever department it needs to go to for whatever
17 analysis it needs. For example, if you submit an item and
18 you need DNA analysis, it comes through evidence control
19 unit and it's placed on a DNA intake shelf and then when
20 we're ready to work it, we'll go down and request it and
21 retrieve it from one of the evidence control technicians
22 and then take it upstairs to our lab and analyze the DNA.

23 Q. Okay. And approximately what year did SLED start
24 analyzing for DNA?

25 A. I believe it was like 1989 when they first started the

1 DNA lab there.

2 Q. And from your training and experience, has DNA -- have
3 DNA examinations changed and evolved since 1989?

4 A. Oh, yes. When I -- when I first came to SLED when I
5 wasn't sworn yet -- well, actually I was getting -- I had
6 gotten promoted when we switched platforms that we use. So
7 first when DNA analysis first started at SLED we were doing
8 something called RFLP analysis. That's where you had to
9 have literally like a quarter size stain to get a DNA
10 profile from and then now we use PCR, which is known as
11 polymerase chain reaction, where theoretically you can have
12 a pinhead size stain and get DNA it.

13 Q. Okay. And so you can have a smaller stain, but when
14 you say -- I'm not even gonna try to say it, that type of
15 analysis, what do you have to do as the analyst in order
16 to -- to find out if you have any DNA on whatever sample
17 that's been provided?

18 A. Absolutely. When we get a sample, so on, let's say,
19 a swab, we will make a snippet of that swab in twos and
20 we'll add chemicals on there that's gonna release the DNA
21 into a solution. We'll purify it, run it through an
22 instrument that will clean up any extra saline material
23 from the sample and then we'll do what's known as
24 quantitation of it. The quantitation tells us how much DNA
25 we're working with, whether we're working with a lot or a

1 little bit, and once we have that quantity, if it's enough
2 to move forward, then we'll move forward with
3 amplification. That's where the PCR comes in. Because
4 it's -- if you think of it like a Xerox copier where you
5 place a piece of paper on a Xerox copier and you copy it a
6 millionfold times. It doesn't change that piece of paper,
7 but it makes it where it's like a book where you can read
8 it. The same thing with a DNA sample. If you put a little
9 tiny piece on there and you multiple it a millionfold
10 times, you are able to develop a DNA profile from there.

11 Q. Can you tell the jury about how DNA is left by people?

12 A. Sure.

13 Q. For example, you know, you've been sitting on that
14 stand for just a couple of minutes. If you would maybe use
15 this to explain it, but what are the chances that we would
16 get your DNA if we swabbed that stand and that microphone
17 now and sent it to you for analysis?

18 A. So you get DNA from saliva, skin, semen, blood,
19 anything that's left behind at a scene. Now sitting on
20 this stand here I'm not really touching anything, so you
21 may or may not get my DNA behind. Like I hope I'm not
22 spitting when I talk, but if you do, if you swab this
23 microphone, then you may or may not get my DNA left behind
24 there. If I -- we also do something now like touch DNA and
25 in theory if I -- the theory is if I touch this you should

1 be able to get my DNA behind, but that's not true. If I
2 were to handle this stand and grip it and I'm like not
3 moisturized and my skin cells are sloughing off and you
4 come behind and swab it then, you may or may not get my DNA
5 left behind.

6 Q. So if you were standing there and you had your hand
7 on there and you got up and left and other people took
8 the stand, how would that affect the chances if they
9 were standing up there and they were talking into that
10 microphone and touching that rail of being able to get
11 your DNA? How would that affect the results?

12 A. It may create a mixture, which would be more than
13 one person's DNA projectile that was left behind. If
14 they were touching the same spots and same microphone
15 and they're leaving saliva in the microphone, you could
16 possibly get a mixture.

17 Q. And how would that affect your ability to get results?

18 A. We can determine when we have mixtures a lot of the
19 times, not all the time, but we're able to differentiate
20 it.

21 Q. And there's sometimes that you can't?

22 A. Absolutely.

23 Q. I'm gonna show you -- I'm gonna show you what's been
24 entered into evidence as State's Exhibit Number 9. This
25 is a car and I know you didn't work this case in 1986, you

1 weren't any part of that?

2 A. (Shakes head.)

3 Q. If this car like this has been sitting outside in
4 South Carolina heat for three months or six months and you
5 were to go in and swab the car, how is that going to affect
6 your ability to potentially get DNA or not get DNA?

7 A. All right. There are two things that can damage DNA
8 and that's extreme heat and moisture. So if you were to
9 leave an item sitting outside in South Carolina summers,
10 the chances of you getting a DNA profile are greatly
11 diminished, if any. Same thing as with moisture. If it
12 was to get wet and, you know, rained on or humidity or
13 whatever on that item and then you try to go back and get
14 a DNA profile, it's likely that you will not be able to
15 develop a DNA profile or at least not a full one.

16 Q. I'm gonna show you what's been admitted as State's
17 Exhibit 34.

18 A. Okay.

19 Q. Do you recognize this item?

20 A. Well, I recognize our packaging and let's see if I can
21 -- I notice one of the items numbers that I've actually
22 tested and here I would usually get the swabs from where
23 someone had swabbed these items. So, yes, I do recognize
24 them. Having touched the items, no, but I got the evidence
25 from the swabs from them.

1 Q. And this is State's Exhibit 34. What can you tell us
2 about the likelihood of being able to -- if that stick is
3 swabbed, being able to get DNA or not get DNA off of the
4 stick?

5 A. Well, it would depend on if this item was outside,
6 one. It would depend on -- also we're talking about a case
7 that's almost about forty years old, so storage can also be
8 a problem in this case. So if you have DNA that's on a
9 swab or either on a stick that's stored in a temperature
10 controlled or climate controlled room, then your chances
11 of getting DNA are more likely possible than if you were
12 to keep it in a room that wasn't climate controlled and it
13 was hot or had a temperature swing. Keeping it in a
14 refrigerator, that would help stabilize DNA. But, again,
15 the extreme heat or moisture even in controlled areas would
16 greatly diminish our ability to get it.

17 Q. And going back to your example about the witness
18 stand, if you were to take this piece of wood, pick it up,
19 prop open a window and not touch it again, what are the
20 chances that you would leave behind DNA?

21 A. It would depend on whether you're sloughing off skin
22 cells. You would have to pretty much handle that stick and
23 more than just for a minute or a second while you're
24 putting it in a window to possibly leave DNA behind.

25 Q. Okay. Now if this stick was swabbed in 1986 or '87

1 and then stored -- the swabs were stored temperature
2 controlled, could you test those today?

3 A. We could.

4 Q. And how would the fact that the swabs are from 1986 or
5 '87, how would that affect?

6 A. DNA is usually stable when it's kept in those optimal
7 conditions. So we have had cases where we've gone back and
8 been able to get DNA from old cases, but it's rare. It
9 has to be kept in ideal conditions and ideal when it was
10 swabbed.

11 Q. And you said that you recall testing that stick --
12 testing the swabs from that stick. Did you get a DNA
13 profile from that stick?

14 A. Okay. I'm going to read from my report. Okay. That
15 was Item 31.1. That was what was written on that stick
16 when she showed it to me and Item 31.1 on my report is
17 described as swabs from the entire exterior of piece of
18 wood used to prop open window and the result was no DNA
19 profile was developed.

20 Q. And based on what you said, is that surprising to you?

21 A. No. It just, again, depends on the conditions it was
22 kept in, whether the person who used it to prop open the
23 stick was -- or prop open the window was sloughing off skin
24 cells or not, how much they touched it. It's a lot of
25 factors that go into whether you're gonna get it or not.

1 Q. Okay. I'm gonna show you State's Exhibit 36,
2 specifically this cigarette butt.

3 A. Okay.

4 Q. Are you familiar with that cigarette butt from the
5 notes and the packaging?

6 A. Yes.

7 Q. Okay. And why are you familiar with that?

8 A. Because it's described as -- in my notes, in my
9 report, described as a Vantage cigarette butt, and then
10 this one is described as an unknown brand cigarette butt
11 with a white filter and a brown upper portion, so that's
12 just how.

13 Q. Okay. Let's talk a little bit about cigarette butts.

14 A. Uh-huh.

15 Q. Can you tell us about the chances of getting DNA or
16 not getting DNA off of a cigarette butt?

17 A. Most of time we have good success with a cigarette
18 butt. Now that's like a freshly discarded cigarette butt
19 that's picked up as soon as somebody finishes smoking it.
20 We've had success with that. So it just depends, again,
21 on how it's kept when it was collected and the environment
22 that it was in.

23 Q. So how would it affect a cigarette butt if it was
24 outside when it was collected?

25 A. If it got moisture on it, like the humidity or dew or

1 it rained or it was hot outside, then that would greatly
2 affect the significant cigarette butt and our ability to
3 get a DNA profile from it.

4 Q. And you said that you have in your report that you
5 tested both of these cigarette butts?

6 A. I did.

7 Q. And so the unknown brown cigarette butt, what was the
8 result of that test?

9 A. Okay. That is my Item 29.2. One unknown brand
10 cigarette butt with a white filter and brown upper portion.
11 There was no DNA profile developed.

12 Q. And the Vantage cigarette butt?

13 A. One Vantage Ultra Light cigarette butt and that's
14 known as our Item 29.1. The partial DNA profile developed
15 is insufficient for interpretation.

16 Q. Can you, please, explain to us what that means.

17 A. Yes. Remember what I said about quantitating and
18 we'll see how much DNA we have, so our target is about .75
19 nanograms of DNA. That's a really small amount because
20 that's about a billionth of a gram. That's what we target
21 when we're developing a DNA profile and I remember with
22 this case, this cigarette butt during our quantitation
23 because our quantitation will tell us whether -- how much
24 human DNA we have and how much male DNA we have. So .75
25 when we target you would see on your quantitation sheet it

1 would be .075 because when we put it in that Xerox copier,
2 we're putting 10 microliters up in there, so that's how
3 we're getting .075. In this one, the quant for that
4 cigarette butt was 0.0007. And, remember, it's supposed to
5 be 0.075 to be able to get a DNA profile from it. That was
6 for the human and then the male portion of it was 0.0009.
7 So we had very little DNA that we were working and so it's
8 very hard to get a whole DNA profile from that small
9 amount. We got a partial DNA profile from it, but when you
10 have so few we can't interpret it. When you have such a
11 small amount of DNA, we don't interpret it.

12 Q. And when you say the male portion, what does that
13 mean?

14 A. It just means that there's male DNA present.

15 Q. And so can you say there was male DNA present?

16 A. According to the quantitation, yes. 0.0009 nanograms
17 of it.

18 Q. And when you say insufficient quantity of DNA to make
19 a profile, can you make any conclusion at all about the DNA
20 other than there was some male DNA there? Can you make any
21 conclusion about the profile -- the partial profile you got
22 from the DNA?

23 A. No. When it's that little amount, that partial of a
24 DNA profile, it's insufficient for interpretation. We have
25 to have an adequate amount of DNA to make an interpretation

1 of it and when we look at like twenty-three chromosome and
2 we don't get like at least ten marker locations with a DNA
3 profile, we don't make a call on that.

4 Q. And would it be fair to say that the longer a
5 cigarette butt sits outside the less likely it is that
6 you'll be able to get any DNA off of it?

7 A. That's correct.

8 MS. WEISS: I beg the Court's indulgence.

9 BY MS. WEISS:

10 Q. Adrienne, as this case progressed, did you receive --
11 were you able to create a profile standard for what would
12 be Jessica Gutierrez's DNA?

13 A. I have -- I never got Jessica Gutierrez's DNA. I have
14 her parents, Debra Gutierrez and David Gutierrez.

15 Q. Okay. And what did you do with that in order to be
16 able to test items to see if they could belong to Jessica
17 Gutierrez?

18 A. Yes. So we developed a profile that could belong to
19 her. We would compare it against the parents because, of
20 course, you get half your DNA from your mom and half of
21 it from your father, and as long as we have both of those
22 profiles any profile we develop from a person we can
23 compare and see if that's a -- consistent with being a
24 biological offspring of those two individuals.

25 Q. And over time were you -- were items submitted to you?

1 MR. MAULDIN: Objection, Your Honor.

2 THE COURT: The objection?

3 MR. MAULDIN: Foundation for her testimony about
4 items that are not in evidence.

5 THE COURT: Well, I don't know what she's gonna ask
6 yet.

7 MR. MAULDIN: Okay.

8 THE COURT: Let me see the lawyers.

9 (Proceedings held at the bench; not reported.)

10 THE COURT: All right. Go ahead, Ms. Weiss.

11 MS. WEISS: Thank you, Your Honor.

12 BY MS. WEISS:

13 Q. So did you receive swabs from Lexington County from
14 unknown swabs from people that the question was did their
15 profiles match that of Jessica Gutierrez?

16 A. I did.

17 Q. And do you know approximately how many of those you
18 received?

19 A. I received under this lab number -- four under this
20 lab number and then they started submitting under a new
21 lab number and I issued two reports for that, so four --
22 so five. That's about nine people that I tested -- I
23 developed DNA profiles from them and compared them against
24 the known standards of Debra and David Gutierrez to
25 determine if they could be biological offsprings of them

1 and --

2 Q. And did you test all of the ones that were submitted
3 to you?

4 A. I did.

5 Q. And what were the results of those tests?

6 A. All of them were excluded as being an offspring of
7 Debra and David Gutierrez.

8 Q. Okay.

9 MS. WEISS: Thank you. Please answer any questions
10 the defense may have.

11 I have no further questions.

12 THE COURT: Ms. Mauldin or Mr. Mauldin.

13 CROSS-EXAMINATION

14 BY MR. MAULDIN:

15 Q. How many people was that again?

16 A. I'm sorry?

17 Q. How many -- how many people did you compare the DNA?

18 A. I believe it was nine people because there were four
19 that were submitted under the 94 case number.

20 Q. So nine people thought they were Jessica Gutierrez?

21 A. Yes, from my understanding.

22 Q. Could there be more out there?

23 A. I hope not, but --

24 Q. Well, some of us would hope so.

25 A. Uh-huh.

1 Q. Do you know what conditions that stick and the
2 cigarette butts were kept in before they were brought to
3 your lab?

4 A. No, they -- the description just said they were found
5 outside.

6 Q. Okay. But for all these years you don't know the
7 conditions they were kept in?

8 A. No.

9 Q. All right. And let's say a cigarette butt was
10 outside less than twenty-four hours and no rain, would
11 that obliterate the DNA?

12 A. It just depends. If it had moisture, like if it was
13 outside overnight and you had the dew the next morning,
14 that could be a possibility. If it was twenty-four hours
15 but the sun was out, that could definitely be a possibility
16 that it would obliterate the DNA.

17 Q. Uh-huh. But it's possible the DNA could remain?

18 A. It is possible.

19 Q. And some DNA remained for you to get a partial profile
20 off the Vantage cigarette butt?

21 A. That is correct.

22 Q. But you were unable to get any DNA off the non-Vantage
23 cigarette butt; is that right?

24 A. That is correct.

25 MR. MAULDIN: No further questions.

1 THE COURT: Any redirect?

2 MS. WEISS: No, Your Honor. And may this witness
3 please be excused from her subpoena.

4 THE COURT: Absolutely. Agent, thank you coming.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: All right. Let me see the lawyers for
8 a second.

9 (Proceedings held at the bench; not reported.)

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, we are back on track so thank you for having a
12 working lunch. I hope maybe we will finish this case,
13 I don't know, I hope tomorrow, worse scenario would be
14 Friday morning, okay? That's kind of the plan. Just
15 don't hold me to it.

16 So I'm gonna let you go for the day because there's
17 some other matters I need to take up with the lawyers
18 and I can get that done. No need for you-all to wait
19 around.

20 Please remember no TV, no research, no talking
21 about this case, no research on any of the lawyers, the
22 witnesses or anything that you've heard in this case
23 period.

24 I'll ask that you be back in the jury room at
25 8:45 in the morning, okay? I hope you-all have a great

1 evening.

2 Thank you.

3 (Whereupon, the jury was excused for the day at
4 3:54 PM.)

5 THE COURT: Okay.

6 All right. Let me let me address you, Mr. McDowell,
7 because I really anticipate the State to rest tomorrow
8 and I need to talk to you about your right to testify
9 and I'd like to give you the evening to think about it
10 because it's a major decision.

11 Do you understand?

12 THE DEFENDANT: I do.

13 THE COURT: All right. Let me get the clerk to
14 swear you in right quick.

15 THE CLERK: Please raise your right hand.

16 (Whereupon, Thomas Eric McDowell was duly sworn by
17 the Clerk of Court.)

18 THE COURT: All right. At this time I'm going to
19 explain to you your rights. If you don't understand
20 anything I say, please let me know. If you want me to
21 explain anything in more detail, let me know.

22 Do you understand?

23 THE DEFENDANT: I do.

24 THE COURT: All right. We have now reached the
25 stage of the trial where you may present your defense.

1 It will be tomorrow, okay? You have the right to claim
2 the protections given by the Fifth Amendment to the
3 Constitution of the United States and it states, in part,
4 no person shall be compelled in any criminal case to be
5 a witness against himself. This means that you cannot be
6 required to testify in this case. You have the right to
7 testify on your own behalf; however, no one can make you
8 testify. This is a personal right and no one can waive
9 this right except you.

10 If you decide to testify, you will be subject to
11 the same rules that govern other witnesses and you may
12 be examined and cross-examined on any relevant issue in
13 the case. In addition, if you have any convictions
14 involving dishonesty or false statements or for crimes
15 punishable by imprisonment for more than one year and
16 this Court determines that the probative value of
17 admitting this evidence outweighs its prejudicial effect
18 to you, the Solicitor will be able to introduce your
19 record to attack your credibility.

20 Let me ask the State, is there anything on his
21 criminal history if he chose to testify that would be --
22 that you intend to bring up?

23 MS. ABEE: Your Honor, he does have a criminal
24 history. Nothing for dishonesty and nothing within the
25 last twenty or so years, but he does have a prior rape

1 conviction, prior burglary convictions and prior assault
2 convictions.

3 THE COURT: That you intend to cross him on?

4 MS. ABEE: Depending on Your Honor's ruling and
5 holding, yes.

6 THE COURT: Okay.

7 All right. Do you understand that, Mr. McDowell?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. If you decide to testify,
10 this decision on your part must be freely, voluntarily
11 and intelligently made with knowledge of the protections
12 given to you by the Fifth Amendment and the consequences
13 of your decision to testify.

14 If you decide not to testify, I will instruct the
15 jurors that they cannot give the fact that you did not
16 testify any consideration whatsoever and that there is
17 to be absolutely no prejudice to you because you did not
18 testify.

19 It is left entirely left up to you whether or not
20 to testify. You may talk with your attorneys, your
21 family, I notice that you've had some friends out here,
22 or anyone else, but the final decision will be left
23 entirely up to you.

24 Do you understand what I've explained to you?

25 THE DEFENDANT: I do.

1 THE COURT: All right. Now I don't want you to
2 answer me as to whether you want to testify or not in
3 this case. I want you to think about it because I think
4 this is a very, very important right and you get one
5 shot at this. This is, you know, your trial and I'm
6 gonna give you the opportunity to talk to your friends.
7 After I adjourn court today, if you want to talk to them
8 or talk more to your attorneys, I'm gonna give you that
9 opportunity.

10 Do you understand?

11 THE DEFENDANT: I do.

12 THE COURT: And then I think the State, after they
13 rest, I'll come back and we'll talk about this again. I
14 just want you to think about it, okay?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Thank you.

17 All right. Anything from the State?

18 MS. ABEE: No, Your Honor.

19 THE COURT: Anything else from the defense?

20 MR. MAULDIN: No, Your Honor.

21 THE COURT: All right. For everybody else, let me
22 tell you court will -- I think we are on track to finish
23 this week. Court will resume at 8:45 in the morning. I
24 think the worst scenario is that this case will conclude
25 on Friday, but we'll see how it goes. I hope everyone

1 has a good evening.

2 Court's adjourned.

3 MS. ABEE: Thank you, Judge.

4 MS. WEISS: Thank you, Your Honor.

5 (Whereupon, the proceedings were concluded for
6 February 7, 2024, at 4:01 PM.)

7 (The following proceedings were held February 8,
8 2024, beginning at 8:51 AM.)

9 BAILIFF: All rise.

10 THE COURT: Okay. Be seated.

11 Good morning.

12 MS. ABEE: Good morning.

13 MR. MAULDIN: Good morning.

14 THE COURT: Are we ready to go forward?

15 MS. ABEE: Judge, in speaking with Mr. Mauldin this
16 -- one, I don't see Ms. Mauldin here yet, so I don't --

17 THE COURT: Oh, okay. Well, let's wait on her.

18 MS. ABEE: Okay. And, Judge, can we approach on
19 something?

20 THE COURT: You sure can.

21 (Proceedings held at the bench; not reported.)

22 THE COURT: All right. Ms. Abee --

23 MS. ABEE: Yes, Your Honor.

24 THE COURT: -- I understand that you're calling a
25 witness to -- the next witness or one of the witnesses

1 this morning to testify and the defense objects.

2 Can you put that on the record for me?

3 MS. ABEE: I can, Your Honor.

4 The second witness the State intends to call
5 today is Amy Paparazzi. She's an intel analyst with
6 the FBI. Her specific job is to respond and collect
7 intelligence-type information by using open source and
8 closed source databases. So typically when there's a
9 child abduction or a hostage situation or fugitive
10 situation, Amy will respond to the scene and use, again,
11 open and closed source databases to try to see if they
12 can track or locate or find the missing child or anything
13 like that.

14 So in this particular case, what her intended
15 testimony would be to show that she used and utilized
16 I believe it's eight or nine open and closed source
17 databases to see if there was anyone that fit the
18 description of Jessica Gutierrez by date of birth or by
19 Social Security number or anything like that to see if
20 there was any sign of her living anywhere in the United
21 States.

22 We intend her testimony will show that there was
23 nothing, that there was no sign of a Jessica Gutierrez
24 acting and living, born in South Carolina with -- with
25 the identifiers, so I do believe that the defense is

1 objecting to those databases being hearsay; however,
2 it's our contention that the responses are non-hearsay
3 because simply there's nothing there.

4 THE COURT: All right. Let me ask you, Mr. Mauldin,
5 do you want to proffer the testimony? I'm be happy to do
6 it.

7 MR. MAULDIN: No, I think my -- I mean, I think
8 I'm fine without proffering it. I mean, it's my
9 understanding that this witness is gonna testify that
10 she went through several databases, DIVS, Accurate, NCIC
11 Offline, FED-Linx, social media, South Carolina Department
12 of Motor Vehicles, one called Clear, one called ISO and
13 one called NDEX, and she's going to testify about results
14 that these sites gave her. Our position is saying there's
15 no information is basically a statement of these various
16 websites saying we've looked for Jessica and we can't
17 find her. Just because it's nothing doesn't mean it's a
18 statement. I mean, I think the absence of information is
19 information especially in this case where we're talking
20 about a missing individual.

21 So it's our position that their statements or these
22 websites, the information provided, is that we have no
23 information, and that is a statement and it is hearsay.
24 They have not obviously provided us with any records of
25 that or anything saying no person found or anything like

1 that. We would say that even if these are business
2 records, we've not been provided any kind of certification
3 under 19-5-520 and it doesn't comply with Rule 901 with
4 the requirement for authentication and impugners under his
5 Sixth Amendment rights to confrontation and his fair trial
6 rights and due process rights under the Sixth, Fifth and
7 Fourteenth amendments and U.S. Article 1, Section 3, and
8 Section 14 South Carolina.

9 MS. ABEE: Your Honor, again, we would contend that
10 it is not hearsay; however, if Your Honor does find or is
11 inclined to -- to hold that this is, in fact, hearsay,
12 that an exception needs to be met. Amy Paparozzi has
13 an extreme wealth of knowledge in this area, extreme
14 experience in this area. Certainly we do contend that
15 she could meet the potential qualifications of an expert
16 in this case and experts are allowed to rely on underlying
17 conclusions -- or underling hearsay in order to come to
18 a conclusion that there was nothing as an intel analyst
19 that would indicate to her that there was somebody acting
20 and living currently as Jessica Gutierrez. However, I'm
21 not sure that's the conclusion that the defense wants said
22 as well.

23 MR. MAULDIN: I mean, I don't think there's an
24 expert in looking up stuff on the Internet. I can look
25 up something on the internet. Anybody can.

1 THE COURT: Let me ask you, is she an agent in this
2 case?

3 MS. ABEE: No, Your Honor. She's an analyst, an FBI
4 analyst, so part of a team that the FBI uses when there's
5 missing persons cases.

6 THE COURT: Does it generate a report that says
7 nothing?

8 MS. ABEE: So what happens is she has generated a
9 report summarizing her findings, which is that there's
10 nothing. That these databases didn't respond to anything
11 and that was turned over to the defense.

12 MR. MAULDIN: Her summary was turned over, but not
13 the actual -- any kind of printouts of these sites.

14 THE COURT: Did she get any kind of printouts
15 from them.

16 MS. ABEE: Your Honor, I would have to ask her. If
17 so, it's not anything that's been sent to us. But, again,
18 these databases show that she's not there. So it's kind
19 of hard to --

20 THE COURT: Why don't we proffer her testimony?

21 MS. ABEE: I'm happy to.

22 Your Honor, at this point the State would call Amy
23 Paparozzi.

24 (Whereupon, Amy Paparozzi was duly sworn by the
25 Clerk of Court.)

1 THE CLERK: Thank you. Would you, please, have a
2 seat in the witness box. State your full name and spell
3 your last for the record.

4 THE WITNESS: Good morning. My name is Amy
5 Paparozzi. P-A-P-A-R-O-Z-Z-I.

6 AMY PAPAROZZI,
7 having been duly sworn, testified as follows:

8 EXAMINATION (In-Camera)

9 BY MS. ABEE:

10 Q. And, if you could, go ahead and tell use where you're
11 employed?

12 A. With the FBI here in Columbia as a staff operations
13 specialist.

14 Q. Okay. And explain to us what a staff operations
15 specialist is.

16 A. People typically refer to me as analyst. I've been
17 an analyst for seven years. We provide analytical support
18 to case agents to further their investigations. We do
19 this by conducting checks on people and information related
20 to the case. We use various databases to pull telephone
21 numbers, locations, e-mail address and information like
22 that.

23 Q. And talk to me a little bit -- I know you said you've
24 been with FBI for seven years, but a little bit about your
25 training and background in order to utilize this type of

1 information.

2 A. Yes. I had to go to Quantico for a training program
3 and throughout that program we learn how to use these
4 databases and how to support the agents in any way
5 possible. I've gone back to Quantico to be a counselor in
6 my position. I've mentored people in both an informal and
7 formal capacity. I am an intel member on our crisis
8 negotiation team, as well as a member of our evidence
9 response team.

10 Q. And so tell us typically how you're utilized, say,
11 in a situation like this involving the Gutierrez case.

12 A. Yes. So I conduct checks based off of the case
13 agent's request. They might ask me to find a victim's
14 social media account to help generate any leads, they
15 might ask me to pull a criminal history or incident
16 reports for a potential suspect or they could ask to
17 get contact information for a witness.

18 Q. And you know you said that you went through a
19 training course in Quantico and have even gone back and
20 counseled and mentored, so tell us about these databases
21 that you're using and the type of training that you've
22 had to be able to utilize these databases.

23 A. Yes. So each of these particular databases you have
24 to have training in order to use them. There's different
25 types of databases. So there's open source information

1 and this is information that anyone in the public can
2 obtain, whether those are inmate searches, property records,
3 even social media accounts. I also use public source
4 databases. These are databases that the FBI will pay a
5 contract to in order to use these databases. Companies
6 such as utility companies, phone companies or even a local
7 pizza shop could sell their customer information to these
8 databases for companies to use. I use law enforcement
9 databases and these are databases only accessible to law
10 enforcement agencies. Then lastly I use FBI databases and
11 these are databases that are on our FBI systems or because
12 they were by the FBI or they have classified information on
13 them and, therefore, for security reasons have to stay on
14 the FBI system.

15 Q. And so is it fair to say that you're not simply
16 just Gogglng?

17 A. Correct.

18 Q. All right. And so in this particular case, how many
19 databases did you utilize in order to attempt to located
20 anyone living as the Jessica Gutierrez that's missing in
21 this case?

22 A. I used nine different databases.

23 Q. Okay. And were those all open, public source? Kind
24 of break that down for us.

25 A. It was a mix of them. Would you like me to go through

1 each of the databases?

2 Q. Yes, please.

3 A. Okay. So the first one I used was DIVS. This is a
4 database that's on our FBI system. This has data from
5 multiple agencies to include the Department of State,
6 Department of Justice, Department of Transportation,
7 agencies like that. I also used Accurate and Clear. These
8 are both public source databases, meaning the FBI has paid
9 a contract to these databases for us to use. I use South
10 Carolina DVM. I used ISO, and that's an insurance claim
11 database that has insurance claims for both property and
12 vehicle. I also searched social media and then searched
13 NCIC Offline. And NCIC stands for the National Crime
14 Information Center and this is where law enforcement
15 agencies can query an individual to see if they have a
16 criminal history, if they're wanted or if they're missing,
17 and they can also query an item like a gun or a vehicle to
18 see if they're stolen. What I used was the NCIC Offline,
19 so it will show how many times an individual or a person
20 has been search and by what law enforcement agency.

21 Q. Okay. We talked about the databases that you searched
22 for this. What was the input information, right? So what
23 it that you were looking for against these databases?

24 A. On all of them I checked Jessica Gutierrez's date of
25 birth, [REDACTED] For social media, I just searched her

1 name because for most of the social media platforms you
2 can't search by date of birth. And for NCIC Offline, I
3 searched J. Gutierrez, not Jessica, because if a law
4 enforcement officer came across her and they spelled her
5 name Jess, I wanted to make sure those searches came up in
6 my results.

7 Q. And were you ever able to locate any records
8 indicating that someone was out using any of the
9 information that's connected to the Jessica Gutierrez born
10 here in South Carolina on that date of birth?

11 A. No, ma'am.

12 Q. Okay. And then this information, I know you said that
13 you respond kind of as part of a team for the FBI. Is this
14 information that's reasonably relied upon in your field?

15 A. Yes, ma'am.

16 Q. Okay. And I know you said you went through a training
17 in Quantico, so this isn't just something you created; is
18 that fair to say?

19 A. No, ma'am. I did not create these.

20 Q. Okay. This training and these databases and this
21 information relied upon, is that information that the FBI
22 nationwide relies upon?

23 A. Yes, ma'am.

24 Q. Okay. And, in fact, have you had to respond to
25 various different situations where your information has

1 been relied upon?

2 A. Yes, ma'am. My squad works several violations to
3 include human trafficking, gangs, fugitives, violent
4 incident crimes and missing children.

5 Q. And this is the type of information that's reasonably
6 relied upon in your field as an operations specialist?

7 A. Yes, ma'am.

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

9 THE COURT: Mr. Mauldin.

10 MR. MAULDIN: Thank you, Your Honor.

11 EXAMINATION (In-Camera)

12 BY MR. MAULDIN:

13 Q. What kind of training is this that you received to
14 look at these Federal databases?

15 A. I go to the staff operations specialist basic training
16 in Quantico.

17 Q. What do they train you to do?

18 A. They search like all these databases, they teach us
19 how to use these databases, we get training on them. Some
20 trainings can be days long, some trainings can be hours
21 long.

22 Q. Well, I understand that being an agent that you --
23 you're authorized to have access to these --

24 A. I'm not an agent. I'm a special operations
25 specialist.

1 Q. I'm sorry. Sorry. Sorry. Sorry. But you're
2 authorized to have access to these Federal databases that
3 normal people don't have access to; is that right?

4 A. Not all of them. Some of them, yes. The ones on our
5 FBI system and the public source databases, but these
6 public source databases are only not used by law
7 enforcement, they're even used by different businesses.

8 Q. Well, let's limit -- I guess what I'm saying, let's
9 limit our question to the ones you used that you testified
10 about here today.

11 A. Yes.

12 Q. Okay. So you were authorized access to those
13 databases?

14 A. Yes.

15 Q. And the training is that they train you how to use the
16 search engine on those databases?

17 A. Yes.

18 Q. And so that's just entering a name and a birth date
19 and waiting until what comes up?

20 A. Yes.

21 Q. Okay. And what kind of -- now have you ever -- like
22 I know it happens to us all the time, when you get a rap
23 sheet and there's wrong stuff on it from the NCIC. Is
24 there any kind of testing or experimentation done to verify
25 the results of any or all of these databases, including the

1 social media? I've heard a lot of things about social
2 media not having truth on it, so -- and people use
3 different names on social media, don't they?

4 A. Yes, and especially in this instance though I did not
5 find Jessica Gutierrez date of birth, [REDACTED], on any of
6 these databases and in my experience it's highly unlikely
7 that someone can't be found by their true name on these
8 databases, yet they're found on social media. But also
9 databases like DIVS, those are official documents, that's
10 passport information, travel records, Social Security
11 records. Records such as Accurate and Clear, which are
12 public source databases, that -- that data comes from
13 somewhere. So the way I like to explain is at some point
14 in time that name and that phone number or that name and
15 that address or that name and that date of birth were
16 put together and in today's consumer culture it is very
17 unlikely that someone would be living in today's society
18 not show up in these databases.

19 Q. All right. But is there any kind of testing or
20 experiments done to confirm that this information is valid
21 or that these searches are valid?

22 A. Not that I'm aware of.

23 Q. Is there any kind of peer review where there's a
24 review of somebody's results and somebody else verifies
25 those kind of results?

1 A. No.

2 Q. Okay. And as far as -- you said Accurate is a public
3 source that you-all have a contract with; is that right?

4 A. Yes.

5 Q. And also Clear; is that right?

6 A. Yes.

7 Q. And also ISO; is that right?

8 A. Yes.

9 Q. And anybody from the public can have a contract with
10 those agencies; is that right?

11 A. From my understanding it's with an authorized purpose.

12 Q. Well, I mean, lawyers can use it to serve documents.

13 A. Yes, and that is considered an authorized purpose.

14 Q. So people outside of your training in Quantico can use
15 those databases; is that right?

16 A. Companies with an authorized purpose. They're not
17 gonna give just a random civilian access because these
18 databases because these contain very sensitive information.

19 Q. But, I mean, people not in your analyst position can
20 use it for a valid purpose, correct?

21 A. Yes.

22 Q. All right. And I noticed on your report there's a
23 FEDlinx. Is that an FBI system?

24 A. Yes.

25 Q. Okay.

1 A. Well, no, it's not an FBI system. It's a system that
2 we use. So there's FEDlinx and there's NDEX and those are
3 both databases that have incident reports for both local,
4 state and even federal agencies.

5 Q. Okay. So is that a law enforcement database?

6 A. Yes, that's considered a law enforcement database.

7 MR. MAULDIN: I have no further questions, Your
8 Honor.

9 MS. ABEE: Nothing additional from the State, Your
10 Honor.

11 THE COURT: Okay. You can step down.

12 (Witness excused.)

13 THE COURT: I think she needs to be an expert to
14 testify.

15 MS. ABEE: Correct, Your Honor. We would contend
16 that she does, in fact, meet the qualifications under
17 702 to testify as an expert in this case and can,
18 therefore, rely on underlying hearsay in coming to the
19 ultimate conclusion that she was unable to locate anyone
20 acting or holding themselves out as being Jessica Gutierrez
21 with that date of birth born here in the State of South
22 Carolina. Any questions about whether or not the accuracy
23 or the information she received or the input of the
24 information would go to the weight of that testimony and
25 not its admissibility.

1 MR. MAULDIN: Your Honor, although she testified that
2 she had some training, the training appears to be nothing
3 more of data entry, being able to enter data into a search
4 database. It doesn't seem specialized in any kind of way
5 or uncommon to any kind of public person that -- I mean,
6 anybody could do data entry.

7 THE COURT: Well, I agree with you about data entry,
8 but she's got access to other, for lack of a better word,
9 portals that we don't have access to, that the normal
10 person doesn't have access to. They're FBI. This is what
11 she does for a living is what she stated.

12 MR. MAULDIN: Well, Your Honor --

13 THE COURT: -- is tracking people to see where they
14 are, if there's a passport. We don't have that kind of
15 information.

16 MR. MAULDIN: Well, I would say that -- number one,
17 I would say that just because she has specialized access
18 to a database doesn't make her an expert. It just --

19 THE COURT: But she's been trained to access that
20 information is what I'm saying.

21 MR. MAULDIN: Well, I just go back to my original
22 objection.

23 THE COURT: I mean, I can't use my cell phone.

24 MR. MAULDIN: Well, Your Honor, you say that that
25 access does not make her an expert, but then again we have

1 here things that are public access, including the SCDMV,
2 the social media, the public source, which is Accurate and
3 Clear, which, you know, lawyers can access to serve people
4 with summons and complaints and things like that. That's
5 not specialized or anything. I'm not saying their access
6 to the FBI is expert, but certainly those are not any kind
7 of specialized thing that an expert would have to look at
8 and be able to testify about. And the ISO is also not.

9 THE COURT: Let me hear from you.

10 MS. ABEE: Thank you, Your Honor.

11 Under Rule 702, it talks about scientific, technical
12 or other specialized knowledge. This would clearly fall
13 in, in our contention, into that other specialized
14 knowledge category. While some of these are open or public
15 source databases, some of them are not. These trainings,
16 as she stated, some of them are hours, some of them are
17 days, to be able to access, know how to properly input
18 this information. She even talked about a difference in
19 inputting the information into various databases because
20 she's been trained in how to do that and how to access the
21 greatest amount of results in this case.

22 So, Your Honor, we contend that her testimony is
23 appropriate under Rule 702. That any issues with the
24 information itself, again, would go to its weight and not
25 its admissibility.

1 THE COURT: Okay. I think I'm gonna allow it under
2 702. I do think it's some kind of specialized knowledge.
3 We'll let her testify to -- you can question her on all
4 her education if you want, but you can call her as a
5 witness and see where it goes.

6 MS. ABEE: Thank you, Your Honor.

7 THE COURT: All right. Can I bring the jury in?

8 MR. MAULDIN: Yes, ma'am.

9 MS. ABEE: Yes, Your Honor.

10 THE COURT: Yes, let me -- just before we call the
11 jury in tell the people in the gallery, for those are
12 here today and were not here yesterday, there are no cell
13 phones allowed in this courtroom because I received
14 information that somebody was recording.

15 The only people in this courtroom that are allowed
16 to have a cell phone are the attorneys, the press I've
17 allowed, and law enforcement if they're associated with
18 this case.

19 So if you have a cell phone, I would ask that you
20 take it out of this courtroom right now because that is
21 not allowed in this case.

22 (Whereupon, the jury enter the courtroom at
23 9:23 AM.)

24 THE COURT: Good morning.

25 FOREPERSON: Good morning.

1 THE COURT: The jury ready, Madam Forelady?

2 FOREPERSON: Yes, Your Honor.

3 THE COURT: All right. Let me ask my morning
4 question. Has anyone approached you about this case or
5 have you talked with anyone about this case? Have you
6 done any research? Did you see anything on TV or the
7 Internet, social media? If so, please raise your hands.

8 Thank you. I'll let the jury know we're gonna
9 break for lunch today at 1:00. I'm bringing in pizza
10 for you-all, okay, so we can try to get through.

11 All right. Call your first witness, please.

12 MS. WEISS: Thank you, Your Honor.

13 The State calls agent Jackie Hamelryck.

14 (Whereupon, Jackie Hamelryck was duly sworn by the
15 Clerk of Court.)

16 THE CLERK: Thank you. Would you, please, have a
17 seat in witness box. State your full name and spell your
18 last for the record.

19 THE WITNESS: My name is Jackie Hamelryck.

20 H-A-M-E-L-R-Y-C-K.

21 JACKIE HAMELRYCK,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. WEISS:

25 Q. Good morning, Agent Hamelryck.

1 A. Good morning.

2 Q. Would you, please, tell the jury where you're employed
3 and what your current position is.

4 A. I work for the FBI and I'm a Crimes Against Children
5 coordinator.

6 Q. When is your primary office location?

7 A. I'm assigned to the Columbia field office of the FBI,
8 currently located in Lexington.

9 Q. How long have you been working for the FBI?

10 A. Twenty-five years.

11 Q. Would you, please, explain to the jury the types of
12 cases you work on as the violent crimes against children
13 coordinator?

14 A. I work all sexual exploitation of minors cases.
15 That includes online, hands-on offenses. I also work
16 kidnappings, child homicides and missing children.

17 Q. Approximately how many calls or cases have you
18 consulted on involving missing children during your career?

19 A. As a Crimes Against Children coordinator, I also am
20 consulted or serve in like an advisory role for other
21 agents and agencies on missing child cases, so I would say
22 probably up to a hundred.

23 Q. Now as far as this case in particular, were you
24 involved in the investigation related to the disappearance
25 of Jesse Gutierrez in 1986 or in the nineties?

1 A. No, I was not.

2 Q. When did you first hear about the disappearance of
3 Jessica Gutierrez?

4 A. In 2020.

5 Q. When a child's reported as missing, what's the most
6 critical time period as far as the chances of locating the
7 child?

8 A. If a child goes missing and is abducted, it's the
9 first two to three hours that are the most important to try
10 to recover a child.

11 Q. And since Jessica went missing in 1986, why and how
12 would the FBI get interested in a Lexington County cold
13 case in 2020?

14 A. As a Crimes Against Children coordinator in 2020, I
15 received a national canvass that came from our FBI
16 headquarters unit that that program manages all the crimes
17 against children program for the FBI in the United States.
18 That canvass was requesting the crimes against children
19 coordinators to reach out to local law enforcement agencies
20 across the country, identify any unsolved or unresolved
21 missing child cases for consideration in the FBI would
22 choose that case to put towards assisting that agency in
23 trying to resolve that case.

24 Q. Okay. Please explain your involvement in this process
25 in 2020.

1 A. Once I received that canvass, I reached out to
2 different local law enforcement agencies in this area. I
3 received a response from Lexington County Sheriff's
4 Department regarding this particular case as a -- wanting
5 to be considered to submit for that national canvass.

6 Q. And did you submit this case?

7 A. I did. I met with the Lexington County Sheriff's
8 Department several times, we talked about this case, we
9 talked about the criteria for consideration and then I
10 submitted the case in response to that canvass.

11 Q. Now does this case becomes a Federal case once the FBI
12 gets involved?

13 A. Not in the sense that we are gonna take over the case
14 or that the case may be a Federal prosecution. It
15 maintains ownership by that local agency. We're there to
16 assist that agency.

17 Q. Now what -- if you'll explain for the jury, what is
18 the child abduction rapid deployment team?

19 A. So the child abduction rapid deployment team, we refer
20 to them as their acronym oftentimes, CARD, but that group
21 is a team of agents and analysts that have crimes against
22 children experience like myself part. They're part of a
23 deployment team, so wherever their full-time assignment is,
24 they are also a part of that team that will deploy when
25 there's a request for their assistance in a missing child

1 investigation.

2 Q. Are you a member of this team?

3 A. I'm not, but I've worked with them on many missing
4 child cases.

5 Q. How often does the CARD team get involved with cold
6 cases?

7 A. So a cold case is different. So that canvass, for
8 example, there was gonna be one case chosen for deployment
9 for 2021, so I would say at the most probably one a year,
10 but it's also resource and budget-driven because that's an
11 additional case that they would be responsible for, so it
12 depends on our resources and availability.

13 Q. Please explain the difference between a typical CARD
14 deployment in comparison to a cold case deployment.

15 A. So in a typical CARD deployment, the child has just
16 gone missing or recently has gone missing and so the
17 request comes in, they deploy to that agency or to that
18 area to assist that agency in the investigation and that
19 local FBI office. A cold case is very different. There
20 obviously is not an active crime scene, a lot of time has
21 passed and so one of the differences for the deployment
22 team and for those of us that are gonna be assisting in a
23 deployment is there has been an investigation that's been
24 conducted and there also has -- a big piece of that of what
25 we do in these types of cases is what we call a

1 neighborhood investigation. So when a child goes missing
2 that neighborhood investigation is very important and we
3 want to make sure that we're talking to everybody in that
4 community -- that immediate community or vicinity that may
5 be a witness to something or may be able to provide some
6 information that is helpful. In a cold case, unlike one
7 that is reactive and is happening right now, we have to
8 recreate that 1986 neighborhood, which is challenging. So
9 we spent a lot of time doing that, trying to locate people,
10 figure out who owned property then, who was residing there,
11 is someone deceased, have they passed away are they still
12 alive, do we have a second generation that was in that
13 home, maybe they were children, but now they're adults,
14 maybe law enforcement didn't speak to them. So in a cold
15 case we approach it a little bit differently.

16 Q. How is this cold case selected by the CARD team?

17 A. So once I submitted the case, there was a committee
18 put together by, again, supervisors that are at our
19 headquarters in this unit, and also the behavioral analysis
20 unit or BAU. They also sit on that board. They looked at
21 all the submissions across the country and they chose the
22 Lexington County Sheriff's Department case.

23 Q. Can you explain the meaning of the term -- I think
24 we've used it several time, but what a deployment is of a
25 CARD team?

1 A. It means that you're going to immediately stop what
2 you're doing and make travel arrangements to deploy or to
3 arrive to a specific location for assistance and so it
4 could be for a few days, it could be for a few weeks, it
5 could be longer than that.

6 Q. And I think you've touched on this a little bit, but
7 what are the types of specialized training that the group
8 deployed on this case would have to help in reviewing the
9 case, reviewing the cold case?

10 A. So they have crimes against experience like I
11 mentioned, but they also have to go through -- once they're
12 selected to be on that team to go through like a basic
13 training. We actually have a child abduction response
14 plan. It's like a manual. It's of all the best practices,
15 all of the things that we have to consider in an
16 investigation because these types of investigations are
17 very different than other types of cases. So they have to
18 go through that in detail and they also have annual
19 training and, of course, are being deployed on cases during
20 the year.

21 Q. Now when you select a cold case for investigation,
22 is this a review of the existing information or is it an
23 attempt to gather new information about the case?

24 A. So in a cold case, it's both. We're certainly gonna
25 be reviewing what's already been done like in this case,

1 but we're also going to try to solicit new information or
2 additional information that maybe wasn't gleaned for
3 whatever reason in the original investigation and sometimes
4 that's gonna be based on investigative steps that we know
5 have been helpful in other investigations that are similar
6 across the country and be able to apply that to an
7 investigation that's already conducted. So we're gonna be
8 doing both. We're gonna be looking at the past
9 information, but also trying to solicit new information.

10 Q. What were the first steps taken once you found out
11 that this case had been selected for the 2021 deployment?

12 A. So the first step was to obtain access and copies of
13 the original case file from Lexington County Sheriff's
14 Department, also SLED was involved in the investigation, so
15 we obtained a copy of their file, and so a big part of that
16 beginning was to review what's been done, identify leads
17 that we felt like could be conducted based on what's
18 already been done, and also new leads that need to be
19 generated that we feel like should be addressed that will
20 hopefully solicit new information or evidence in the case.

21 Q. When did the CARD deployment begin for this case?

22 A. The actual deployment began September 13th in 2021.

23 Q. Is that timeline of deployment set ahead of the first
24 agent's arrival on-scene in Lexington?

25 A. Yes, ma'am. So in the deployment when we're trying to

1 come up with a timeframe, it's really based on availability
2 of resources. Not just FBI resources, obviously they're
3 gonna be deploying, but also the local agency that's gonna
4 be hosting all of those resources, which is Lexington
5 County Sheriff's Department. So it was a combination of
6 just what's gonna be the best timeframe for all those
7 resources to come together to follow up on all of those
8 leads.

9 Q. Is there a specific timeframe that you plan for one of
10 these deployments?

11 A. The specific timeframe of this case was September 13th
12 and it went -- and we planned for at least about a two-week
13 period of being on the ground in our deployment.

14 Q. Who all deployed and what information did they have
15 upon arrival in Lexington, South Carolina?

16 A. So the CARD team deployed, so we had agents and
17 analysts from the CARD team there, we had behavioral
18 analysis unit supervisors and analysts from that unit that
19 deployed, we had technical personnel that came to help with
20 any kind of technical assistance, and then we obviously had
21 personnel from the FBI Columbia office across the State of
22 South Carolina, as well as the Lexington County Sheriff's
23 Department personnel.

24 Q. And how many agencies are involved in the deployment?

25 A. Two. FBI and Lexington County Sheriff's Department

1 and then sometimes we would ask SLED to meet with us in
2 their -- from their laboratory or if we had questions about
3 evidence that was being processed.

4 Q. And just to be clear, who's the lead agency in the
5 case?

6 A. Lexington County Sheriff's Department still is the
7 lead agency in the case. They still own the case and we're
8 there to assist and provide investigative suggestions based
9 on our experience in these types of matters.

10 Q. And you talked about law enforcement involvement. Do
11 you involve prosecutors in the deployment of this case?

12 A. Yes, we always encourage the prosecutors to be a part
13 of at deployment and be physically located with us in case
14 there's any legal questions or need of legal process during
15 the deployment.

16 Q. And just to be clear, who were the prosecutors
17 involved in this deployment?

18 A. You were there and also Kinli Abee.

19 Q. Approximately how many people are we talking about
20 being involved with the deployment from the FBI?

21 A. We probably had about fifty or more. There were at
22 least fourteen that were from BA -- our behavioral analysis
23 unit and our CARD team specifically.

24 Q. What is the structure of the CARD team on a day to day
25 basis -- the CARD team deployment, I'm sorry, on a day to

1 day basis?

2 A. So we do briefings twice a day; first thing in the
3 morning and at the end of the day to review information
4 that needs to be either prioritized or done that day or
5 review what's already been done from the previous briefing
6 to make sure that everybody's on the same page and
7 understands what's important or if something's changed in
8 -- in the investigation. We also structurally set up a
9 command post just like we would in a live situation when we
10 have a recent missing child, so that's something that's
11 also important. We also maintain what we call like a lead
12 tracking database or digital tracking system just to make
13 sure we're organized and try to maintain who's assigned to
14 do what. It can be a lot to manage, so we have a tracking
15 system that will give a number to each tasking or lead or
16 something that needs to be done like an interview, for
17 example, and then there's individuals that are assigned to
18 those taskings that we keep track of.

19 Q. And how are those assignments distributed between the
20 different agencies?

21 A. So in this particular deployment, we decided for most
22 of the assignments we would try to do one Lexington County
23 Sheriff's Department personnel with one FBI, but typically
24 what we do is we at least get two people that are gonna get
25 assigned to it and then in that tracking system it's gonna

1 have their name that they're being -- they're responsible
2 for that particular item.

3 Q. And when you're reviewing this case, when you're on
4 the deployment, who do you use for forensic evidence
5 analysis?

6 A. So if a forensic analysis or technical question comes
7 up that isn't -- a resource or expert isn't available here
8 locally or in the state, we have different FBI resources
9 that are available that we would offer up to the local
10 agency to see if they would like to utilize that resource.

11 Q. And if a resource is available in the state like the
12 State Law Enforcement Division, do you go there first?

13 A. Yes. In this case, they had already processed some of
14 the evidence, so there was no reason and there was no task
15 that they couldn't do on the additional evidence that they
16 were gonna test.

17 Q. And how do the members of the deployment get on the
18 same page and get the necessary specific background
19 information to go out in the community and start doing
20 these canvasses and interviews?

21 A. So when we start the deployment, the first thing that
22 we do is we do kind of a case -- overall case briefing so
23 everybody has kind of a basic understanding of the case,
24 how we want all the leads to be tracked, how they need to
25 document that when they cover something or if an additional

1 lead generated from something that they did, the logistics
2 of coming back to the command post or -- or communicating
3 to the command post to make sure that that new lead gets
4 generated and then they get a packet of information based
5 on whatever their specific responsibility is for that day
6 or for that lead. If they need any additional support, we
7 have analysts that are sitting in the command post that can
8 provide additional support if questions come up, like maybe
9 an address isn't -- the person's not at that particular
10 address anymore or trying to find additional information
11 that's needed.

12 Q. And you stated that typically your investigators work
13 in teams. Why it is preferred for them to work in the
14 teams of two?

15 A. It's standard protocol for us to usually have at least
16 two people that handle something together. One is for
17 safety reasons, but, two, it's preferred because you want
18 two witnesses to every event and then they collaborate on
19 summarizing what happened or making sure that a report gets
20 generated from the action that they took.

21 Q. And typically does the FBI wear body-worn cameras when
22 you conduct interviews?

23 A. The FBI typically does not and we did not wear them
24 during this deployment. We're in the process of obtaining
25 those and they're getting pushed out in our agency, but in

1 South Carolina we don't currently have body-worn cameras.

2 Q. And what about the Lexington County Sheriff's
3 Department? Were some of these interviews actually
4 recorded?

5 A. So some of the interviews were recorded. What we
6 decided to do for the protocol of the interviews is if
7 Lexington County Sheriff's Department's policy was to
8 record, they were recorded, so many of the interviews were,
9 in fact, recorded.

10 Q. And if they're not recorded, how are they documented?

11 A. Whether they're recorded or not they're gonna be
12 documented in a summary report, whether it's by the
13 Lexington County Sheriff's Department person that was
14 involved or by the FBI.

15 Q. Okay. And I want to take you to September of 2021.
16 Can you explain what the very first day of a deployment
17 looks like when you show up?

18 A. So when we showed up, we were using a large room at
19 the Lexington County Sheriff's Department, so one of the
20 first things that we want to do is set up that command post
21 and organize it in such a way that everybody understands
22 roles and responsibilities. So for this particular
23 deployment, there was a table set up to the right that was
24 for crime scene investigators in case they needed to be
25 deployed somewhere to obtain or process evidence, next to

1 them were media representatives from each agency, next to
2 them was our analysts that were available to help with any
3 follow up. We also had the CARD team leader that was in
4 charge of the CARD team that was deployed for this
5 particular case. We also had a table of the behavioral
6 analysis unit's supervisors and analysts that were there
7 every day. We had an investigative table for the lead
8 investigator. We also had a prosecution table for the
9 prosecutors to be able to review anything they wanted to
10 review and be a part of those briefings. We also had as I
11 mentioned a big part it, whether it's a cold case or not,
12 is a neighborhood investigation. So we had team leaders
13 that were CARD members sitting at that table and they were
14 in charge of all of the interviews for the 1986
15 neighborhood that we tried to recreate and make sure that
16 those interviews got conducted and that we were keeping
17 track on which ones still needed to be done during each
18 shift. We also had some technical support that was also in
19 the room.

20 Q. And who were the people leading for each agency?

21 A. So for the FBI Columbia field office, I was
22 responsible for coordinating the resources that we provided
23 during the deployment. I mentioned we had a CARD team
24 leader, so Dan Garrabrant was our CARD team leader that sat
25 in the command post to organize those resources, and then

1 for the Lexington County Sheriff's Department we had the
2 captain over investigation, Jesse Laintz, was in charge of
3 the Lexington County resources.

4 Q. And what did you-all do first in this case?

5 A. So, again, the first thing we did on deployment was
6 to do that case briefing. We ended up assigning out.
7 Everybody that was there got some type of an assignment and
8 once they received what their lead was, they left the
9 command post, went and conducted that interview or whatever
10 that lead was and then when they finished, they came back
11 and then they were assigned something different. So this
12 was kind of an on-going tasking that they would get
13 constantly until all of the leads would be covered.

14 Q. And unlike the Lexington County Sheriff's Department,
15 the FBI has jurisdiction throughout the entire country,
16 correct?

17 A. Yes, that is correct.

18 Q. And are those agents available to assist the CARD team
19 if needed in states throughout is United States other than
20 South Carolina?

21 A. Yes, and that -- that happened in this case where we
22 had leads, you know, people move or there's people that we
23 need to contact that don't reside in Lexington County or
24 South Carolina, so one of the responsibilities that we had
25 with CARD and with myself was to reach out to other field

1 offices and set leads to them to conduct those interviews
2 or follow up on that lead that we had set for them and I
3 believe in this particular deployment there were thirteen
4 different FBI offices that were contacted in seven
5 different states.

6 Q. Are there any charts or boards that are up for updates
7 as people are walking in and out of the room?

8 A. Yes, we try to keep like a -- kind of a living
9 timeline. So when I say that, I describe it that way
10 because it could change, right, when we get new
11 information. There's always documents that need to be
12 updated, timelines, but we do have those types of things on
13 the wall so that if somebody comes in and they've got a
14 question, if everybody's busy they can look up on the board
15 or look up and the information should be there, and we try
16 to update that, especially with our analysts that are
17 there, as well as maintain that tracking lead system is
18 always constantly being updated as well.

19 Q. And when we were talking earlier, you said that there
20 were some -- some personnel that are available that are not
21 necessarily available to local law enforcement. Can you
22 explain the significance of the operational project unit?

23 A. Yes. So one of the leads or one of the outstanding
24 taskings that we were trying to do was to locate the
25 original mobile home of the victim's residence during the

1 deployment, so there were personnel that went out and spoke
2 to local mobile home manufacturers, also checked for tax
3 records with the assessor's office, did different things to
4 try to locate the original mobile home. When that could
5 not be done, we were trying to find the exact replica of
6 the same mobile home from the manufacturer and were unable
7 to do so, I ended up contacting the operational project
8 unit and they were important to us because they were able
9 to obtain the measurements to a window and also to the
10 mobile home and provide that information to us.

11 Q. Did their assistance continue after the two-week
12 deployment?

13 A. Yes. There's always gonna be leads don't get
14 completed for whatever reason or that -- the investigation
15 certainly doesn't stop, so they ended up helping us after
16 the deployment was over.

17 Q. Were there any public awareness campaigns as a part of
18 this deployment?

19 A. Yes. As I mentioned, we're trying to solicit new
20 information, we're trying to find out is there anybody out
21 there that law enforcement has not already spoken to or if
22 they've spoken to them is there additional information that
23 maybe they remember that they didn't provide for whatever
24 reason before and so part of that is putting this case back
25 out into the public's view, right, reminding the public

1 that we haven't forgotten about this case, we haven't --
2 law enforcement's still trying to resolve this case, and we
3 wanted to make sure that the public knew who to contact if
4 they had additional information.

5 Q. How is it decided what to do and how it would be done
6 as far as the media campaign?

7 A. So we did a joint press release with the FBI and
8 Lexington County Sheriff's Department just, like I said,
9 mentioning the case and -- and encouraging people to call
10 and report any information that they had.

11 Q. So what happens when the last day comes? Does the
12 investigation, the involvement of the FBI, end?

13 A. It doesn't end. What we do for the end of the
14 deployment is we do kind of an out-briefing, right, it's a
15 meeting of everybody going over what was accomplished
16 during that deployment period, but also what still needs to
17 be done. So if there's outstanding leads, we're gonna make
18 sure, okay, who's handing this and there's gonna always be
19 probably followup that still continues after those that
20 come in just to help during that deployment period leave.
21 So we make sure that all of that is addressed before we
22 close up the command post and -- and most of the resources
23 go back to their regular responsibilities.

24 Q. During the time that the deployment occurred, do you
25 know approximately how many lead were assigned?

1 A. During the deployment we had over 166 leads. I think
2 158 of those were interviews of individuals and, again,
3 they were all over the country.

4 Q. Okay. Do you know how many different states were
5 involved?

6 A. I believe it was seven different states.

7 Q. Did the investigation focus on one person from the
8 beginning?

9 A. No. When we look at a case, whether it's a cold
10 case or we're responding to a new case, we have to consider
11 all possibilities. We're not gonna focus on one thing,
12 we're not gonna focus on one person. We're gonna look at
13 everything and then narrow it down from there.

14 Q. Are there risks to local agencies like the Lexington
15 County Sheriff's Department for agreeing to engage in a
16 deployment like this?

17 A. One of the conversations I had with them right upfront
18 was that we are gonna be looking at it from an objective
19 lens and we're gonna be looking and trying to solicit for
20 new information. So certainly if there's a theory in the
21 case or something that they have concluded that, you know,
22 we're gonna be taking a fresh look at it, and they
23 understood that. I mean, I wouldn't have submitted the
24 case obviously if they weren't open to the assistance that
25 we were willing to provide, so that's very important, that

1 we, like I said, look at everything fresh and with a new
2 lens and then also, like I said, try to solicit new
3 information.

4 Q. Okay. And are there agencies who refuse to
5 participate in these types of deployments?

6 A. Yes.

7 Q. And why is that?

8 A. Different reasons. I mean, obviously I don't know
9 what some of those reasons are, but it may be that they
10 already feel like they've exhausted everything or they
11 don't need our assistance for some reason.

12 Q. So what is the goal of the CARD team in a deployment?

13 A. It's to focus the investigative efforts with best
14 practices and things that we have seen all over the country
15 that need to be considered in these unique investigations
16 because, like I mentioned, they're very different than any
17 other type of case and so we have personnel that have that
18 experience, that have seen similar cases and want to
19 provide that help, and so it's just -- again, the goal is
20 to provide that investigative, technical and sometimes
21 forensic assistance.

22 Q. And so if the Lexington County Sheriff's Department
23 came to you and said we have a suspect, how is that treated
24 by the FBI?

25 A. Just like any other person in the case. Again, we're

1 gonna look at everything and then we're just gonna follow
2 where the evidence takes us.

3 Q. So if they -- if they tell you that there's one person
4 they're interested in, will the FBI consider being able to
5 rule him out? Is part of the goal of the deployment team
6 to both rule out and rule in suspects?

7 A. Yes.

8 Q. Is it expected there's gonna be an arrest when you do
9 a CARD deployment team -- or CARD deployment?

10 A. No. We obviously hope to resolve the case, but I've
11 been involved in cases where there is no arrest and the
12 child never recovered.

13 Q. As the days went by in this investigation, you
14 started with scrubbing the whole file and everybody was a
15 potential, were you able to rule out potential suspects?

16 MR. MAULDIN: Objection, Your Honor.

17 THE COURT: And the basis?

18 MR. MAULDIN: Matter of law.

19 THE COURT: Sure.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: It appears that the witness testified or
22 was asked about ruling out witnesses or suspects. I think
23 it was suspects. I'm gonna instruct you to disregard that
24 statement. I'm also gonna strike it from the record, so
25 you are not to give it any consideration whatsoever, okay?

1 Go ahead.

2 MS. WEISS: Thank you.

3 BY MS. WEISS:

4 Q. Agent Hamelryck, were you aware of anybody that was
5 arrested at the end of the deployment investigation?

6 A. Yes.

7 Q. And who was that?

8 A. Tommy McDowell.

9 MS. WEISS: Thank you. I have no further questions.
10 Please answer any questions the defense may have.

11 THE COURT: Thank you.

12 Ms. Mauldin.

13 MS. MAULDIN: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. MAULDIN:

16 Q. Good morning, Agent Hamelryck.

17 A. Good morning.

18 Q. And so you know the background on the whole case
19 involving Jessica Gutierrez?

20 A. Yes. Yes, ma'am.

21 Q. So you've reviewed the files, everything the sheriff's
22 department had, everything SLED had, the FBI had, all of
23 that?

24 A. Yes, ma'am.

25 Q. And you so you know that there was the investigation

1 in the eighties, then more in the nineties and then in
2 2006, and finally the redeployment and the investigation by
3 the FBI now?

4 A. Yes, ma'am.

5 Q. And to be clear, the FBI didn't necessarily seek this
6 case out. When you put out the request for cases, this is
7 the one that the sheriff's department suggested as their
8 submission is; is that right?

9 A. Yes, ma'am.

10 Q. You mentioned some of the resources that the FBI
11 has, but in this case you're aware that the sheriff's
12 department had the assistance of SLED and the FBI back
13 in the eighties?

14 A. Yes.

15 Q. In fact, SLED was involved the same day that Jessica
16 disappeared and the FBI was involved the next day?

17 A. There -- there were several agents I think that did
18 respond back then, but there wasn't reports and things
19 that I could review that -- where they had actually done
20 specific things in the case except being referenced in
21 there that, yeah, they did help in some way.

22 Q. And certainly reports and recorded interviews would
23 have been helpful?

24 A. I don't know that anybody recorded interviews back
25 then, but they were documented in the file.

1 Q. Okay. And you've seen that videotape. You know they
2 had the ability to record what somebody said if they had
3 tried to do that?

4 A. I don't know what the standard protocol was back then.

5 Q. Certainly. And in addition to those, the County, the
6 State and the Federal assistance, as the case went on and
7 different leads were developed and people came up with, you
8 know, well, maybe I've seen Jessica or, you know, something
9 else, the sheriff's department also had the assistance of
10 other local law enforcement agencies around the country who
11 would try and help with those right?

12 A. Yes, they were following up on leads as they came in,
13 I believe.

14 Q. So they weren't entirely limited to the resources
15 here in Lexington County, they had outside agencies
16 helping, too?

17 A. Yes. I mean, local law enforcement can reach out to
18 other law enforcement agencies.

19 Q. And your deployment included fifty or more people; is
20 that right?

21 A. From the FBI.

22 Q. Okay. And you also -- didn't you also have some
23 helped from the sheriff's department?

24 A. Yes, ma'am.

25 Q. Okay. So how many people total do you think

1 participated in the redeployment?

2 A. Probably on that first day when we had most of the
3 leads that hadn't been covered yet and it was the beginning
4 of it, probably around hundred.

5 Q. Okay. And how many hours do you think that the
6 redeployment consumed?

7 A. I don't know how many specific hours, but we were
8 there -- we had prepared for a two-week deployment and we
9 were there all day every day.

10 Q. Okay. How many hours of videotape do you think you
11 have?

12 A. I have no idea. I don't want to give you a wrong math
13 calculation that I haven't done before.

14 Q. Okay. And pages and pages of reports about the work?

15 A. Yes, it was documented.

16 Q. And so you interviewed all of these witnesses and
17 it's possible that there may have been somebody that knew
18 something about this that is dead now, right?

19 A. Yeah, there -- there were people, especially when
20 we were trying to recreate that 1986 neighborhood and
21 community at the time, there were -- were some people who
22 had passed away.

23 Q. Okay. And certainly in that amount of time somebody
24 might have known something significant all that time ago,
25 but they don't remember it now?

1 A. We have no way of knowing that.

2 Q. Okay. Let me ask you this. You were involved in the
3 arrest of Mr. McDowell?

4 A. I was physically up in Wake Forest when it occurred.

5 Q. Okay. And you're familiar that there was a search
6 warrant done on him?

7 A. I believe that was before then, if I'm correct.

8 Q. And I should be more specific. That there was a
9 search warrant for pictures of his person?

10 A. Yes.

11 Q. And the point of that was that there was information,
12 an allegation, that Jessica had bitten his penis, right?

13 A. I believe that was part of what was in the affidavit.
14 It was a North Carolina state search warrant, so I wasn't
15 the affiant of that warrant.

16 Q. And so the goal of taking those pictures was to check
17 to see if he had any scarring, right?

18 A. I believe that was what the goal was. That was part
19 of the affidavit, but not all of it.

20 Q. But there was nothing -- no scarring found?

21 A. I don't believe there was.

22 Q. Okay. And then you mentioned sort of a media campaign
23 that was part of this. What was the -- sort of the scope
24 of that? How much media coverage did you-all push at that
25 point?

1 A. All -- the joint press release that was pushed out was
2 just pushed out to the media outlets. Whether or not they
3 told that story or presented that story and for how long,
4 again, we obviously don't have any control over that.

5 Q. So it would just go to any of the number of local TV
6 stations and newspapers and that sort of thing?

7 A. Yes, ma'am. And then if any national outlets pick it
8 up from there, obviously that's -- I'm assuming that's how
9 it would happen, but, again, we would just push out the
10 joint press release, make it available to the media and try
11 to solicit information from the public.

12 Q. Okay. And you're aware of the prior interviews that
13 had been done in the case, right?

14 A. There were a lot of interviews done in this case. Is
15 there a specific one you're referring to.

16 Q. Well, just generally first. You know that, for
17 example, Detective Pritchard interviewed people back in the
18 2000's?

19 A. Yes, ma'am.

20 Q. And you had access to those reports?

21 A. Yes, ma'am.

22 Q. Okay. And so you knew that Debra Gutierrez was first
23 -- the police first talked to her back in 1986 when it all
24 happened?

25 A. Yes, ma'am.

1 Q. And that she was in contact with the police throughout
2 the years since then?

3 A. Yes, ma'am.

4 Q. Including back in 2006 with Detective Pritchard and
5 then you re-interviewed her again?

6 A. I didn't interview her, but she was interviewed again.

7 Q. And, I mean, generally the FBI re-interviewed her?

8 A. Yes, ma'am.

9 Q. Okay. And then the same with Rebecca. She was
10 interviewed back when it happened in the eighties and then
11 again when Detective Pritchard interviewed her in 2007 and
12 then the FBI re-interviewed her?

13 A. Yes, ma'am.

14 Q. And Michael Fowler, the snitch from North Carolina,
15 you're aware that SLED and Detective Bartlett interviewed
16 him back in 1987, right?

17 A. Yes.

18 Q. And then he was also interviewed by Detective
19 Pritchard in 2007?

20 A. Yes, ma'am.

21 Q. And then the FBI re-interviewed him, right?

22 A. That's correct.

23 Q. And the same with Gina Carnaggio, Detective Pritchard
24 interviewed her in 2009 and the FBI re-interviewed her?

25 A. I believe so. We conducted a lot of interviews, so

1 I don't want to misstate it, but we did interview some
2 people that had already been interviewed and there were
3 some people that were interviewed that had never been
4 talked to -- spoken to by law enforcement.

5 Q. And if you don't remember, that's fine, but also
6 Patricia Keeler had been interviewed by Detective Pritchard
7 back in 2008 and was re-interviewed?

8 A. Yes, ma'am.

9 Q. And then Teresa Rabon, his sister, was interviewed by
10 Detective Pritchard in 2007 and then the FBI re-interviewed
11 her?

12 A. Yes, ma'am.

13 Q. The only person that -- well, let me back up because
14 you may not know. But Steve Brakefield had not been
15 interviewed in the past, right?

16 A. I don't remember if he had been interviewed in the
17 past or not. I know that he was interviewed in the
18 deployment.

19 Q. Okay. But all of these people had already talked to
20 law enforcement at least once?

21 A. Some of the -- the ones that you named, yes, ma'am.

22 Q. Okay.

23 MS. MAULDIN: Thank you, Your Honor. No further
24 questions.

25 MS. WEISS: I have no further questions for this

1 witness. May she please be excused from her subpoena?

2 THE COURT: Yes.

3 Agent, thank you so much for coming.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 MS. ABEE: Your Honor, the State calls Amy Paparozzi.

7 (Whereupon, Amy Paparozzi was duly sworn by the

8 Clerk of Court.)

9 THE CLERK: Would you, please, have a seat in the
10 witness box. State your full name and spell your last for
11 the record.

12 THE WITNESS: My name is Amy Paparozzi.

13 P-A-P-A-R-O-Z-Z-I.

14 AMY PAPAROZZI,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. ABEE:

18 Q. Amy, go ahead and tell us what you for a living.

19 A. I work for the FBI here in Columbia as a staff
20 operations specialist, but people typically refer to me
21 as an analyst.

22 Q. How long have you been with the FBI?

23 A. Seven years.

24 Q. And tell us kind of what you do with the FBI.

25 A. We provide analytical support to case agents to

1 further their investigations. This includes conducting
2 checks on individuals and information related to the case.
3 I will conduct checks to find telephone numbers, e-mail
4 addresses, locations, employment records and information
5 like that. On the other hand, if we have a telephone
6 number or an e-mail address that's conducting criminal
7 activity and we don't know the user of it, I will use these
8 databases to help determine the user of these facilities.
9 We also conduct phone analysis and social media analysis,
10 meaning I will look at data from phone records and social
11 media records and pull out any relevant information for the
12 case agents.

13 Q. And tell us a little bit about your educational
14 background and your training background that's lead you to
15 be able to do this with the FBI.

16 A. Yes. I have my bachelor's in criminal justice and
17 criminology and I have a master's in intelligence and
18 security studies. I went to Quantico for a six-week class
19 for my position. I also mentor individuals in my position.
20 I'm an intel body on the crisis negotiation team and I'm a
21 member of our evidence response team.

22 Q. And how many years did you say you've been with the
23 FBI?

24 A. Seven.

25 Q. And in those seven years have you responded to

1 situations where you've had to use and access these various
2 databases that you told us about?

3 A. Yes. Many.

4 Q. Okay. And you've had -- I believe you said a six-week
5 training up at Quantico?

6 A. Yes.

7 Q. Okay. And tell us a little bit more about the details
8 of that training. What does it consist of?

9 A. Yes. During that training they basically go over all
10 of these databases that we could use to better serve the
11 agents and to find information, they show us how to search
12 them, what information can come from them, how to analyze
13 that information and how to put it together in a product
14 for the case agents.

15 Q. Now is that a fancy way of saying Googling or is it
16 more than that?

17 A. It's more than that.

18 Q. All right. And these sources that you use, are these
19 all open to the public?

20 A. No, ma'am. Some of them are.

21 Q. Okay. And so explain to us if they're not open to the
22 public how you have access to these databases.

23 A. Yes. So the ones that are open to the public, think
24 social accounts, inmate searches, even property records.

25 We also use public source information and this is

1 information that companies can pay a contract with to
2 obtain. So companies such as utility companies, phone
3 companies, even a local pizza shop can sell their
4 information to these public source databases for other
5 companies to use. I also use law enforcement databases
6 and these are databases that are only accessible to law
7 enforcement agencies and then I also use FBI databases and
8 these are databases that are on our FBI system whether
9 that's because the information's classified and for
10 security reasons has to stay on them or they were created
11 by the FBI.

12 Q. And did you -- without going into any specific
13 details, were you able to utilize some of those databases
14 in this particular case?

15 A. Yes, ma'am.

16 Q. Okay. And did your training and experience with the
17 FBI and your training at Quantico give you the proper
18 foundation for utilizing these databases?

19 A. Yes, ma'am.

20 Q. And are the results from these databases things that
21 are reasonably relied upon by individuals in the FBI?

22 A. Yes, ma'am.

23 Q. And have you used these databases before to provide
24 intelligence information to FBI agents?

25 A. Yes. I use them in every investigation that I assist

1 with.

2 MS. ABEE: Your Honor, at this point the State would
3 move Amy Paparozzi as an expert in intelligence analytics.

4 MR. MAULDIN: Your Honor, we object based on my prior
5 voir dire and object to it also in my prior argument and
6 the testimony based on our prior argument.

7 THE COURT: Okay. I understand. I'm gonna tell
8 you, I'm gonna find that she's been -- qualify her as
9 an expert. I'll state my reasons later for the record,
10 but I'm gonna allow her to testify.

11 I'm gonna tell the jury again because of experience
12 and education and in this case a specialized knowledge,
13 I'm gonna have her qualified as a -- I'm not real sure I
14 know what her title was.

15 MS. ABEE: Your Honor, we move her as an expert in
16 intelligence analytics.

17 THE COURT: Intelligence analytics. She's going to
18 be an expert and she can give her opinion. Now you give
19 that opinion the weight you think it's worth, okay?

20 Go ahead.

21 MS. ABEE: Thank you, Your Honor.

22 BY MS. ABEE:

23 Q. Now, Amy, were you involved in any way -- we just
24 heard about an FBI deployment into the missing person of
25 Jessica Gutierrez. Were you involved in that deployment at

1 all?

2 A. Yes, ma'am.

3 Q. What was your role in that specific deployment?

4 A. I was there to conduct checks based off of the case
5 agents' requests. I conducted checks to find contact
6 information and current location for not only individuals
7 who were previously interviewed, but new individuals who
8 needed to be interviewed. I also assisted with recreating
9 the neighborhood from 1986, meaning I looked at property
10 records and databases to determine who lived at the
11 residence in 1986 and where they're currently located and
12 their current contact information. I also conducted checks
13 on Jessica Gutierrez.

14 Q. And I want to talk specifically about those checks
15 regarding Jessica Gutierrez. How many different databases
16 did you use or sources did you use in attempts to locate
17 Jessica Gutierrez?

18 A. I used nine different sources.

19 Q. Okay. And I want to talk a little about those
20 sources, so if you could kind of tell us what the source
21 and then what it does?

22 A. Okay. The first one I searched was DIVS. This is a
23 database on our FBI system. It has the data and official
24 documents from different agencies, whether it's Department
25 of Transportation, Department of Justice, Department of

1 Treasury and the Social Security Administration are just a
2 new examples of agencies that contribute to that.

3 Q. What's the next database that you searched?

4 A. I searched Accurate and Clear. These are both public
5 source databases, meaning the FBI has paid a contract to
6 these databases in order to use their unclassified
7 information for authorized purposes.

8 Q. And then what was the next set of databases?

9 A. I searched FED-Linx and NDEX. These are both two
10 databases that have incident reports from state, local and
11 Federal agencies. I also search NCIC Offline. NCIC stands
12 for the National Crime Information Center, and this is a
13 computerized system has information, whether it's criminal
14 history, if someone's wanted, if someone's missing. It
15 also has information on stolen property, whether that's a
16 gun or a vehicle. Law enforcement agencies can query this
17 database, NCIC, to determine if an individual has a
18 criminal history, if they're wanted or if they're missing.
19 Now what I searched was NCIC Offline, which is a component
20 of NCIC, so it will tell me how many times a person or an
21 item has been searched through NCIC and by what agency. I
22 also searched social media and conducted any logical
23 checks. I searched Snapchat, Facebook, Instagram,
24 Linked-In. I also searched ISO, which is an insurance
25 database that has insurance claims for both property and

1 vehicle. And I searched South Carolina DMV just for a
2 driver's license.

3 Q. All right. So collectively nine databases, but
4 number seven that you talked about was social media and
5 that kind of included a couple of different sources; is
6 that fair to say?

7 A. Yes, ma'am.

8 Q. Okay. Now what is the input information? What are
9 you searching for in these databases?

10 A. For social media, I just searched her name, Jessica
11 Gutierrez, but for the rest of them I did Jessica
12 Gutierrez's date of birth, [REDACTED].

13 Q. And did you ever shorten that name at all in any of
14 your searches?

15 A. For NCIC Offline, I specifically searched J.
16 Gutierrez, not Jessica Gutierrez, because if she were to
17 have common contact with law enforcement and they shortened
18 her name to Jess or somehow spelled Jessica wrong, I wanted
19 to make sure those searches would have shown up in my
20 results.

21 Q. Now is it fair to say that if Jessica Gutierrez was
22 alive and living under a different name or a different date
23 of birth, that wouldn't have popped up in any of these
24 searches?

25 A. No, ma'am. It wouldn't have shown up.

1 Q. Okay. And after conducting all of your searches of
2 all these different databases, were you able to locate any
3 existence of the Jessica Gutierrez that was born here in --
4 or sorry -- that was residing in Lexington County in 1986?

5 A. No, ma'am.

6 MS. ABEE: Your Honor, I have no further questions.

7 THE COURT: Okay.

8 Mr. Mauldin.

9 MR. MAULDIN: She already asked the question I
10 wanted to, Your Honor. No questions for this witness.

11 THE COURT: Okay. May I excuse the witness?

12 MS. ABEE: Please, Your Honor.

13 And, Your Honor, just to confirm, she's excused from
14 her subpoena as well?

15 THE COURT: You are. You can leave.

16 (Witness excused.)

17 THE COURT: Call your next witness.

18 MS. WEISS: The State calls Dr. Jonathan Leader.

19 (Whereupon, Jonathan Leader was duly sworn by the
20 Clerk of Court.)

21 THE CLERK: Have a seat in the witness box. State
22 your full name and spell your last for the record.

23 THE WITNESS: My name is Jonathan Leader.

24 J-O-N-A-T-H-A-N. L-E-A-D-E-R.

25 JONATHAN LEADER,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. WEISS:

4 Q. Good morning, Dr. Leader.

5 A. Good morning.

6 Q. Could you, please, tell the jury a little bit about
7 where you're currently employed?

8 A. I am South Carolina's state archeologist. As such,
9 I am part of state government. I am located at the
10 University of South Carolina for administrative purposes
11 by law since 1963.

12 Q. And will you, please, explain what the -- serving as
13 the state archeologist entails?

14 A. Well, the state archeologist -- there are fifty of
15 them, one per state. The state archeologist in South
16 Carolina is in charge of the state site files, the state
17 archeological collections. We provide assistance to the
18 state legislature on issues dealing with archeology in the
19 state similar to like a state geologist. We basically are
20 -- you know, we're state apparatus, yeah.

21 Q. What training and experience have you had to prepare
22 you for this position, as well as I believe you also do
23 forensic archeological recovery?

24 A. I'm sorry. You'll have to repeat that.

25 Q. You also do forensic archeological recovery?

1 A. Yes, I do.

2 Q. Okay. And can you explain to the jury what training
3 and experience you've had to prepare you to be the state
4 archeologist, as well as doing the forensic archeological
5 recovery?

6 A. Okay. I've been doing archeology since I was fifteen
7 both volunteer and professional later. I have a B.A., an
8 M.A. and a Ph.D. My doctorate is from the University
9 of Florida. I received that in 1988. Archeology is a
10 subset of anthropology, so the degree is in anthropology
11 specializing in archeology.

12 In terms of the forensic archeological recovery, the
13 recovery -- the archeological recovery, of course, is
14 simply part of archeology. The forensic side of it is, of
15 course, attached to medicolegal terms, and as such my first
16 involvement with forensic recovery goes back to my under
17 grad years with Dr. Sundick, but that was strictly as, you
18 know, extra hands. It also goes to my work I did out in
19 the Pacific in the War in the Pacific National Historical
20 Park. We were recovering materials from World War II and
21 then when I came back stateside and was receiving my
22 degree at the University of Florida, I had the pleasure of
23 working with Dr. William Maples, who was the forensic
24 anthropologist there at the museum and heavily involved
25 with the State of Florida's own work in terms of

1 medicolegal forensic work, so that was the initial parts.

2 When I came here to South Carolina in 1989, there was
3 a professor at the University who was the deputy state
4 archeologist for forensics, Ted Rathbun, and I worked with
5 Ted as well, again, assisting him. I was at that point the
6 deputy state archeologist for South Carolina. So that went
7 from 1990 to 2000. When he retired and unfortunately
8 passed away there was a hole, so I was approached initially
9 by law enforcement and others saying who do we have who can
10 assist in that area, so I pointed out to them I was not a
11 forensic anthropologist, which is what Ted was, and Bill
12 for that matter, but I was an archeologist and I had this
13 background if they didn't mind that segue I'd be happy to
14 work for them, and I did.

15 In 1998, '99 when we were working on the H.L. Hunley,
16 which was one of the projects, among others, we were
17 gifted equipment from an outside source to use in terms of
18 ground penetrating radar, which I had worked with before.
19 When the legislature realized the work of that a bipartisan
20 group of the legislature came forward and said we'll be
21 happy to provide this equipment, which they did twice,
22 but the expectation is that you will use it on behalf of
23 law enforcement and others as needed, not simply for
24 archeology, and once I agreed to that the bipartisan group
25 did, indeed, provide the information and the materials to

1 do the work and I became basically seconded as a forensic
2 archeological recovery specialist from that point forward.

3 I'm an affiliate of the Chartered Society of Forensic
4 Scientists and a -- let's see -- an Elected Fellow of the
5 Royal Anthropological Institute, Elected Fellow of the
6 Royal Geographical Society, Elected Fellow of Royal Asiatic
7 Society and an Elected Fellow of the Explorers Club. So
8 I've been doing it, you know, as a side to my regular state
9 government at the request of the legislature since 1998,
10 '99.

11 Q. Okay.

12 MS. WEISS: Your Honor, at this time I would like to
13 present Dr. Leader as an expert in forensic archeological
14 recovery and as an archeologist.

15 MR. MAULDIN: No objection, Your Honor.

16 THE COURT: Okay. I'm gonna declare him an expert.

17 I'm gonna tell the jury again because of education
18 and experience this witness will be an expert and be
19 allowed to give his opinion. You take and give the
20 testimony the weight you think it deserves.

21 BY MS. WEISS:

22 Q. Dr. Leader, you explained that archeology is a
23 subset of anthropology. What does the field of study of
24 archeology entail?

25 A. Archeology is dealing with human relationships

1 through material culture over time. So we are often --
2 and I'm hoping people have at least some understanding of
3 archeology. What we're doing normally is search for
4 historic or earlier sites, pre-contact sites, searching for
5 things that are hidden in terms of, you know, burials,
6 other materials in the ground, things that have been
7 covered up over time, and then the very careful judicious
8 uncovering of those materials, answer specific questions.
9 These -- of course, once you've dug something, you've
10 destroyed it, there's nobody coming to put it back so to
11 speak, so it's a combination of effects. It's a -- as my
12 mother used to say, if you insist, John, with playing in
13 the dirt, you'll grow up and have to work in it, and I can
14 only say one should always listen to one's mother because
15 that's clearly what happened. But idea is that, you know,
16 you come across an area of interest, you know how to do
17 the appropriate testing under controlled scientific
18 methodology, you recover the data from that methodology,
19 you engage in the analysis of it and you produce a
20 statement from the end of that analysis as to what was
21 found, its context and meaning.

22 Q. And you've studied at one point under a forensic
23 anthropologist and obviously you have a degree in
24 anthropology, will you explain how the field of
25 anthropology, that field of study, and how that works

1 with archeology?

2 A. Well, in forensic anthropology what you're talking
3 about is either biological anthropology or physical
4 anthropology. They're more or less the same thing.
5 Anthropology is made up of four separate subgroups, social
6 anthropology, which I think most people would be familiar
7 with, archeology, again, linguistics and then, of course,
8 the physical side, the biological side. To gain a degree
9 in anthropology, you usually have to show expertise in at
10 least three of those areas. That was a requirement where I
11 got my degrees from. So working with people cross-training
12 was pretty typical. A forensic anthropologist is more
13 concerned about the issues of the skeletal matter itself.
14 In other words, these are the people who will tell you
15 ethnicity, they will tell you age, they can tell you
16 sometimes paleopathologies, you know, sicknesses that
17 affect the bone structure. They are not the same as a
18 medical examiner, who would be dealing more with soft
19 tissues, although if soft tissues are present, not
20 infrequently, a forensic anthropologist will deal with
21 some of those aspects. In terms of forensic anthropology,
22 again, we're the people do the search, we're the people
23 who find the people who are missing, and we do have,
24 again, some cross-training so sometimes sex, age and the
25 rest does play into that. The expectations of what would

1 likely to be found and survive in the ground, that's often
2 our purview. And, again, that overlaps. So, for instance,
3 if we had somebody and we're looking for them I would go
4 look for them. If we -- we might be able to do some
5 determination in the field as to what was going on with
6 that, but then the final determinations as to sex, age,
7 et cetera, et cetera, et cetera, I would pass that to the
8 forensic anthropologist for the surety of their work.

9 Q. How long -- and I think you touched on this, but how
10 long have you been involved in forensic archeological
11 recovery officially?

12 A. By the -- by the legislature since 1998.

13 Q. Right.

14 A. Prior to that since I was fifteen because one of the
15 things, of course, that happens when you're out in a --
16 in a site is you find whatever's at the site and not
17 infrequently that would, indeed, unfortunately involve
18 burials or things of that nature, yeah.

19 Q. Have you been brought in to help identify where bodies
20 have been buried?

21 A. Oh, yes.

22 Q. And approximately how many times have you been asked
23 to consult or assist in locating a missing person?

24 A. Oh, my. Missing people? Well, some people we've
25 looked for more than once, so you just want the actual

1 number of people I'm looking for or have looked for or the
2 number of times we've looked for some people? Some people
3 we've looked for them five, six, seven, eight, nine times.

4 Q. Okay. So the total number of times you've gone to
5 look for people?

6 A. Total number I have times I've gone to look for
7 people?

8 Q. Missing people.

9 A. Eighty, ninety. Somewhere in there. I honestly don't
10 keep track of it, but slightly less than a hundred I would
11 guess.

12 Q. And from your training and experience what do you know
13 about when a body is left deceased in a rural wooded area?

14 A. It depends. If we're talking about adults versus
15 children, there are differences. If you're talking about
16 protected or unprotected locations, there are differences.
17 Generally speaking, an adult unprotected body out in a --
18 just laying on top of the ground, nothing on top of them,
19 no protection or anything of that nature, will come under
20 the -- you know, effect of the usual four factors, which
21 are such things as temperature of the surrounding
22 environment, humidity or water, if it's raining or if
23 it's very humid, the alkalinity or basic nature of the
24 soil or materials around it and, of course, the age of the
25 individual and the rest, and whether there's anything to

1 block it. So you can have a person go from fully flesh to
2 skeletonized in as little as twelve weeks, it can take
3 years, again, depending, and with children it can be
4 considerably quicker.

5 Q. Okay. And what about the effect of wildlife?

6 A. Well, one thing about South Carolina is there's lots
7 of wildlife and that has -- predation and scavenging has a
8 massive effect on the integrity of the body and how long it
9 lasts. And, again, it depends on -- to a certain extent on
10 whether with the body was integral at the point of deposit
11 or if it was in pieces. If it was integral, very quick.

12 Q. I'm sorry. Can you define what you mean by integral?

13 A. In other words, if the person unfortunately is
14 deceased, it simply falls over. If the person is
15 dismembered, it can be much quicker because, again, you're
16 talking about in some cases they're not necessarily large
17 animals, you may be talking fairly small animals, and they
18 would carry off pieces rather than taking people apart,
19 which is an unfortunate way to have to put this, but that
20 is -- that is unfortunately the case. From my experience,
21 we had one individual who had been missing for five years
22 and he was spread over a two-acre area. We have -- we had
23 a more recent case of a person who was missing for twelve
24 to thirteen years and we ended up with less than 40 percent
25 of the body spread over several large areas.

1 Q. And those are adults?

2 A. These were adult. Full adults.

3 Q. Okay. And if the body is buried in a shallow grave,
4 how does that affect it?

5 A. Most of the -- most of the studies that have been
6 done, and this includes the Body Farm with people like
7 Dawnie Steadman and the rest of them in other places,
8 you're talking anything -- you know, 1.2 meters. So if
9 you're talking the traditional roughly six feet deep, five
10 feet deep, that could be years. Again, depending on the
11 alkalinity or the basic of the soil, if it's acid or base,
12 and it almost doesn't matter which one it is, either end of
13 those spectrums, you have full decomposition of the body
14 just in slightly different chemical ways. If -- if it's
15 shallower than that where, again, the animals can dig down
16 to the individual, it depends on what's over them. If it's
17 sand, very quickly. If it's rocky soils or clay, it will
18 take somewhat longer, but pretty quick. I would say within
19 three to five years max.

20 Q. And what about a brush pile? How would that affect
21 it?

22 A. Not at all.

23 Q. And why is that?

24 A. Because brush piles are brush piles. They don't hold
25 anything back. They conceal, they do not cover.

1 Q. And you said, you know, the integral body is different
2 than if a body is chopped up before its placed in a shallow
3 grave or left out?

4 A. Yes.

5 Q. And how is that? What would you expect to find if
6 that was the situation?

7 A. I'm sorry. One more time.

8 Q. What would you expect to find if an adult is chopped
9 up and left dead in a shallow grave after?

10 A. It would depend on what got to them, it would depend
11 on how big they were and the weight of the materials and
12 how they were chopped up. If they're simply disjointed
13 arms, legs, torso, head, the torso might still be more or
14 less intact. The legs would be anywhere, the arms could
15 be anywhere, the hands could be anywhere. There was a
16 case a number of years ago with one of the classes -- I
17 teach forensic archeological recovery at the university.
18 One of my classes assisted a coroner's inquest because a
19 dog had brought the skull of the unfortunate individual who
20 had suicided to a person's porch. So it depends. It
21 depends. But the difference being that if a person is
22 intact it takes longer for the animals to break it apart if
23 it's an adult. If it's already broken apart, then it
24 depends on the sizing. And that's a horrible way of
25 putting it, but it depends on the sizes. You know, dogs,

1 coyotes, we have a lot of coyotes at this point, you know,
2 opossums, whatever, it's free food as far as they're
3 concerned and they will simply run off with whatever they
4 can carry.

5 Q. And you said it charges if we're talking about an
6 adult or a child. If we're talking about a three-foot tall
7 thirty-pound child, how does your -- how does that change
8 your explanation?

9 A. It changes drastically.

10 Q. Please explain.

11 A. Children's bones don't become solid, depending if
12 they're male or female, somewhere between -- start to
13 really become solid between twelve and fourteen. That's
14 just standard medical fact. You have the center of the
15 bone, you have the epithyses, the ends of the bone. These
16 are long bones. The sutures in the skull don't start to
17 truly knit in until the twenties and, you know, most
18 populations not between thirty and forty are they fully
19 knit. So in terms of things breaking and coming apart,
20 it's considerably easier on children and the younger the
21 child the less substance in general both for body weight,
22 but also in terms of the bones themselves, and the quicker
23 they are to be scavenged and removed. So a three-year-old,
24 there's not a lot there to start with and, therefore, the
25 likelihood of the remains being there for any real length

1 or period of time is vanishingly small unless they are
2 truly buried at depth and under soils or whatever that were
3 sufficient to deter predation.

4 Q. And a three or four-year-old, is that still a small
5 child?

6 A. Yeah.

7 Q. So if we're talking about a child that's left intact,
8 what would you expect to be able to find after a week of
9 being outside?

10 A. A week?

11 Q. A week.

12 A. It would depend -- it would depend on the scavengers,
13 it would depend on what the child's mass was prior, but
14 potentially larger parts, you know.

15 Q. What about after thirty-eight years?

16 A. Roll your dice.

17 Q. And if that body is buried in a shallow grave?

18 A. It might slow down the process, but, again, if the
19 soils were heavily acid or alkaline and basic or acid,
20 you'd be lucky to find a smear.

21 Q. And if the body is chopped up?

22 A. If the body popped up?

23 Q. If the body is chopped up, a four-year-old, and left
24 out.

25 A. You had me worried there for a second. If the body

1 were chopped up, not -- no. Just no. No, not at all.

2 Q. Have you been asked to look for Jessica Gutierrez?

3 A. Yes.

4 Q. Okay. And where have you looked for her?

5 A. Well, primarily we looked in a landfill in West
6 Columbia.

7 Q. And when was that?

8 A. During the pandemic. 2021.

9 Q. Okay. And what were your results of your searches?

10 A. The results were negative. We did not find her.

11 Q. Okay. And were you surprised by that?

12 A. No.

13 MS. WEISS: Thank you. I have no further questions.
14 Please answer any questions the defense may have.

15 THE WITNESS: Of course.

16 THE COURT: Mr. Mauldin.

17 MR. MAULDIN: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MAULDIN:

20 Q. Hello, Dr. Leader. Now the Office of the State
21 Archeologist has been involved since its inception in 1963
22 with forensic archeology recovery, hasn't it?

23 A. The -- I came here in 1989 just in time for Hugo. I
24 try very hard not to talk about the people who were there
25 before me because I was not there before me.

1 Q. Oh. Well, I'm reading from an article you wrote
2 for --

3 A. Oh, okay.

4 Q. -- Legacy Magazine.

5 A. Sure. Go ahead.

6 Q. So, I mean, you can look at it if you want to, but --

7 A. No, that's okay. If I wrote it, I wrote it.

8 Q. So they've been doing it since 1963?

9 A. That would be -- correct. We've been involved with
10 burials since 1963. I have not been involved in South
11 Carolina with burials since 1963.

12 Q. Right, but the office has been involved in it.

13 A. Yes, the office. Okay.

14 Q. And you discussed the varying -- I guess the
15 decomposition rate of a, you know, body and the bones, is
16 that right, in your testimony here today?

17 A. I did discuss that, yes.

18 Q. Okay. And you named a number of variables to include
19 moisture; is that right? Moisture?

20 A. Yeah, moisture. Actually humidity, moisture, water.
21 Yes, sir.

22 Q. All right. And the pH of the soil, whether it's acid
23 or nonacid or neutral?

24 A. That is correct.

25 Q. And those are two factors that could affect the

1 decomposition of soft matter, the tissues, and, of course,
2 the hard matter, the bones as well.

3 A. (Nods head.)

4 Q. Now when you -- when you conducted your search, you
5 did roll the dice yourself and you participated in that
6 search of in 2021. Did you take any kind of pH readings of
7 the soil to tell whether it was acidic or not acidic or
8 neutral?

9 A. Actually, no, I did not.

10 Q. Okay. And your search was based on information that
11 law enforcement had received from individuals about the
12 possible burial of the body; is that right?

13 A. That is correct.

14 Q. Okay. So you didn't test about the acidity of the
15 soil. Did you go back and look at the moisture rate for
16 that area or how moist the soil was or not?

17 A. Outside of simply experiencing the soil directly, I
18 did not do other testing.

19 Q. Okay. Or a history? Go back and research the history
20 of that area or the pH of the soil?

21 A. I did not.

22 Q. Okay. And did you look in the history of prior
23 searches done by law enforcement? Do you know how many
24 prior searches of that area have been done?

25 A. I don't normally do that.

1 Q. Okay. So you wouldn't know how many times they
2 searched it or where they searched it or how they searched
3 it?

4 A. I do not.

5 Q. Okay. And would knowing that impact your search?

6 A. No.

7 Q. Okay. So the results are negative, but you're saying
8 that, you know, you could have found something but maybe
9 the soil was acidic or you would have found something, but
10 maybe there's predators or you should have found something,
11 but maybe it was too moisture or something like that; is
12 that right?

13 A. No.

14 Q. Okay.

15 A. That's not what I said.

16 Q. Well, you didn't find anything.

17 A. I did not find anything.

18 Q. And you're supposing here today that the possibility
19 you didn't find anything is because the body decomposed too
20 much due to either acidity or moisture, right?

21 A. Is that a question?

22 Q. Well, you're saying today that there's a possibility
23 you didn't find anything because the body decomposed so
24 much due to the acidity and moisture of the soil; is that
25 right?

1 A. As one of the possible factors, yes.

2 Q. Yes. Or if the body was not buried that predators
3 could have removed the remains?

4 A. That is a possible factor, yes.

5 Q. Okay. But a simple explanation could be that there
6 was nothing there to find to begin with; is that right?

7 A. Also possible.

8 MR. MAULDIN: No further questions.

9 THE COURT: Any redirect?

10 MS. WEISS: No, Your Honor. I'd ask that Dr. Leader
11 be excused from his subpoena.

12 THE COURT: Thank you.

13 Any objection?

14 MR. MAULDIN: No, Your Honor.

15 THE COURT: Thank you, Dr. Leader, for coming. You
16 may be excused.

17 (Witness excused.)

18 THE COURT: You can call your next witness.

19 MS. ABEE: Your Honor, the State rests.

20 THE COURT: Okay. Madam Forelady, the State's
21 rested. I'm gonna have to ask you to return to your jury
22 room and let me take up some matters with the attorneys
23 and then I'll have you back in.

24 Please remember there's no talking about this case
25 even amongst yourselves, okay? Thank you.

1 (Whereupon, the jury retires to the jury room at
2 10:38 AM.)

3 THE COURT: Okay. All right. Before I ask for
4 motions, I just want to put something on the record
5 because I want to make sure I ruled on it. I thought
6 it did, but I don't -- I don't know that I did what I
7 wanted on Ms. -- is it Paparozzi?

8 MS. ABEE: Paparozzi.

9 THE COURT: Paparozzi. She was the lady who worked
10 for FBI as a research analytic --

11 MS. ABEE: Support analyst.

12 THE COURT: -- support, and we proffered her
13 testimony and that she was part of the investigative
14 team and that she works for the FBI and this is what her
15 job is, that she has a special knowledge and skill and
16 experience and training in operating these databases to
17 find missing children, missing persons, trafficking cases
18 was her testimony, so I find that she was more than a mere
19 data clerk because some of these databases are not too --
20 available to the public, though some of them were, but on
21 top of that she had to have special training, that she
22 testified there's six weeks training, there was also more
23 of that, some that lasted hours, some days, training for
24 these special databases, so this Court made her an expert
25 and allowed her to give her opinion testimony on her

1 search results concerning this case.

2 MR. MAULDIN: And that it was hearsay --

3 THE COURT: Well, if she's --

4 MR. MAULDIN: -- which experts can rely on, but we
5 disagree that she's an expert.

6 THE COURT: Right. I know that you disagree with me
7 that she's an expert, you think it's hearsay, but she's
8 an expert and I think she can rely on hearsay to testify.
9 That's the ruling of the Court, but your objection is so
10 noted, Mr. Mauldin.

11 I just wanted to make sure I had that clear on the
12 record for everybody.

13 Okay. Let me hear from the defense.

14 Do you have any motions?

15 MS. MAULDIN: Yes, Your Honor. We would move for a
16 directed verdict taking the evidence in the light most
17 favorable to the State, there's not sufficient evidence
18 to send the case to the trial of facts.

19 At this point I will renew prior objections and prior
20 motions, including the motion to dismiss on the initial
21 grounds that I raised, but on the additional ground that
22 at this point in the trial Becky has testified about the
23 description of the person that she claims she saw, she at
24 most said that there was a possibility that she had said
25 that to law enforcement, that it was a black man, and so

1 what I worry about is from the past. I can't impeach her
2 credibility with Detective Bartlett.

3 In addition, there was evidence in the police
4 reports that she had taken some medication called Tranxene
5 there's no way to impeach her on that. Today or in the
6 trial she was referring to taking Robitussin cough syrup
7 instead. I think that goes to her credibility as well
8 because that's a -- I think it was typo in the report,
9 but Tranxene, which is a benzo, it's something that
10 knocks you out, it's like Xanax or Valium, which would
11 contradict what she claims about looking out and being
12 terrified because she sees this cigarette burning in the
13 dark, and then she takes this medicine to knock herself
14 out and goes to sleep.

15 And then also as to Mr. Fowler, Detective Bartlett's
16 notes said that he told him that the car was an Impala
17 and he couldn't remember that on the stand, so I would
18 add those grounds to my prior motion to dismiss.

19 THE COURT: Okay. I'll be glad to hear from you.

20 MS. WEISS: Thank you, Your Honor.

21 We ask that you deny the defense's directed verdict
22 motion. We believe there's definitely existence of
23 evidence to go to the jury, both direct and substantial
24 circumstantial evidence to prove each of the factors.

25 First of all, you have the statement of Fowler, the

1 inmate, who states that it was Tommy McDowell that said
2 that he took a four or five-year old, went through the
3 window, took the body, chopped it up and killed her; then
4 we have the cigarettes -- the cigarette that was left under
5 the window, the cigarette pack that was left in the yard,
6 the cigarette that was -- the cigarettes that were found in
7 his car and the testimony that that's the cigarettes that
8 he smokes, the fingerprint that was then found on the
9 window right above the cigarette, the information that
10 someone of his size could get into the home, as well as the
11 description by Becky, a person with a beard, a mustache and
12 a hat, information that -- from the family and relatives
13 that Tommy McDowell at the time wear -- had a beard,
14 mustache and hat -- or beard and a hat definitely and that
15 he did remove those -- all of those things shortly after
16 the crime, and the defendant has been identified, as well
17 as the day, the jurisdiction and that this occurred in the
18 nighttime, in the dark, and that Jesse Gutierrez was
19 kidnapped and taken from her bed. I think all of these
20 factors together provide an existence of evidence, both
21 direct and substantial circumstantial evidence to justify
22 this case going to a jury in the light most favorable to
23 the State.

24 THE COURT: Okay. And in the light most favorable
25 to the State, I'm gonna deny your motion, Ms. Mauldin.

1 However, it's noted for the record. I do believe that
2 the State has presented enough evidence that this can go
3 forward to the jury for the jury to decide.

4 Anything else?

5 And, Ms. Mauldin, all your objections are noted for
6 the record.

7 Anything else?

8 MR. MAULDIN: No, Your Honor.

9 MS. ABEE: No, Your Honor.

10 THE COURT: Okay. All right. Why don't we take a
11 quick break right quick?

12 Let's take a quick break and come back at 11:00 and
13 then I'd like to address Mr. McDowell and the defense
14 team, okay?

15 (Recess taken at 10:45 AM.)

16 (Back on the record at 11:00 AM.)

17 THE COURT: Let's go back on the record now.

18 Ms. Mauldin, I read Mr. McDowell his rights to
19 testify yesterday. He doesn't have to present a defense.

20 Does the -- are you planning on presenting a defense?

21 MS. MAULDIN: No, Your Honor.

22 THE COURT: No. Okay.

23 So let me ask Mr. McDowell. You know, yesterday I
24 read you your rights to testify and that you certainly
25 are not compelled in any criminal case to be a witness

1 against yourself. You don't have to testify. Your
2 lawyer tells me that you're not going to present a
3 defense, but I need to know that you thought about this.
4 Because I gave you the night to think about it. I gave
5 you the opportunity to talk to your family and your
6 friends and I explained to you the protections of the
7 Fifth Amendment of the Constitution, which I stated, no
8 person shall be compelled in any criminal case to be a
9 witness against himself.

10 I need to ask you have you had enough time to talk
11 to your lawyer, your family and friends about whether to
12 testify in this case?

13 THE DEFENDANT: I have.

14 THE COURT: Do you need any more time?

15 THE DEFENDANT: No.

16 THE COURT: And have you understood everything I
17 explained to you?

18 THE DEFENDANT: I did.

19 THE COURT: And is this decision on your part freely,
20 voluntarily and intelligently made?

21 THE DEFENDANT: It is.

22 THE COURT: Okay. Thank you.

23 All right. Well, then at this time I'm going to
24 call the jury back in and let you rest on the record and
25 then I'm gonna send the jury back out, okay?

1 You can bring the jury in.

2 (Whereupon, the jury return to the courtroom at
3 11:04 AM.)

4 THE COURT: Madam Forelady, the jury ready?

5 FOREPERSON: Yes, Your Honor.

6 THE COURT: Okay. Please be seated.

7 All right. Let me call on the defense. You don't
8 have to, but I'm gonna ask are you ready to proceed?

9 MS. MAULDIN: Yes, Your Honor. And the defense
10 rests.

11 THE COURT: Thank you, Ms. Mauldin.

12 Madam Forelady, I'm gonna have to ask the jury to
13 go back to the jury room. I need a few minutes with the
14 lawyers. I'll have you back in again. Please do not
15 discuss this case even amongst yourselves while in the
16 jury room, okay?

17 Thank you.

18 (Whereupon, the jury retire to the jury room at
19 11:05 am.)

20 THE COURT: All right. Give me one minute. I'm
21 gonna get a hard copy for the lawyers.

22 Anything from the State?

23 MS. ABEE: No, Your Honor. Just since we're about
24 to head to closings, if while we're waiting on this, if we
25 can start gathering our evidence to set up for closing if

1 you'd like to.

2 THE COURT: Absolutely. Absolutely.

3 MS. ABEE: Okay. Thank you.

4 THE COURT: Anything from the defense?

5 MS. MAULDIN: No, Your Honor.

6 THE COURT: Okay.

7 (Recess taken at 11:05 AM.)

8 (Back on the record at 11:08 AM.)

9 THE COURT: And I also have the verdict form up here
10 if you'd like to look at it.

11 MR. MAULDIN: We've got it.

12 THE COURT: Oh, you've got a copy of it.

13 (Off the record discussion.)

14 THE COURT: All right. Ms. Weiss, are you gonna be
15 with me on these jury charges?

16 MS. WEISS: I am, Your Honor.

17 THE COURT: All right. Page 2. This is just my
18 regular opening to the jury along with page 3. Number 4
19 tells me what is not evidence and also their duties and my
20 duties as a trial judge. Page 6 is my normal presumption
21 of innocence and page 8 is my normal reasonable doubt.
22 Direct and circumstantial evidence is the long version.

23 Any objection to that on page 9, direct and
24 circumstantial evidence?

25 MS. WEISS: No, Your Honor.

1 THE COURT: Ms. Mauldin?

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: All right. Page 10 is criminal intent,
4 which is my normal. Page 11 is credibility of witnesses,
5 which is my normal. Expert witnesses, which we we've
6 had in this case, that is my normal charge. The video
7 animation on page 13. First time I'm charging this.
8 I'd like to make sure that there's no objections to the
9 video animation charge.

10 MR. MAULDIN: No objection from the defense.

11 MS. WEISS: No objection, Your Honor.

12 THE COURT: Okay. Page 14 is the murder charge.
13 I will tell you, I think I told you-all earlier, that
14 there was a case that came out. I took out the four
15 words "without just cause or excuse". I didn't find
16 this to be a self-defense case at all, and it's not, so
17 based on that opinion that just came out by the Supreme
18 Court I omitted those words.

19 Any objection to the murder charge from the State?

20 MS. WEISS: No, Your Honor. Not from the State.

21 THE COURT: Any from the defense?

22 MS. MAULDIN: No, Your Honor.

23 THE COURT: The kidnapping charge on page 16 is my
24 normal kidnapping charge. Let me know if there's any
25 objection. It sounds terrible when I say it's my normal

1 charge.

2 MR. MAULDIN: It does.

3 THE COURT: Everybody good? The State's good?

4 MS. WEISS: The State's good.

5 THE COURT: The defense good?

6 MS. MAULDIN: Yes.

7 THE COURT: Now first degree burglary. We went
8 through this. Something's not right on it I'm telling
9 you right now. It does not work.

10 All right. We narrowed it down to include it to
11 the facts of this case, which is causes physical injury
12 to a person who is not a participate in the crime or the
13 entering or remaining occurs in the nighttime. Then I go
14 through the four elements that must be proved, which is
15 one, entry into a dwelling; Number 2, without consent;
16 Number 3, with the intent to commit a crime therein, and
17 Number 4, the presence of an aggravating circumstance.
18 In this case the aggravating circumstance is, A, cause
19 physical injury to any person who is not a participant
20 in the crime or the entering or remaining occurs in the
21 nighttime, and nighttime for the purposes of burglary
22 means that period between sunset and sunrise during which
23 there is no daylight.

24 Any objection? All we did was take out the --

25 MR. MAULDIN: The extras.

1 THE COURT: -- the extras that do not pertain to
2 this case.

3 MS. MAULDIN: No objection, Your Honor.

4 MS. WEISS: No objection, Your Honor.

5 THE COURT: Okay. All right. The defendant's
6 right to remain silent. He chose not to testify, so I'm
7 charging that charge. My sympathy charge, I charge in
8 every case, the duty to deliberate, and the jury verdict.

9 Anything that needs to be added or you'd like for me
10 to think about adding from the State?

11 MS. WEISS: One second.

12 THE COURT: From the defense?

13 MS. MAULDIN: No, Your Honor.

14 MS. WEISS: The State's good, Your Honor.

15 THE COURT: All right. Has everybody looked at the
16 verdict form?

17 MR. MAULDIN: Yes, Your Honor.

18 THE COURT: You're okay with the verdict form?

19 MR. MAULDIN: Yes, Your Honor.

20 And then, Stacy, I need my Court's exhibit that I
21 took judicial notice of the time because I'm going to
22 remind them. And I think I struck two things from the
23 record if I'm not mistaken on testimony.

24 All right. You know what, you keep that. I have
25 one. I've got it, Stacy.

1 All right. Now let me ask, are we ready for
2 closings?

3 MS. ABEE: We are, Your Honor.

4 MS. MAULDIN: Yes, Your Honor.

5 THE COURT: Okay. This ought to work out just
6 perfect for lunch. I've got them coming in at one.

7 All right. I'm gonna bring the jury in.

8 Let's bring them in.

9 Let me address the gallery. This is what's gonna
10 happen. We're doing closing arguments. There is no
11 getting up, going to the bathroom. I don't like the
12 doors closing, so if you need to leave or you need to
13 leave in twenty minutes from now, please leave leaves now.
14 It distracts these lawyers when they're trying to work and
15 it distracts me.

16 Also in charging the law, I will lock the doors.
17 You can't get out. I always lock the doors when I charge
18 the jury. It's too important and I can't have people
19 standing up, closing doors, any of that when I charge the
20 law.

21 So I will tell you, you will have just a few minutes
22 after closings if you'd like to leave, and I mean a few,
23 because I'm gonna go straight into charging and you're
24 not gonna be able to leave the courtroom until I finish,
25 okay?

1 All right. Let's bring them in.

2 (Whereupon, the jury return to the courtroom at
3 11:17 AM.)

4 THE COURT: All right. Madam Forelady, the jury
5 ready?

6 THE FOREPERSON: Yes, Your Honor.

7 THE COURT: Please be seated.

8 All right. We're now gonna proceed with closing
9 arguments.

10 Let me turn to the State. Ms. Abee.

11 MS. ABEE: Thank you, Your Honor.

12 Thirty-eight years. It has been almost thirty-eight
13 years since anyone has seen Jessica Gutierrez. A mother's
14 worst nightmare and a nightmare that a sister cannot wake
15 up from. It has been thirty-eight years that they've had
16 to wonder who came into their house, who took that little
17 girl, who is the man in the magic hat. And after almost
18 thirty-eight years they don't have to wonder anymore
19 because the man in the magic hat has been sitting here in
20 this courtroom all week.

21 Now we're at the point in this trial where Judge
22 McCaslin is about to instruct you on the law and ask
23 that you return a verdict of guilty or not guilty. We're
24 asking that you find the defendant, Thomas Eric McDowell,
25 guilty of three crimes; burglary in the first degree,

1 kidnapping, and murder.

2 And in order to do that, we had to prove certain
3 things to you beyond a reasonable doubt throughout the
4 course of this trial. To prove to you burglary in the
5 first degree, we had to prove to you that the defendant
6 entered the home of Debbie Gutierrez during the nighttime
7 without permission and with the intent to commit a crime
8 when he was inside.

9 In order to prove the kidnapping, we had to prove
10 to you that while he was inside that home the defendant
11 carried away Jessica Gutierrez without any sort of consent
12 or permission.

13 Finally, in order to prove to you murder, we had
14 to prove to you that the defendant unlawfully and
15 intentionally caused the death of Jesse and that he did
16 so with malice aforethought, which simply means that he
17 wasn't justified in doing so and that it was intentional.

18 Now that's been our burden of proving those things
19 to you throughout the course of this trial and in order
20 to meet that burden you heard from a lot of witnesses
21 this week that came and sat upon this stand and we heard
22 a little bit about Jesse. We heard that she was the
23 youngest of the four Gutierrez children, the tiniest and
24 the bossiest.

25 And we heard all about June of 1986 and we heard that

1 during that point in time she was living with her family
2 in this trailer located off South Lake Drive and we heard
3 that she lived there with her two older sisters, Kim and
4 Becky, her brother Bubba, and her mom. And we heard that
5 on June the 5th of 1996 she planted a crepe myrtle tree
6 with her mom in the yard earlier that day and they wanted
7 on the older kids to get home because it was the last day
8 of school and that when got home, they played outside and
9 Debbie, well, she let them stay up a little bit longer
10 hoping they'd sleep in the next day, first day of summer.
11 And so they played outside, had BLT's for dinner.

12 But as it got closer to bedtime, Jesse, well, she
13 wanted to sleep in the bed with Debbie, but Bubba, he had
14 an earache, so he already claimed that spot in his mom's
15 bed. Jesse didn't like this. She wanted to sleep with
16 her mom, but she ended up sleeping in the bed with Jesse --
17 or with Becky like she did every night. And so her mom
18 painted her fingernails and her toenails to try to make her
19 feel okay about that and then Becky, being the good big
20 sister, let her sleep next to the fan that night.

21 You see, this bed is pushed up against the wall and
22 Debbie told you that this bed's pushed up against the wall
23 so that Jesse, who typically slept on that side of the bed,
24 wouldn't role out and hit the ground. But on this night
25 she was complaining because she wanted to sleep with mom,

1 but she couldn't, so Becky said tonight you can sleep
2 closer to the fan and I'll sleep closer to the wall.

3 So Debbie put her children to bed around 11:30. She
4 starts locking up the house. She opens the windows so
5 that the air can circulate through the house and she locks
6 the front door. Three locks. A lock on the knob, the
7 latch and then a safety latch. And then she moves over
8 towards the kitchen and as she's looking out that kitchen
9 window she sees a bright red light, and she knows this
10 light, right, she's a smoker. She knows exactly what it
11 looks like when somebody inhales a cigarette. She said
12 she sees that. And the screen on these windows, they're on
13 the inside, so she pushes her face up next to that screen
14 in the kitchen and she looks. That kitchen window was
15 right there on that front porch and she said she only sees
16 that one inhale, that bright light, and she stays there
17 ten, almost fifteen minutes. She never sees anything
18 again. So she tells herself she must have been just seen
19 something, convinces her herself that it's nothing. She
20 goes and she gets in her bed with her son, she turns on
21 that fan and she falls asleep, and little does she know
22 that the unimaginable is about to happen right down the
23 hall.

24 Because Becky told us that as she slept, she woke
25 up in the middle of the night feeling as if someone was

1 staring at her. She opens her eyes and she sees a figure.
2 She sees a man. She pulls up the cover and she squinches
3 her eyes, and she's still looking, still looking to see
4 what she could, that this isn't a figment of her
5 imagination, this isn't something that when she blinks it
6 goes away. He stays there. A man with a beard, a mustache
7 and wearing what looks to her, as a six-year-old, as a
8 magic hat. Taller on the top than the brim. And she
9 said she sees this individual from either the moon
10 outside through the windows and we heard that there's
11 also this light outside of the windows right by the house,
12 and so she can still see good enough to see again the man
13 with the beard, the mustache and a magic hat, but when
14 she blinks he does not go away. He bends down and he
15 picks up the little sister. He puts that kid over his
16 right shoulder and he walks out of that room, and that is
17 the last time that anybody ever saw Jessica Gutierrez.
18 Except for the defendant. He got to see her as he left
19 that house.

20 Now the next morning Debbie wakes up to her kids
21 hollering her name. Momma, can I fix cereal? She said
22 she opens her eyes and looks at the clock, she didn't
23 set an alarm, it's the first day of summer, and she
24 realizes the kids didn't sleep in like she had hoped,
25 and six-year-old Becky hollers momma, can I make some

1 cereal? And you heard a little bit about Debbie. Debbie's
2 a little bit of a neat freak, right, so the idea of kids
3 with the milk and the cereal making their own cereal, no.
4 So she says no, I'll come make you breakfast. So she gets
5 out of bed, she walks down the hall and she looks in that
6 living room and that's when she tells you she takes one hit
7 after another after another.

8 Why is the dog inside? Who opened up these doors?
9 Why are these papers all over the ground? Why is the
10 screen down? Why are the curtains pulled down off the
11 window? Where is your sister? She's looking around and
12 she sees this chaos. The door that she knows she locked
13 that night before is open. Not just unlocked, that front
14 door is open, that screened storm door is propped open how
15 she does when she carries groceries in and out. She told
16 you those kids, they can't reach that latch. And then the
17 dog who normally stays outside is excited to be inside.
18 How did the dog get inside? And those windows that were
19 propped open and rolled up the night before, that front
20 window, the broken one, is shut. Not only is that window
21 shut, the screen is down, the curtains are down. These are
22 all things that were different from when she had just gone
23 to bed nine hours before. But most importantly is all of
24 this is spinning and spiraling out of control. She's
25 realizing she is missing a child. That there is somebody

1 that's supposed to be there who isn't. She's got Kim,
2 she'd got Becky, she got Bubba, but what she does not have
3 is Jesse.

4 So she goes into that bedroom and she pulls back the
5 covers, looks in that bed, no Jesse. Looks underneath the
6 bed, no Jesse. She goes in there and she says where in the
7 hell is your sister at and Becky tells her the man took
8 her. The man took her, what do you mean the man took her?
9 The man in the magic hat.

10 And for Debbie none of this makes sense, right? It
11 makes no sense that a man came into her home and took her
12 child, especially a man wearing a magic hat. So she grabs
13 Becky and she is shaking her again and again. What do you
14 mean a man in a magic hat took her? What are you talking
15 about? This is dumbest shit I've ever heard. And she's
16 shaking her again and again. Tell me what she saw. Where
17 is your sister? You better not be lying to me. But
18 there's absolutely nothing that Becky Gutierrez can tell
19 her that makes her satisfied. And she's outside and she is
20 crawling on the ground and she is looking under the trailer
21 and she is calling Jesse's names again and again, but she
22 will never see Jesse again.

23 Law enforcement showed up. They said hey, this
24 window screen is down, these curtains are down, there's
25 a sick on your front porch, and she says that stick's

1 not supposed to be there, that stick is supposed to be
2 propping open this window. That screen is supposed to be
3 on this windows. Those curtains are supposed to be around
4 this window, but they're not.

5 So they dust for prints and they find one. A left
6 hand middle fingerprint on this bottom pane. So they
7 collect that latent print, they collect that stick, and
8 then there's other things that don't make sense at the
9 scene as well because what they find underneath that
10 window is a Vantage cigarette butt.

11 Now Debbie smokes. She doesn't smoke Vantage, right,
12 she smokes Marlboros, so that Vantage cigarette makes no
13 since why that is there, and then the Vantage cigarette
14 pack found out by the tree, that makes no sense that that
15 is there. She doesn't smoke Vantage. So they collect
16 that, too. And law enforcement looks around, they also
17 don't find Jesse, and so the nightmare of where is the
18 smallest Gutierrez child continues, but worse than that,
19 this case runs cold. They don't know who that fingerprint
20 belongs to, they don't know where Jesse is and they don't
21 know who took her.

22 Tommy McDowell became a suspect when he made himself
23 a suspect. Nobody knew to look at Tommy McDowell. He
24 wasn't on anyone's radar. It wasn't until he provided
25 information to Michael Fowler at the Polk County jail that

1 he even became a suspect. You see, law enforcement wasn't
2 singling him out, they didn't have tunnel vision on him,
3 they weren't trying to create evidence or fabricate
4 evidence to make it look like Mr. McDowell did it. They
5 didn't know Mr. McDowell was in the picture at all. He
6 entered himself into the picture when he was up in the
7 Polk County jail in North Carolina.

8 And when he's in the jail in North Carolina, he
9 befriends Michael Fowler, who's a North Carolina guy,
10 right? He's from there, he continues to live there. He
11 says that they were talking. And this wasn't just one
12 conversation. They had multiple conversations and
13 eventually Mr. McDowell tells him something that he thinks
14 is devastating. Mr. McDowell tells him that he went
15 through a window down here, took a four-year-old child and
16 put her in his white car, that he then drove that car away
17 and forced that child to perform oral sex on him and when
18 she bit him, when she fought back, he killed her, chopped
19 her body up with a machete, buried it under a brush pile.
20 There is no reason for Polk County Michael Fowler to know
21 those details. There is no reason for Polk County Michael
22 Fowler to know that Tommy McDowell was driving a white car.
23 There is no reason for Michael Fowler to know that there
24 was a missing child out of Lexington, South Carolina, there
25 is no reason for Michael Fowler to know that the window had

1 been determined as the point of entry. The only reason
2 Michael Fowler knows the intimate details of the
3 kidnapping, abduction and murder of Jessica Gutierrez is
4 because he was told them from the person who did it
5 himself. That is why Michael Fowler knows these details.

6 Now typically there would be some questions about
7 a jailhouse snitch, right? The judge is going to tell
8 you that you determine the credibility of each witness
9 in this case and you decide what to believe and what not
10 to believe. So you get to decide whether or not you
11 believe Michael Fowler and whether or not you believe that
12 Tommy McDowell actually told him that, but this is not a
13 normal jailhouse snitch. This is not something that is in
14 jail looking for a get out of jail free card or trying to
15 negotiate an early release. You heard from Michael Fowler
16 that he told this to law enforcement when they came and
17 sought him out when he was working at his job. He was
18 already out of jail when he told them anything about Thomas
19 McDowell. This is not a get out of jail free card. He was
20 already out. And even if you think for just a second that
21 he had motivation to make it up back then in 1986 and 1987,
22 we're sitting here in 2024. This man still lives in North
23 Carolina. He's living a normal life, he's got a job now,
24 and he still came here, sat on this stand, put his hand on
25 that Bible and swore to tell the truth, and told you the

1 exact same thing. If this is a guess by Michael Fowler,
2 that is one heck of a lucky guess. He just happened to
3 guess a four-year-old, just happened to guess the point of
4 entry was the window, just happened to guess that Mr.
5 McDowell drove a white car and it's because it's not a
6 guess. All of those things aren't coincidences.

7 And we heard a little bit more about that light
8 colored car and I want to go through some of this
9 evidence because you heard from Clark Rowe. Clark Rowe
10 got on that stand and said that on this night, the night
11 of June the 5th, that he would patrol these areas here,
12 this ballpark area, that there's a frontage road right
13 here, and that we typically go back there, right, some
14 people would take things, it was pretty secluded. He was
15 used to being on the nightshift and patrolling that area
16 and on this particular night as he was driving down this
17 road, he sees a car pulled over in the brush with his
18 lights off, and he said the car then starts and turns on
19 its lights and that's when he activates his lights and he
20 pulls over to that side of the road to try to block that
21 car, to try to see what it is that this is car is doing,
22 although that car has no interest in talking to Clark
23 Rowe. That car's only interest is getting out of there.
24 So that car swerves around Clark Rowe and Clark Rowe
25 himself has to drive in reverse backwards, barely missing

1 this car as they go by each other. He says eventually
2 he's able to turn around and when he gets here towards
3 the end of the road, he's lost the vehicle. He's lost
4 the car. He doesn't know where it is. All of that takes
5 place in this area that we know that Tommy McDowell is
6 extremely familiar with because an ex-girlfriend Patty
7 told you that they used to drive up in this area all the
8 time back by the ball fields, back by the roads, there's
9 the landfill over here, over here you heard that there's
10 some woods and where they cut pallets and make pallets,
11 they cut wood, and this is all an area that we know that
12 Tommy McDowell is extremely familiar with.

13 And what color car did Michael Fowler say that Tommy
14 McDowell said he was in that night? White. A light
15 colored car. So you get all of this information and
16 lo and behold that fingerprint on that window, we have
17 a match now, and that fingerprint match matches Tommy
18 McDowell.

19 Now when I am done talking to you, the defense will
20 have an opportunity to get up here and present to you their
21 closing argument. I'm not gonna have the opportunity to
22 talk to you again once I'm done.

23 Now it's important that you remember that throughout
24 this entire trial they don't have to prove anything. They
25 have no burden, they don't have to show you that he's

1 innocent, prove to you that he's innocent, they don't have
2 to call a witness, question a witness. They don't have
3 to say anything because that burden has rested right here
4 at our table the entire time. It never moves, that burden
5 of proof.

6 But when they present to you arguments, you still
7 get to ask yourself if what they're saying makes any
8 sense, okay? And I expect that they're gonna get up here
9 and tell you that there's not enough evidence that points
10 to Tommy McDowell, that law enforcement didn't do what
11 they could have done or should have done or what they
12 would have done if this case happened in 2024. But just
13 because that is true, just because this case took place
14 in 1986, doesn't mean there's not enough evidence to show
15 that Tommy McDowell did it, and I want to walk through
16 some of those pieces of evidence with you now.

17 Most importantly, you're gonna hear this again and
18 again from me that fingerprint is found on the outside of
19 that window. And it is not just that a fingerprint was
20 found on the outside of window because, yes, we know that
21 Tommy McDowell spent one to one and a half days at that
22 property building a shed and attaching an awning. We know
23 he has been there, but we know that from his own statement
24 it was at least six months prior to Jesse being messing.
25 From Debbie's own statement, it was almost a full year.

1 And she told you that that window, that tri-fold window,
2 well it was broken, the crank was broken, and she called
3 it the tattletale window because the kids would always
4 walk up with their popsicle covered fingers or their
5 peanut butter and jelly hands and they would lift up that
6 window and tattle on each other while they were playing
7 out in the yard, and that's how Debbie Gutierrez knows
8 she cleaned that window between the time Thomas McDowell
9 was on that property and the time that fingerprint was
10 found.

11 And if you listened to the testimony of Mr. Freeman,
12 he told you that one legible print was found. Not tons
13 of little fingers found, little fingerprints of kids, not
14 that. One legible print, the middle finger of Tommy
15 McDowell on his left hand. That's the only print that's
16 found. There is no reason for his fingerprint to be on
17 that window when we know that window has been washed.

18 And the window is important because we know that
19 that is the point of entry. We know that the screen is
20 down, we know that the curtains are down, we know that
21 that window was previously propped open that night, but
22 it wasn't when Debbie woke up. Most importantly we know
23 that the defendant, he knew that window was broken. Not
24 only did he know that that window was broken, he had
25 seen a person go through it. So he's been out there to

1 Debbie's house, he's seen that she has kids, he has seen
2 that that was window broken, and he has seen her go
3 through that window in order to retrieve her keys when
4 she locked her keys inside. He has all of the knowledge
5 he needs to be able to go through that window that night.
6 But not only is his fingerprint found on the window, the
7 window determined to be the point of entry, we know from
8 the FBI that someone his size could fit through that
9 window.

10 Now I imagine that they're gonna talk a little bit
11 about that. That they're gonna talk about the measurements
12 that are used, how everything's an approximation, how we
13 don't have specific measurements of people, but what you
14 need to remember is that those two individuals, Robert
15 Thomas and Michael Martin, are qualified as experts.
16 Experts that when asked whether or not the defense had any
17 objection to their expert qualifications, they said no.
18 These are people that are qualified in their field, who
19 rely on mathematics and scaling and proportions to
20 determine the approximate size of this window. They relied
21 upon that Polk County booking information to determine the
22 approximate height and weight of the defendant. And so,
23 yes, is there an approximation, 34 to 36 inches? Yes. Is
24 the couch not to scale? Sure. But what they told you in
25 their expert opinion was the approximate size of that

1 window and that somebody Thomas McDowell's purported size
2 could fit through. And, yeah, the defense is right. We
3 don't know his head circumference, we don't know the width
4 of his shoulders. We don't know any of that. But what we
5 do know from his family members that testified was that he
6 was slender, that he was skinny, and we know that 5 foot 2,
7 size 14 Debbie, could get through that window, and we know
8 from that expert testimony that he could, too.

9 So not only do we have the fingerprint on the window
10 and the knowledge that somebody could fit through that
11 window and that it was broken, we know now that he could
12 have gotten through that window.

13 So then what's the next step? When he's inside, what
14 does Becky see? Becky told you that she saw a man with a
15 beard and a mustache wearing a magic hat, and what we know
16 from witnesses throughout this case is that Mr. McDowell,
17 well, he was pretty big on what he looked like, right? I
18 think he own cousin said he had that Urban Cowboy kind of
19 look, always had a beard, always had facial hair, always
20 had longer hair, always wore a cowboy hat. And you saw not
21 one, but two hats. So this hat that belonged to Tommy
22 McDowell, thin brim, taller top, and you saw this picture
23 of Mr. McDowell, and you'll be able to take it back and see
24 it, too. The thin brim and taller top. And more
25 importantly what you see here is long hair and a beard

1 because that was the look of Thomas McDowell.

2 Now what I think is so interesting in this entire
3 case is that although that was the look and that is how
4 his family knew him, after Jessica Gutierrez is taken from
5 her room, that beard is gone. That hair is shaved. That
6 hat -- those hats that are so intertwined with his identity,
7 not worn again, and that is because he in no way wanted to
8 be identified as the man wearing that magic hat.

9 Without a doubt I imagine you're gonna get up here
10 and hear that that description from Becky is not reliable.
11 She was asked questions about whether or not she ever said
12 it was a black man and she explained to you exactly how
13 that day went down. She was six years old. She was
14 six years old and she was the only person that could
15 provide any information on what had happened to her sister.

16 And Debbie told you that when she received the
17 information from Becky that it was a man wearing a magic
18 hat, that she thought it was the dumbest thing she had ever
19 heard, and that she picked Becky up and she was shaking her
20 repeatedly and that she was slamming her up against a wall
21 repeatedly. This doesn't make sense. What do you mean?
22 What are you telling me? A man in magic hat, this is dumb.
23 What do you mean? And that law enforcement comes in and
24 they are peppering her with question after question asking
25 who this is and all she wanted as a six-year-old was to

1 make it stop. All she wanted was to have her sister back.
2 So did she maybe agree? Yeah, fine. It's a black man. I
3 don't know what I saw. I didn't see anything. Is it
4 realistic that she could have said that back then?
5 Absolutely. But what we know and she testified under oath
6 that it's a man with a beard, a mustache, a hat, and that
7 he was white.

8 So we've talked about the window, we've talked about
9 the inside. I want to talk a little bit about the outside
10 of the home because I think this is extremely important.
11 Outside of that window is that Vantage cigarette butt and
12 we know a little bit about Tommy McDowell and the type of
13 cigarettes that he smoked. So not only was the cigarette
14 butt found there, but the cigarette pack and then in the
15 search of the white car, you'll be able to open this and
16 see that the type of cigarette packs found in that white
17 car that was given to his mom in December of '85, just
18 right before this, less than six months before this
19 happened, the type of empty cigarette packages that are
20 found in the car that Tommy McDowell is driving are Vantage
21 cigarette packs, the same type found at the scene, the same
22 type that his own cousin said he smoked.

23 But what's important about that cigarette butt as
24 well is what you heard from Adrian Hefney yesterday from
25 SLED and she was very honest with you when she told you

1 that this cigarette butt couldn't develop a DNA profile,
2 that there was DNA on it, but that there wasn't enough to
3 copy, right, to create a full profile. But what she could
4 tell you was something really important. It was male DNA.
5 What else she could tell you was that as cigarette butts
6 are outside and are exposed to the elements, the heat, the
7 moisture, the morning dew, the DNA degrades on that
8 cigarette. So there's another cigarette butt collected at
9 the scene. No DNA from that, right? It's a cigarette butt
10 that's been exposed to the elements. But this Vantage
11 cigarette butt is collected in a time before all DNA can be
12 degraded from it and it just so happens to be the special
13 type of cigarette that Tommy McDowell smokes.

14 Now along with the car -- or along with the cigarette
15 packs found in the car, you're also gonna get to see
16 pictures of this car, okay? And you're gonna see that
17 this car is all scraped up. You're gonna see that there's
18 marks all on it. What you're gonna see is that in the time
19 that this car was searched after Jesse's death, that the
20 Ford floor mats are no longer in it. These floor mats are
21 Toyota. The floor mats in this car between the time that
22 the Brakefields sold it to the McDowells in December of
23 1985 to the time that it is searched a couple months after
24 Jesse's death now suddenly has Toyota floor mats. And the
25 type of car that McDowell told Fowler he was driving, a

1 white car. Just like that.

2 One of the hardest things to accept in this case is
3 that Jesse is dead. We do not have a body to bring you.
4 We know that. But what you're gonna hear from the judge
5 is that there are two types of evidence, direct evidence
6 and circumstantial evidence, and that you can infer facts
7 of the case based on circumstantial evidence. And although
8 we can't bring you a body and say here is Jessica Gutierrez
9 dead, we very unfortunately all know that she's dead. We
10 know that a body her size is unlikely to be found. You
11 heard from Dr. Leader today that if that body was
12 dismembered, if it was cut up, that it makes it even less
13 likely that anything would ever be found of her. The body
14 would degrade, animals would scatter the bones.

15 We heard from an FBI intel analyst there's no sign of
16 Jessica Gutierrez and that's because the defendant killed
17 her. And then after going through all of that evidence you
18 still don't want to take our word for it that that's what
19 happened, you can take his word for it when he told Michael
20 Fowler that he went through that window and killed that
21 little kid.

22 Now I know that that may not be easy to want to
23 understand. I understand that it may be easier to just
24 want to sit here and say that doesn't happen, nobody comes
25 through a window and takes a four-year-old. No one just

1 kills a four-year-old. That doesn't happen. It might be
2 easier to think well, maybe she just ran away, maybe
3 something else happened to you here, maybe she's still
4 alive living somewhere, but in this place, in this
5 courtroom, we're not concerned with what is easy. We are
6 concerned with the facts and the truth no matter how hard
7 of a pill that may be to swallow sometimes and the facts
8 and truth of this case is that all signs point to Tommy
9 McDowell. You may be thinking this is just a bunch of
10 coincidences, right? A bunch of small little things,
11 nothing that specifically says or puts him here as the
12 killer. Members of the Jury, there is a point in time
13 where a coincidence is no longer a coincidence, it is
14 overwhelming proof of guilt, and that is exactly what we
15 have in this case. One coincidence out of another and
16 that's because they are the facts of this case. That's a
17 lot of coincidences to have in an entire lifetime and this
18 man has them all pointing to the fact that he kidnapped and
19 killed a little girl and that is because the fingerprint,
20 the change in appearance, the change in the floor mats, the
21 cigarettes found at the scene, the confession to Michael
22 Fowler, those aren't coincidences. They're overwhelming
23 proof of guilt.

24 Now we weren't there in 1986, but based on the
25 evidence and based on the testimony that you've heard we

1 know exactly what happened. Tommy McDowell showed up at
2 the Gutierrez household that night smoking a Vantage
3 cigarette, the red light that Debbie sees, as he gets up on
4 that porch, that porch he's familiar with, he put up that
5 awning, and he stands right there by that window, that
6 window he knows is broken and that he sees open, and he
7 waits until the house is dark, until the house is quiet,
8 and he takes that left hand and he reaches and he grabs
9 that window leaving that fingerprint, pushes out that
10 screen, knocks down those curtains and crawls inside. He
11 goes to the front door, opens the storm door, props it
12 open, leaves open the front door, something that Debbie
13 would do when it was easy -- so it was easier to carry
14 groceries in and out. He did it to make sure it was easier
15 to carry that kid out and he went back in that bedroom, he
16 scooped up that child, put her over his right shoulder,
17 leaving his left hand, his dominant hand, free to walk
18 right out that front door and into that white car. He
19 tried to force oral sex on her and when she bit him he
20 killed her.

21 The only thing we can't tell you is why and
22 we may never know why. It's impossible to know what was
23 going through the defendant's head on that night, but just
24 because we can't tell you why he did it doesn't mean that
25 we can't explain to you and show you that he did and just

1 because this case wasn't prosecuted before in 1986 or 2006,
2 just because it wasn't done doesn't mean it shouldn't have
3 been done. It doesn't degrade the value of the evidence
4 that exists in this case. It doesn't degrade the fact that
5 every single sign points to the defendant, Tommy McDowell.

6 This is our case beyond a reasonable doubt and a
7 reasonable doubt doesn't mean some imaginary, fanciful
8 doubt you can just make up. Proving our case beyond a
9 reasonable doubt does not mean all doubt. It means beyond
10 a reasonable doubt. If you can stand here with your too
11 feet firmly planted on the ground and say yeah, everything
12 points to him, he took that kid and he killed her, then you
13 should find him guilty. The law demands it.

14 Now as the defense is about to get up here they're
15 gonna tell you that with all the power and the resources
16 of the State of South Carolina and all the power and the
17 resources of the FBI and the Lexington County sheriff's
18 Department and SLED, that there's simply not enough
19 evidence. What the power of these agencies brought you
20 was this fingerprint, what the power of these agencies
21 brought you was his change in appearance, the cigarette
22 butt, the changed floor mats, what the power of all these
23 agencies has brought you is Michael Fowler, the person who
24 told you that the defendant told him that with his power he
25 entered that home and took that life of that little girl,

1 and now you have the power to hold him accountable for it,
2 which is why I ask that you find the defendant, Thomas
3 McDowell, guilty.

4 Thank you.

5 THE COURT: Thank you, Ms. Abee.

6 Madam Forelady, I'm gonna give you-all a quick break
7 before the defense. It will be about five minutes, okay?

8 Remember, no talking about the case.

9 (Whereupon, the jury retires to the jury room at
10 11:59 AM.)

11 (Back on the record at 12:04 PM.)

12 THE COURT: All right. Let's bring the jury in.

13 (Whereupon, the jury return to the courtroom at
14 12:06 PM.)

15 THE COURT: All right. Madam Forelady, the jury
16 ready?

17 FOREPERSON: Yes, Your Honor.

18 THE COURT: Please be seated.

19 Ms. Mauldin.

20 MS. MAULDIN: Thank you, Your Honor. May it please
21 the Court?

22 THE COURT: Yes, ma'am.

23 MS. MAULDIN: Good morning.

24 The attorney general and I do agree about one thing.
25 In this courtroom, we are concerned with the facts and

1 the truth. It's human nature to expect answers, to expect
2 a conclusion and to know what happened, but the truth is
3 we don't know what happened to Jessica Gutierrez and we
4 may never know. The biggest thing missing here is any
5 sort of reason or motivation for this. And motive is not
6 an element, it's not something that the State has to prove,
7 but there's no explanation at all for why Tommy McDowell
8 would have taken Jessica.

9 You heard that he dated Ms. Keeler. She was close
10 to his age. You heard that he had dated Jessica's mother,
11 a woman close to his age as well. No evidence that he'd
12 ever done anything inappropriate with any children, that
13 he had any interest in children whatsoever. You heard
14 from his cousin Steve that he'd even let him baby-sit his
15 children. Nothing came of that.

16 There's certainly no evidence to say that he knew
17 the layout of the inside of that home. Absolutely nothing
18 to say that he knew the sleeping arrangements in that
19 home. No evidence to say how he would have known how to
20 get around in that home in the dark without making any
21 sound, take a child and leave.

22 In fact, the evidence is the opposite. He care about
23 this family. He had put that awning over their porch to
24 give them shelter. There's no reason at all to think that
25 he had anything against them. There's no proof that he had

1 any ill will or that he wanted to do these people any harm
2 or cause any pain to this family.

3 You heard Becky's story. She was six years old at
4 the time. She had just finished first grade. She admitted
5 on the stand the possibility that she told the police that
6 it was a black man that had done it. That's a very
7 different description than the one that she told later.

8 Her mother said that she had said the same thing to
9 her, but her explanation was, well, I must have shaken it
10 out of her when I was beating her so hard to find out what
11 happened, but that doesn't make any sense. Why would she
12 just produce an explanation? At her age she would have
13 known the difference in a white person and a black person
14 and would not have gotten that wrong. Of course, Tommy
15 McDowell, as you can see, is not black.

16 She also said the man had a magic hat and there was
17 discussion of -- of this hat. She was six years old. She
18 had just finished the first grade. You heard that she was
19 born in Mexico, but her natural language was English. A
20 child in the eighties growing up in rural Lexington County
21 would know what a cowboy hat was. She wouldn't say magic
22 hat. That just doesn't make any sense. There's nothing
23 about that hat that looks magic or spectacular in any way.
24 That phrase just doesn't make any sense. We don't know
25 where it came from, we don't know if she started all of

1 this because of the trauma of losing her sister and not
2 knowing what had happened, but what we do know is that
3 what she said was not accurate.

4 She testified that the night light that they had in
5 the room was off when she says that she saw this man.
6 She was very clear that she saw from the light of the
7 moon and that's how she was able to see this man and
8 that's how she was able to get the description that she
9 gave to the police and said on the stand, but we know
10 that's not true. Judge McCaslin took judicial notice,
11 which means she has accepted that as true, that there
12 was a new moon on June 7th. That was the day after.
13 And, of course, a new moon is the opposite of a full
14 moon. You don't see anything. You don't see the moon.

15 Judge McCaslin testified that on that day -- or,
16 excuse me -- took judicial notice of the fact that on
17 that day there would have been a 5 percent sliver of the
18 moon visible. That would not have cast much light, even
19 if it was high in the sky, but Judge McCaslin also told
20 you that that day the moon sat at 7:09 PM. That means it
21 would have dropped below the horizon and you would not
22 have seen any light from the moon. The moon would not
23 have been visible.

24 Debra testified that she put the kids to bed at
25 midnight and that this happened sometime after that, but

1 the moon would have set five hours before that, so there
2 would have been absolutely no light coming from the moon
3 coming into that house. And even if there had been any
4 light, Becky's story doesn't make sense. She says that
5 she woke up and jumped and immediately squinched her eyes
6 so tight that all she could still see was through her
7 eyelashes, but she could still see. Think about how
8 much a person would be able to see in a dark room like
9 that. And then she said that she was so scared when
10 this happened that she felt like there was a boulder or
11 a skyscraper on her chest and she was terrified and the
12 only sound that she ever heard was the beating of her
13 heart, but yet she says that she went back to sleep
14 immediately. Ask yourselves is that realistic? Would a
15 child that had just seen something so terrifying would
16 she go back to sleep like nothing had happened?

17 She testified that the next morning she got up, she
18 played with Kim, they played school. She didn't think
19 anything of it until her mom got up and came in and asked
20 her about her sister. Think about whether that makes
21 sense, too. If she had woken up and her sister wasn't
22 in the bed, even if she had somehow been able to put this
23 out of her mind the night before, she would have noticed,
24 she would have gone to her mom. None of that makes any
25 sense.

1 Watch the video. In the video you can see Becky
2 walking around and she doesn't look upset. At one point
3 she appears to be eating something. Judge her demeanor
4 for yourselves and see what she really was experiencing.

5 She said that it was quiet. She never said anything
6 about hearing a dog bark. Debra was clear that the next
7 morning the dog was running around inside the -- the
8 home. The dog would not have known Tommy McDowell and
9 would have barked if he had come in or had tried to get
10 into this house. The dog would have known Henry Gordon,
11 Junior, the man who had moved out just a few days before,
12 but had lived there since January of the same year.

13 And think about the windows. It was hot in June.
14 There was no central air in the mobile home. They had to
15 keep the windows open, run the fan. Debra said that it
16 was her normal practice to have this window propped open
17 with a stick. Think about that. That means that anybody
18 who had ever come over to her house and seen the window
19 propped open would know that was her normal practice.
20 Anybody could use that as a way to get in. There was no
21 special knowledge that Tommy McDowell had because this is
22 what she said was her normal practice. That's what she
23 did in the summer when it was hot. It wasn't not just
24 one day.

25 And for the prosecution's theory to work you'd have

1 to believe her about a whole lot of other stuff, too.
2 You would have to believe that she had locked the doors
3 that night and that she had cleaned these windows
4 regularly, but she couldn't tell the truth about a lot
5 of other things. She admitted that she had a not told
6 the truth about Henry Gordon, Junior. She admitted that
7 she testified under oath earlier that he had never lived
8 in her house. I showed her the statement that she made
9 in 2008. That refreshed her memory and she remembered
10 that she told the police that he had moved in in February
11 of 1986. She admitted that she had told him that he had
12 to leave on June 3rd. That's a big difference. She
13 testified under oath to that and was proven to have been
14 incorrect. He was living there for months. That's not
15 something that you just make a mistake about or you
16 forgot. That's significant.

17 She also had this part of story about waking up on
18 the night of June 5th and seeing this lit cigarette
19 glowing in the dark. She said, and she demonstrated,
20 she said I put my face to the window and looked out for
21 fifteen minutes, I was terrified, but she didn't tell
22 anybody. According to her, she just took some cough
23 syrup and went to bed like normal.

24 When I asked her about the statement that she made
25 for Detective Pritchard several years before, that

1 seven-page, single spaced statement, she admitted that
2 she never told the police about seeing a lit cigarette.
3 She had all that room, she talked about other things,
4 but didn't say anything about seeing a cigarette. And
5 importantly in that statement, too, she talked about how
6 she had talked to her sister before she went to bed, how
7 she had tried to call Henry Gordon, Junior, but he wasn't
8 at home. His phone just rang and rang and rang. So
9 clearly if she had seen this cigarette in the dark she
10 would have had the opportunity to tell sister about it or
11 call somebody else if she was really afraid about this.
12 The other thing is that she said that she looked out the
13 kitchen window. Well, the cigarette butt that was found
14 was found on the other side on the porch, not on the
15 kitchen window side.

16 And she doubled down on this moon thing, too. She
17 told you that there was a light outside. She pointed out
18 the night light, but, of course, this is the drawing that
19 she made back in 2008 for the police. Nobody's done
20 anything to verify that. There's a video. Watch the
21 video. See if you can see a night light in the video.
22 There's been no testimony that with all of the work the
23 FBI did that anybody ever went back to this location,
24 even though the mobile home is not there, but to check
25 and see if there was a security light out there. There's

1 been no evidence of that. But she was clear that it was
2 the moon because she talked about how it was a beautiful
3 moon, it was brighter than unusual. She said that she
4 saw the light and the moon. And she talked again about
5 putting the kids to bed at midnight, which by then the
6 moon would have set. It would not have been visible.
7 If you can't believe her about the moon, you can't
8 believe her about the more important things.

9 She said a lot of things that weren't true, too.
10 She said that -- about Tommy McDowell. She testified on
11 the stand that it had been over a year since he had been
12 out to her house, but when I questioned her about the
13 statement that she gave to the police back in 2008, she
14 said that wasn't right. She said that then, back in
15 2008, he put the awning on in August of 1985 and when I
16 said oh, you mean, you know, that wasn't springtime like
17 you mentioned, she said well, August is springtime. And
18 her statement in 2008 said she had last seen him in
19 October.

20 Who knows, but you can't accept all of those because
21 they can't all be true. She wasn't paying attention and
22 she kept changing her story on the stand and when she
23 says that she cleaned her windows all the time, you can't
24 take her word for that either. She kept talking about
25 how she was OCD and how she kept her windows so clean.

1 Think about that. A mother of four children, one of them
2 was special needs, would she really have been spending
3 all of her time cleaning windows like she said and just
4 letting them keep putting their hands on the windows?
5 And OCD is attention to detail. She couldn't even keep
6 the details of the story that she was trying to tell on
7 the stand straight.

8 Look at that print, too. Look at it in the jury
9 room. I don't know if you can see it here, but the print
10 shows specks all around the fingerprint. The fingerprint
11 dust clings to the print and the oils that are there in
12 the place where the finger was, but there are specks
13 everywhere else around that. That looks like she did
14 not clean her windows the way she claimed.

15 She said something else that was interesting, too.
16 She said when somebody hits you, you hit them back. She
17 showed that she's vengeful and spiteful. Somehow she
18 has decided that Tommy McDowell did this and she's out
19 to get him for it, but if you can't trust her about the
20 moon, you can't trust her about other things, you can't
21 trust her with his future.

22 One of the other problems with this case are the
23 mistakes that the police made when they first investigated.
24 It's basic police work to separate witnesses, to have
25 people write statements individually, to record things.

1 They obviously had a video camera. They could have done
2 that very easily. They had pens and paper back then.
3 They could have very easily gotten a statement form and
4 asked Debra to write down what happened. If Becky
5 couldn't write a statement, they could have recorded
6 what she had to say, but they didn't do that. There was
7 no effort to do that at all and now I'm in the position
8 where if somebody had said something different on the
9 stand, I don't have a witness that I can call because
10 the investigator on the case is dead now. He died
11 recently many, many years after this case sat stagnant.

12 And I probably don't have to tell you that Becky is
13 not an independent witness. She has grown up with this
14 story. This is something that's been a part of this
15 family's narrative for her whole life. This is not
16 something that they haven't discussed. She knows how
17 her mother feels. Her mother's told her her version
18 of what happened. There's no way that Debra has not
19 influenced Rebecca's memory and what she believes
20 happened in the case.

21 There were other problems in the police work with
22 this case. There was no 9-1-1 tape or any -- any
23 recording of how the call initially came out that might
24 have included details that would have been important.
25 They did take a video. The video doesn't show you a lot

1 whole lot. Watch it as much as you can, but it doesn't
2 give you a lot of information about what the actual crime
3 scene looked like. They took some stills and maybe a
4 couple of photographs, but nothing like the kind of close
5 investigation that you should have done a crime scene to
6 actually document what happened.

7 The fingerprint that's so important, there are no
8 pictures of that to show where it was on the -- on the
9 glass or on the frame, whichever it is. They failed to
10 even put down a tape measurer to show distances, to show
11 where they found things, so there's a lot of things that
12 they failed to do. The problem with all of that is that
13 it puts you in a position where you have to guess what
14 happened and your job is to decide the truth and not to
15 guess and unfortunately they've left you with only that
16 opposition.

17 You heard a lot about Michael Fowler. He is not a
18 new witness. The police interviewed him back in 1987.
19 They didn't take his word for it then, that means they
20 didn't believe what he had to say. This case had been in
21 the news for months and you heard about that. There were
22 no details that Detective Pritchard knew about that hadn't
23 been made public. He had as much access to the story of
24 this as anybody else. This was not something that was
25 secret, there was nothing that was concealed that he might

1 not have known.

2 He called Tommy McDowell a loner and then he said
3 that he came and spilled his guts to him about this, but
4 he didn't even tell him what he was in jail for in North
5 Carolina. It's common knowledge what happens in jail to
6 anybody that's done anything to hurt a child. I submit
7 that it would be extremely unusual for somebody that
8 you didn't know very well to come and spill a story like
9 this. It doesn't make sense.

10 Think about the story itself, too. He admitted that
11 he said that Tommy McDowell told him that he had chopped
12 this girl up with a machete. Like about that. It just
13 -- it doesn't make any sense. It sounds like a something
14 out of a horror movie, that she bit his penis while he
15 was making her have oral sex with him. It sounds like
16 something out of some kind of horror movie, not something
17 that's factually correct. Why would you chop up a body
18 with a machete? Why not just hide it and bury it? If
19 you've taken it to a landfill, leave the body there.

20 Why bother? Why do something that would make a mess and
21 generate evidence that somebody might find and pin on you?

22 The police didn't get him to write a statement back
23 in 1987. They had clearly planned to meet with him.
24 They didn't take any kind of tape recorder or any kind of
25 statement form to get him to write down and document

1 anything. And, again, I can't go back and bring back
2 witnesses if he said something different now. He did say
3 it was a white car. He got that right... Tommy drove a
4 white car, but that's something that men talk about, what
5 kind of car you have.

6 And the fact about the -- biting the penis, you
7 heard from the agent earlier today. They took pictures
8 of him. They made him show his private parts and they
9 took pictures and there was no evidence that he had any
10 kind of scarring from any kind of bite on his penis.

11 The AG tried to keep getting Fowler to say that
12 there was logging there, but he didn't say it because
13 there wasn't any. And nobody in this trial has testified
14 and said anything about finding any kind of machete,
15 which is what Fowler claimed had been used.

16 The State also spent a long time on the testimony
17 of Clark Rowe. He was the officer that claimed that on
18 that night he happened to see this white car out on this
19 frontage road. First of all, he made no contemporaneous
20 report. This is something that came up months down the
21 road. He says oh, yeah, that particular night I remember
22 I saw something. It wasn't something he had documented
23 or made a report on earlier. And this was to officers
24 of the same department where he was a police officer who
25 were trying to solve this case.

1 On the witness stand he said the car could have
2 been blue or white and then when I asked him about it
3 later he said it was a light car. He said he couldn't
4 see the driver well, couldn't pick anybody out of a lineup.
5 He testified it was a popular road with teenagers to go
6 and park there, so somebody could have easily been making
7 out that he saw if he saw anything that night, somebody
8 could have been doing drugs in a car. There are a lot of
9 reasons why somebody might not want to stop for a police
10 officer turning down a dark road out near the interstate.

11 Significantly, he testified that it was a four-door
12 car. He did remember that detail. Look back at the
13 pictures of that Ford Elite. That was a two-door vehicle,
14 not a four-door.

15 You heard expert testimony in the case. You heard
16 from Officer Freeman. He didn't know where the print was
17 found on the window, he didn't know the orientation of the
18 print, nobody bothered to photograph, nobody documented
19 how things really were. He changed his story. He said
20 that it was on pane on one document and then it was on the
21 frame. It sounds like he's changing the story to fit the
22 -- the narrative that the State wants.

23 He was told other places that this supposed intruder
24 could have touched like the locks on the inside of the
25 door, the thing that Becky said you use to hold the screen

1 door open, and none of that was dusted for prints. Didn't
2 test the cigarette butt, didn't test the cigarette pack
3 for any kind of fingerprints.

4 Significantly, we learned that the FBI had tested
5 that print back in 1987 and, again, did not act on it
6 then. They did not find it was significant and when
7 Investigator Hickman testified, he told you that there is
8 no scientific way to date a fingerprint. They can't tell
9 you when that fingerprint was left there. They cannot
10 tell you it was left in June when Jessica disappeared,
11 they can't tell you that it happened six months ago when
12 Tommy was there. They don't know. There is no science
13 that can date that. Of course, the fingerprint was under
14 the awning. It would have been somewhat protected from
15 the elements. So even though they can't date the thing,
16 we do know that it was under the shelter that Tommy had
17 put up. They just want you to trust Debra that she was
18 out there cleaning the windows all the time like she said.

19 Another problem is that we have no way to go back
20 and investigate this case. We have this case. Tommy was
21 charged with this case very recently. We weren't able to
22 go back and talk to the witnesses that are now dead. I
23 couldn't go back and interview Investigator Bartlett, I
24 couldn't go back and talk to his momma who lived with him
25 who might have known where he was that day. His momma,

1 who might have known what his normal practice was, might
2 have known that he actually looked like after Debra when
3 some other witnesses have said that he was changing his
4 appearance. She's not available, she's passed away, and
5 I can't -- I can't talk to her. I can't go back and find
6 records that he might have had, you know, the sort of
7 personal effects that somebody might have had, receipts,
8 things like that, photographs he might have had. This
9 many years later those things are long gone.

10 You heard a lot of testimony about the redeployment
11 as they called it where the FBI sent out a whole fleet of
12 people, forty to fifty witnesses that Detective Pritchard
13 had already interviewed, over a hundred that the FBI went
14 back and re-interviewed, plus some additional ones. The
15 police had talked to every single witness that you heard
16 from before except Steve Brakefield and didn't bring
17 charges. There were no new witnesses except Steve
18 Brakefield that you heard from that they had not already
19 interviewed years and years before this.

20 And what did he have to say? He said that he knew
21 Tommy and that had changed his appearance sometime after
22 this, that he had cut his hair, that he'd shaved and he
23 wasn't wearing his trademark cowboy hat anymore. He's not
24 a disinterested witness. He's related to Debra and her
25 family. He's related to Tommy, but he's related to Debra

1 on the other side, he grew up with her and he's still in
2 this area, whereas Tommy's out, long gone, moved to North
3 Carolina. So he's not the disinterested witness that the
4 State would want you to believe.

5 There is no new evidence in this case since 1987.
6 There's not a single thing that they've brought to you
7 that they didn't have back then.

8 One thing that would have helped would have been a
9 booking photo from the Polk County jail. We know that
10 Tommy was there pretty soon after Jessica disappeared and
11 we had a couple of people who came in and talked about
12 how his appearance had changed. That's one thing they
13 could have gotten to show exactly what he looked like back
14 then. If he had a shaved head in that photo, maybe their
15 testimony is true. If he had long hair, you would have
16 know it wasn't possible because he wouldn't have been able
17 to grow his hair out in that length of time, but they
18 didn't think to get that. They didn't try to get anything
19 that would help him or consider his side.

20 They talked about the hours and the hours and the
21 hours that they spent on this, how they put up tables,
22 exactly what they did to check, they re-interviewed
23 everybody possible and they found nothing to confirm that
24 it was Tommy McDowell. Nothing to say that.

25 They talked about their media campaign that they put

1 out to get their side out. You know that things like
2 this are political. This is something that is beneficial
3 to law enforcement departments to be in the news, to put
4 things out on TV, and I think that that's part of what's
5 going on here.

6 I want you to consider that the lack of evidence is
7 not evidence. They spent all this time talking about how
8 there was not a body and why there might not be a body
9 where they looked. It's also just as possible that there
10 was never a body there in the first place. There is no
11 proof that Jessica Gutierrez is even dead. They've done
12 Internet searches, they've looked at the landfill, but it's
13 entirely possible that somebody tomorrow does one of those
14 ancestry DNA tests and comes back and it's her. If she
15 were taken as a small child, she might not even remember
16 that her name was even Jessica Gutierrez. Human
17 trafficking is in the news a lot now, but it was a thing
18 back then, too. It's entirely possible that something has
19 happened to her, that she's still alive and out there. We
20 don't -- we don't have a definite answer on that and we
21 have to live with that.

22 They spent a lot of time on the DNA analysis and
23 have told you that this is earth shattering news that the
24 DNA on this Vantage cigarette was male DNA. I submit that
25 doesn't tell you anything. That's half of the population.

1 Vantage cigarettes, as you can see, this is a mass-produced
2 cigarette pack. It was a national brand. It's not
3 something that's unique to Tommy McDowell and they are
4 trying to say that this is significant evidence that would
5 show that he did it, when it's clearly not. This is
6 something that anybody could have. And they didn't have
7 any information about the DNA on the other cigarette butt
8 that was out there. Maybe that person was connected.

9 There's also no evidence about when the DNA degraded.
10 You heard some information about how DNA can degrade in
11 sunlight and moisture, but what about the thirty-seven
12 years that this thing has been sitting in an evidence room
13 at the sheriff's department in a shed. What effect does
14 that length of time have on DNA? Does it last all that
15 time?

16 They had an expert who testified about the dimensions
17 of the window, and I don't question these folks' math.
18 They did a lot of really precise math about guesses.
19 They're right about the math, but it's all based on
20 uncertainty and eyeballing. They said that they looked
21 at the windows on the most common mobile homes and the
22 second most common kinds of mobile homes. They didn't
23 say they looked at the window on this mobile home. It's
24 gone. The police didn't measure it, they didn't preserve
25 it, but that doesn't tell you that the door on Debra's

1 mobile home was the same size as the most common or the
2 second most common, so that doesn't tell you anything.

3 He admitted that doing things that way was not his
4 first choice, that it's a whole lot better to go out and
5 measure, use a laser or whatever, but that doing this
6 calculation was not the optimal way to do it. He admitted
7 that the angle of the camera and whether you're uphill or
8 downhill could affect the calculations, too.

9 And then they had the expert who made the cartoon of
10 the person coming through the window and he admitted that
11 he'd eyeballed things, too. He said he had not taken into
12 account the position -- had not measured the furniture on
13 the porch, that he did not account for this. This is from
14 the video that was taken inside the home the next morning.
15 The items on the table there are completely undisturbed.
16 Is that likely if somebody had come through the window? In
17 the video, if you watch it again, it shows the person
18 easily slip in between the chairs and climbing right in the
19 window. If you look back at the video and as you can see
20 in this pictures, the chairs were still there. How would
21 somebody have fit through there and climbed through and not
22 kicked them away?

23 And his info was based on the booking information
24 from the Polk County jail. Those things where, as you
25 heard from Detective Pritchard, sometimes you take the

1 person's word for it, sometimes you eyeball it. That
2 wasn't accurate. That wasn't based on an actual number.

3 And he also didn't run a comparison on the smallest
4 possible size, just the larger size, and didn't compare
5 to, try to confirm Debra's story that she could have fit
6 through the window that she says happened that's how she
7 knows Tommy did it because he had seen her do it one time.
8 No comparison to see if she would fit to see if she had
9 done that if that part of her story was true.

10 And if you've ever climbed through any kind of small
11 space, whether it's a window or an air duct or anything,
12 you know it's not as easy as it looks in that video. That
13 looks like some sort of flat Stanley thing where the guy
14 just slips in. If you've climbed into a small space, you
15 know that that's -- that's just not how it happens. And,
16 significantly, the person in that video is not wearing a
17 cowboy hat. It doesn't make any sense that a person trying
18 to fit through a tight space like that would do it with a
19 hat on his head and go in and take a child. That doesn't
20 make sense and it's not in the video. They didn't take
21 that into account at all.

22 Instead of proving anything, they want to give you
23 excuses why they don't have proof. The body could have
24 decomposed, the DNA is degraded. At the end of the day
25 there is no question that this family has felt tremendous

1 pain over the last thirty-seven years. Becky said that
2 things happened a certain way and she seemed to think that
3 a lot of this was her fault and that part of that was
4 because she offered to let her sister have her side of the
5 bed that night and because she didn't wake up her mom, and
6 certainly no child should have to feel that way, no person
7 should have to live with that for thirty-seven years, but
8 regret is not evidence. The pain that this family has gone
9 through, their grief is real, but grief is not evidence.
10 The judge is gonna charge you on sympathy and I ask you
11 that be aware of your own sympathy and your own desire to
12 look for a resolution to this case, but consider that their
13 grief and their regret is not evidence in this case and it
14 does not prove that Tommy McDowell did what he claimed he
15 did.

16 You're gonna hear more about the burden of proof.
17 The burden of proof in a criminal case remains on the
18 State at all times. They have to prove a person's guilt
19 and they have to prove guilt beyond a reasonable doubt.
20 That means they have to leave you firmly convinced of
21 guilt, that there are no real possibilities that something
22 else happened. That's such a high burden. It's the
23 highest burden of proof that we have in our judicial
24 system. It's more than probable cause, which you need for
25 a warrant, it's more than anything you need in a civil

1 case, it's higher even in the evidence that you need in
2 family court to take a person's child away. It is the
3 highest burden of proof.

4 If you have any doubt about this case, have them
5 now. If you think back tomorrow and you have doubt about
6 your verdict, it will be too late. So if you have doubt,
7 have it now.

8 I ask that you look closely at the evidence. You've
9 clearly listened very carefully all week. I ask you to
10 continue to do that as you deliberate in your jury room.
11 Keep your common sense in mind and I think when you
12 evaluate all of this and you finally have a chance to
13 talk about the case together, I think it will be clear
14 to you that Tommy McDowell is innocent of these charges
15 and that your verdict will be that he's not guilty.

16 THE COURT: Thank you, Ms. Mauldin.

17 All right. Madam Forelady, is the jury okay? I
18 intend to charge the jury. It's gonna take me about --
19 probably about thirty minutes to do so.

20 Are you-all all right?

21 I want you-all to lock up. If there's anybody --
22 let me tell you out in the gallery. I'm gonna charge the
23 jury the law. If you need to leave, I would ask that you
24 leave now because I'm going to lock the doors and nobody's
25 gonna be allowed in or out while I charge the law.

1 And, Ms. Mauldin and Ms. Abee, can I see you up
2 here? Just a quick question.

3 (Proceedings held at the bench; not reported.)

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, I will now charge you on the law applicable to this
6 case. You must consider the charge as a whole and not
7 focus on some portions to the exclusion of others.

8 The indictments charge the defendant with murder,
9 kidnapping and burglary first degree. I remind you that
10 the fact the defendant was arrested, charged and indicted
11 in this case is not evidence in this case and cannot be
12 considered by you as evidence of guilt in this case, nor
13 does it create any presumption or inference of guilt.
14 These documents are simply the formal written instruments
15 which contain the charges made against the defendant.
16 These are the formal documents by which this case is
17 brought into this court.

18 Each indictment charges a separate and distinct
19 offense. You must decide each indictment separately on
20 the evidence and the law applicable to it uninfluenced
21 by your decision as to any other indictment. The
22 defendant may be convicted or acquitted of any or all
23 of the offenses charged. You will be asked to write
24 a separate verdict of guilty or not guilty for each
25 indictment.

1 I'm going to remind you the following things are
2 not evidence. You must not consider them as evidence
3 in deciding the facts of this case. Statement and
4 arguments of the attorneys, questions and objections of
5 the attorneys, and testimony that I instruct you to
6 disregard. I believe throughout this trial I think I
7 asked you twice to disregard some testimony. Please
8 do so.

9 I remind you that during this trial you and I have
10 certain duties to perform. As the trial judge, it is my
11 responsibility to preside over the trial of this case and
12 I also have the duty to rule on the admissibility of the
13 evidence offered during this trial. You are to consider
14 only the competent evidence before you. If there was
15 any testimony ordered stricken from the record in this
16 case during the trial, you must disregard that testimony.
17 I know that I struck some testimony in this case and you
18 need to disregard it. You are only to consider the
19 testimony which has been presented from this witness
20 stand and any exhibits which have been made a part of
21 the record in this case and any stipulations of counsel.

22 Also, I'm going to remind you that I took judicial
23 notice, which is to be treated as a true fact to the
24 following facts. On June 5, 1986, the moon set at
25 7:09 PM. The moon was waning toward a new moon on June 5,

1 1986. The new moon was June 7, 1986, and 5 percent of the
2 moon was visible on June 5, 1986.

3 I also have the additional duty to charge you the
4 law in this case. As the presiding judge, I am the sole
5 judge of the law of this case and it is your duty as
6 jurors to accept and apply the law as I now state it to
7 you. If you already have an idea as to what the law is
8 or what the law ought to be and it does not agree with
9 what I tell you now the law is, you must abandon this
10 idea because you are sworn to accept the law and apply it
11 exactly as I state it to you.

12 In every case tried in this court before a jury, the
13 jury becomes the sole and exclusive judge of the facts
14 in a case. A trial judge cannot state, comment on or
15 make any statement to a trial jury about the facts in a
16 case. Since you, the jury, are the sole judge of the
17 facts in the case, you are not to infer from what I have
18 said during the progress of this trial in ruling upon the
19 admissibility of evidence or otherwise or anything I say
20 now during the course of this instruction to you, that I
21 have any opinion about the facts in this case. The law
22 does not allow me to have an opinion about the facts in
23 this case. This is a matter solely for you, the jury, to
24 determine. As jurors, it is your duty to determine the
25 effect, value and weight of the evidence presented during

1 this trial.

2 The defendant has pled not guilty to these
3 indictments and that plea puts the burden on the State
4 to prove him guilty. A person charged with committing
5 a criminal offense in South Carolina is never required
6 to prove himself innocent. I charge you that it is an
7 important rule of the law that the defendant in a criminal
8 trial, no matter what the seriousness of the charge may
9 be, will always be presumed to be innocent of the crime
10 for which the indictment was issued unless guilt has been
11 proven by evidence satisfying you of that guilt beyond a
12 reasonable doubt. This presumption of innocence does not
13 end when you begin your deliberations, but it accompanies
14 the defendant throughout the trial unless you reach a
15 verdict of guilt based on evidence satisfying you of
16 that guilt beyond a reasonable doubt.

17 The presumption of innocence is like a robe of
18 righteousness placed about the shoulders of the
19 defendant which remains with him unless it has been
20 stripped from the defendant by evidence satisfying you
21 of the defendant's guilt beyond a reasonable doubt. The
22 presumption of innocence is not a mere legal theory, it
23 is not just a legal phrase. It is a substantial right
24 to which every defendant is entitled to unless you, the
25 jury, are satisfied from the evidence of the defendant's

1 guilt beyond a reasonable doubt.

2 The State has the burden of proving the defendant
3 guilty beyond a reasonable doubt. Some of you may have
4 served as jurors in a civil case where you were told that
5 it is only necessary to prove that a fact is more likely
6 true than not true, such as by the greater weight or what
7 we call the preponderance of the evidence. In criminal
8 cases, the State's proof must be more powerful than that.
9 It must be beyond a reasonable doubt.

10 Proof beyond a reasonable doubt is proof that leaves
11 you firmly convinced of the defendant's guilt. There are
12 very few things in this world that we know with absolute
13 certainty and in criminal cases the law does not require
14 proof that overcomes every possible doubt. If, based
15 on your consideration of the evidence, you are firmly
16 convinced that the defendant is guilty of the crime
17 charged, you must find him guilty. If, on the other hand,
18 you think there is a real possibility that the defendant
19 is not guilty, you must give the defendant the benefit of
20 the doubt and find him not guilty.

21 Now there are two types of evidence which are
22 generally presented during a trial. Direct evidence and
23 circumstantial evidence. Direct evidence directly proves
24 the existence of a fact and does not require deduction.
25 Circumstantial evidence is a proof of a chain of facts

1 and circumstances indicating the existence of a fact.
2 Crimes may be proven by circumstantial evidence. The
3 law makes no distinction between the weight or value
4 to be given to either direct or circumstantial evidence.
5 However, to the extent the State relies on circumstantial
6 evidence, the circumstances must be consistent with each
7 other and when taken together point conclusively to the
8 guilt of the accused beyond a reasonable doubt. If the
9 circumstances merely portray the defendant's behavior
10 as suspicious, the proof has failed. The State has the
11 burden of proving the defendant guilty beyond a reasonable
12 doubt. This burden rests with the State regardless of
13 whether the State relies on direct evidence,
14 circumstantial evidence or some combination of the
15 two.

16 Criminal intent is a state of mind which operates
17 jointly with an act or omission in the commission of a
18 crime. Criminal intent is a mental state of conscious
19 wrongdoing. Criminal intent includes those consequences
20 which represent the very purpose for which an act is done
21 or are known to be substantially certain to the result
22 regardless of one's desire. Intent may be known by acts
23 and conduct of the defendant and other circumstances from
24 which you may naturally and reasonably infer intent.
25 Criminal intent must be proven by the State beyond a

1 reasonable doubt.

2 You must also determine the credibility of witnesses
3 who have testified in this case and the evidence presented.
4 Credibility simply means believability. It becomes your
5 duty as jurors to analyze and to evaluate the witnesses
6 and the evidence and determine the credibility of the
7 witnesses and the evidence.

8 In determining the credibility of witnesses who have
9 testified in this case, you may believe one witness over
10 several witnesses or several witnesses over one witness,
11 you may believe a part of the testimony of a witness and
12 reject the remaining part of the testimony of that same
13 witness. You may believe the testimony of a witness in
14 its entirety or reject the testimony of a witness in its
15 entirety. You may consider whether any witness has
16 exhibited to you any interest, bias, prejudice or other
17 motive in this case. You may also consider the appearance
18 and manner of a witness while on the witness stand.

19 The rules of evidence ordinarily do not permit
20 witnesses to testify to opinions or conclusions. An
21 exception to this rule exist for witnesses we call expert
22 witnesses. We had several in this case. A witness who
23 by education and experience has become an expert in some
24 art, science, profession or calling, may state an opinion
25 as to relevant and material matter in which the witness

1 claims to be an expert and may also state the reasons for
2 the opinion. You should consider any expert opinion
3 received in evidence in this case and like any other
4 evidence give it the weight you think it deserves. If
5 you decide that the opinion of an expert is not based on
6 sufficient education and experience or if you conclude
7 that the reasons given in support of the opinion are
8 not sound or that the opinion is outweighed by other
9 evidence, you may disregard the opinion entirely. An
10 expert witness's testimony is to be given no greater
11 weight than that of any other witness simply because the
12 witness is an expert. Further, you are not required to
13 accept an expert's opinion even though it is not
14 contradicted.

15 An animation was used as a piece of evidence in this
16 case. The animation represents only a recreation of the
17 proponent's version of the event. It should in no way be
18 viewed as the absolute truth and like all evidence it may
19 be accepted or rejected in whole or in part.

20 The defendant is charged with murder. The State
21 must prove beyond a reasonable doubt that the defendant
22 killed another person with malice aforethought. Malice
23 is hatred, ill will or hostility towards another person.
24 It is the intentional doing of a wrongful act and with
25 an intent to inflict an injury or under circumstances that

1 the law will infer an evil intent. Malice aforethought
2 does not require that malice exist for any particular time
3 before the act is committed, but malice must exist in the
4 mind of the defendant just before and at the time the act
5 is committed. Therefore, there must be a combination of
6 the previous evil intent and the act.

7 Malice aforethought may be expressed or inferred.
8 These terms "express" and "inferred" do not mean different
9 kind of malice, but merely the manner in which malice may
10 be shown to exist; that is, either by direct evidence or
11 by inference from the facts and circumstances which are
12 proved. Express malice is shown when a person speaks
13 words which express hatred or ill will for another or
14 when the person prepared beforehand to do the act which
15 was later accomplished. Malice may be inferred from
16 conduct showing a total disregard for human life. If
17 facts are proved beyond a reasonable doubt sufficient to
18 raise an inference of malice to your satisfaction, this
19 inference would simply be an evidentiary fact to be
20 considered by you along with the other evidence in the
21 case and you may give it the weight you decide it should
22 receive.

23 The defendant is charged with kidnapping. Kidnapping
24 is defined as follows. Whoever shall unlawfully seize,
25 confine or kidnap any other person by any means whatsoever

1 without authority of law is guilty of a felony. The
2 State must prove beyond a reasonable doubt the elements
3 of kidnapping; that the defendant did unlawfully seize,
4 confine or kidnap any other person by means whatsoever
5 without the authority of law. Kidnapping is the
6 intentional taking of a person and compelling him or her
7 to be detained against their will. It is the willful and
8 unlawful seizing of a person against their will with the
9 intent to cause him or her to be confined, imprisoned or
10 detained. The essence of the offense of kidnapping is the
11 unlawful secret holding or imprisonment of a person, and
12 a central element of the offense of kidnapping is that
13 the taking or detention of the person kidnapped is without
14 lawful authority.

15 Kidnapping means the carrying away of a person by
16 unlawful force or by fraud or against their will or their
17 seizure and detention of the purpose of so carrying him
18 or her away. The offense of kidnapping is some form of
19 compulsion, but the requisite force or compulsion need
20 not consist of the use of actual physical force or
21 violence or of express threats. Kidnapping is a
22 continuing offense. The offense commences when one is
23 wrongfully deprived of freedom and continues until freedom
24 is restored. Kidnapping is a mens rea offense. Mens rea
25 is a Latin term meaning a guilty mind. The mens rea

1 required for the crime of kidnapping is knowledge. The
2 State must prove beyond a reasonable doubt the mens rea
3 of knowledge before you can convict the defendant of the
4 offense of kidnapping.

5 A person is said to act knowingly if he or she is
6 aware that a result is practically certain to follow from
7 their conduct whatever their desire may be to that result.

8 The defendant is also charged with first degree
9 burglary. A person is guilty of burglary in the first
10 degree if the person enters a dwelling without consent
11 and with the intent to commit a crime in the dwelling and
12 either when effecting entry or while in the dwelling or
13 in the immediate flight he or she or another participant
14 in the crime causes physical injury to a person who is not
15 a participant in the crime or the entering or remaining
16 occurs in the nighttime.

17 Under the statute the State must prove the following
18 four elements in order to establish burglary in the first
19 degree. The State must prove each element beyond a
20 reasonable doubt. If the State fails to prove any single
21 element, you cannot find the defendant guilty of first
22 degree burglary.

23 The State must show there was an entering; that is,
24 the defendant actually went inside the dwelling or some
25 part of it; however, entry is not confined to intrusions

1 of the whole body. The slightest entry is sufficient and
2 it may consist of the insertion of any part of the body
3 or any instrument under the defendant's control.

4 An entry may be accomplished, for example, by the
5 insertion of a hand, finger, foot or an implement such
6 as a hook or a pole. No force need be used to gain entry.
7 Literally entry is the act of going into the place, but
8 the word has a broader significance in the law of burglary
9 for an entry may be accomplished merely by putting through
10 a portion of the body into the dwelling. The place entered
11 must be a dwelling. The South Carolina Code of Laws
12 defines dwelling, house -- as any house, outhouse,
13 apartment building, erection, shed or box in which there
14 sleeps a proprietor, a tenant, a watchman, a clerk, a
15 laborer or person who lodges there with a view to the
16 protection of property. The entry must have been without
17 consent. Entering a dwelling without consent means to
18 enter without the consent of the person in lawful
19 possession. There must have been an intent to commit a
20 crime, any crime, a felony, a misdemeanor, whether or not
21 that crime was actually committed. The mere entry into a
22 dwelling without consent is not sufficient to constitute
23 first degree burglary. There must have been an intent to
24 commit a crime once inside. Further, it is not sufficient
25 that the intent to commit a crime was formulated after the

1 entry.

2 To convict the defendant of first degree burglary,
3 you must find that at the time he entered the dwelling
4 the defendant intended to commit a crime once therein.
5 The defendant's actions after he entered the dwelling can
6 be evidence used to entering. It is no defense that the
7 intent was abandoned after the entry because the entering
8 with intent to commit a crime completes the offense of
9 burglary.

10 And there also must be a presence of an aggravating
11 circumstance. If you find the defendant entered the
12 dwelling without consent and with the intent to commit a
13 crime therein, you must then find the presence of at least
14 one of the following aggravating circumstances in order
15 to convict of first degree burglary. Only one of these
16 circumstances needs to be present. The aggravating
17 circumstances are when entering or while in the dwelling
18 or fleeing the scene the defendant or co-participant
19 either causes injury to any person who is not a
20 participation in the crime or the entering or remaining
21 occurs in the nighttime. Nighttime for the purposes of
22 burglary means that period between sunset and sunrise
23 during which there is not daylight enough to discern a
24 person's face except by artificial light or moonlight.
25 Thus, the term nighttime is not confined to the exact

1 period between sunrise and sunset.

2 I remind you that the fact that the defendant
3 elected not to testify is not a factor to be considered
4 by you in any way in your deliberations and in your
5 consideration on the question of whether the defendant
6 is guilty or not guilty. It must not be considered in
7 any manner whatsoever against him. An accused has the
8 right to remain silent and the assertion of that right
9 cannot be considered by you in your deliberations. Under
10 your oath, you are to reach no inference and draw no
11 conclusion whatsoever from the fact that the defendant
12 elected not to testify. His decision not to testify
13 should not even be discussed in the jury room. It is
14 not to enter your minds in making your decisions. The
15 State has the entire burden of proof and the accused has
16 no burden to prove anything at all.

17 A verdict in this case cannot be based upon sympathy,
18 passion, prejudice or emotion or some other consideration
19 not found in the evidence.

20 Let me say something about your deliberations.
21 Deliberation is defined as a careful consideration,
22 weighing up with a view to decision. The genius of our
23 jury system is that it allows twelve good men and women
24 from twelve different backgrounds, life experiences and
25 perspectives to consider the evidence, talk about it and

1 ultimately reach a verdict. We call them deliberations
2 for a reason. You are to consider the evidence in this
3 case carefully and deliberately and discuss it in a calm,
4 thorough and courteous manner. Listen to the views of
5 your fellow jurors, consider other people's points and
6 points of view, and talk through and discuss the evidence.
7 And, remember, if you are doing something deliberately,
8 you are not in a big hurry and you should not be in a
9 hurry here. This case is very important to both sides
10 and this is there only day in court.

11 When you retire to the jury room, you should discuss
12 the case with your fellow jurors to reach an agreement if
13 you can do so. Your verdict must be unanimous. Each of
14 you must decide the case for yourself, but you should do
15 so only after you have impartially considered all of the
16 evidence, discussed it fully with the other jurors and
17 listen to the views of your fellow jurors. Do not be
18 afraid to change your opinion if the discussions persuade
19 you that you should, but do not come to a decision simply
20 because the other jurors think it is right.

21 It is important that you attempt to reach a unanimous
22 verdict, but, of course, only if each of you can do so
23 after having made your own decision. Do not change an
24 honest belief about the weight and effect of the evidence
25 simply to reach a verdict. In other words, do not change

1 your opinion solely for the sake of reaching a unanimous
2 verdict.

3 There are two possible verdicts for each charge
4 which you may find in this case. There is absolutely no
5 significance whatsoever in the order in which I state
6 these possible verdicts on the verdict form. It is
7 simply that one must be stated first.

8 Ladies and gentlemen of the jury, your verdict must
9 be unanimous as to each charge.

10 Madam Forelady, when the jury agrees on the verdict,
11 you will initial on the line next to the verdict on the
12 verdict form and sign your name as foreperson, then
13 inform the bailiff that you have reached a verdict and at
14 that time I will receive you back into the courtroom.

15 I'm gonna ask that you go back to the court -- back
16 to the jury room. Do not start deliberations yet. We
17 are going to gather up the evidence, we will send it back,
18 I'm gonna send back a computer.

19 I will tell you, Madam Forelady, all jurors must be
20 in the jury room when you're deliberating, so if one
21 excuses themselves, deliberation stops until that juror
22 comes back.

23 Understand?

24 FOREPERSON: (Nods head.)

25 THE COURT: If at any time you have any questions,

1 the bailiffs will give you pen and pencil, you may write
2 me a note. And if at any time there is a split in the
3 vote, the Court does not want to be informed of the
4 actual split by number if one exists, okay?

5 FOREPERSON: (Nods head.)

6 THE COURT: All right. I'm gonna let you go back to
7 your jury room. Remember, do not discuss this case until
8 the bailiff or the clerk -- the clerk will probably bring
9 you in the evidence and she'll tell you when to begin.

10 I do have lunch back there for you-all. I think
11 it's here.

12 Is it?

13 THE CLERK: Mona said it was supposed to be here at
14 1:00.

15 THE COURT: Hopefully lunch is back there.

16 I'm gonna let the alternate -- who's my alternate?
17 I'm gonna let you have lunch with the jury, but before
18 they begin deliberations I need to take you out. The
19 bailiff will show you where you need to go, okay?

20 Thank you.

21 (Whereupon, the jury retires to the jury room at
22 1:15 PM.)

23 THE COURT: All right. Let me ask, any exceptions
24 to the jury instructions by the State?

25 MS. ABEE: No, Your Honor.

1 THE COURT: From the defense?

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: All right. Any other motions? Anything
4 I need to take up?

5 MS. MAULDIN: (Nods head.)

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

7 MS. MAULDIN: No.

8 THE COURT: Well, then let's get -- I think the
9 clerk got most of the evidence in order. I need the
10 computer and I want -- that's a clean computer, right?

11 MS. ABEE: From Lexington County, yes.

12 THE COURT: Okay. Yeah, I know we usually keep one
13 for the jury.

14 I want to make sure that all my Court exhibits are --
15 you've got those, Stacy?

16 THE COURT REPORTER: Uh-huh.

17 THE COURT: And i know where to find everybody.
18 You-all going anywhere?

19 MS. MAULDIN: Not far, Judge.

20 THE COURT: Not far.

21 All right. Then I will let you know.

22 (Whereupon, the alternate was dismissed and the
23 evidence and the verdict form was submitted to the jury
24 at 1:24 PM.)

25 (Recess taken at 1:24 PM.)

1 (Back on the record at 3:04 PM.)

2 BAILIFF: All rise.

3 THE COURT: Please be seated.

4 They tell me we have a verdict.

5 MS. WEISS: Your Honor, may I approach briefly?

6 THE COURT: Sure.

7 (Proceedings held at the bench; not reported.)

8 THE COURT: All right. Just so everybody will know,
9 that the alternate was placed in a different room. I
10 did let her go back to the jury room before any of the
11 evidence back so she could get her pizza. She put it on
12 a plate. We keep all our jurors in a separate room --
13 our alternates because I am of the belief that I do not
14 release alternates. I keep them. I learned my lesson on
15 that a long time ago the hard way. So I don't want any
16 concerns that there wasn't anybody but the twelve jurors
17 in that room, okay?

18 MS. WEISS: Thank you, Your Honor.

19 THE COURT: And, in fact, I just spoke to that juror
20 and she ought to be on the back row. She want to -- I
21 see her. She wanted to stay and see what the verdict is.
22 She's invested her week and wanted to know.

23 All right. So let me address everybody in the
24 gallery because I know both sides have family members and
25 friends, but there's one thing that I do not put up with

1 is any outbursts in the courtroom. So if you feel like
2 you can't control yourself, this would be the time to walk
3 outside because I will not put up with it at all.

4 All right. Is the State ready to bring the jury in?

5 MS. ABEE: Yes, Your Honor.

6 THE COURT: How about the defense?

7 MS. MAULDIN: Yes, Your Honor.

8 THE COURT: All right. Let's bring them in.

9 (Whereupon, the jury return to the courtroom at
10 3:08 PM.)

11 THE COURT: All right. Madam Forelady, the jury
12 ready?

13 FOREPERSON: Yes, Your Honor.

14 THE COURT: You may be seated.

15 Let me ask you, Madam Forelady, has the jury reached
16 a verdict?

17 FOREPERSON: Yes, ma'am.

18 THE COURT: And let me ask you is it unanimous as to
19 each charge?

20 FOREPERSON: Yes, ma'am.

21 THE COURT: If you'd, please, hand the verdict to
22 the bailiff, please.

23 I'm gonna get the clerk to publish the verdict,
24 please.

25 And, Mr. McDowell, I'm gonna ask you to stand.

1 THE CLERK: On indictments 2022-GS-32-06096,
2 2022-GS-32-069 -- I'm sorry -- 06097, and 2022-GS-32-06098,
3 as to the charge of murder, we, the jury, unanimously find
4 the defendant guilty. As to the charge of first degree
5 burglary, we, the jury, unanimously find the defendant
6 guilty. And as to the charge of kidnapping, we, the jury,
7 unanimously find the defendant guilty. Signed and dated by
8 the foreperson on February 8, 2024.

9 Madam Foreperson and Ladies and Gentlemen of the
10 Jury, was this your verdicts and are these still your
11 verdicts?

12 FOREPERSON: Yes.

13 THE COURT: Thank you.

14 All right. Would you like the jury polled?

15 MS. MAULDIN: Yes, Your Honor.

16 THE COURT: If I can ask the clerk to please poll
17 the jury.

18 THE CLERK: When I call your juror number, I will
19 ask you are these your verdicts and are they still your
20 verdicts. If you would, please, just respond by raising
21 your right hand and saying yes or no.

22 Juror Number 237, were these your verdicts and are
23 they still your verdicts?

24 JUROR NUMBER 237: Yes.

25 THE CLERK: Juror Number 138, were these your

1 verdicts and are they still your verdicts?

2 JUROR NUMBER 138: Yes.

3 THE CLERK: Juror Number 81, were these your
4 verdicts and are they still your verdicts?

5 JUROR NUMBER 81: Yes.

6 THE CLERK: Juror Number 187, were these your
7 verdicts and are they still your verdicts?

8 JUROR NUMBER 187: Yes.

9 THE CLERK: Juror Number 267, were these your
10 verdicts and are they still your verdicts?

11 JUROR NUMBER 267: Yes.

12 THE CLERK: Juror Number 262, were these your
13 verdicts and are they still your verdicts?

14 JUROR NUMBER 262: Yes.

15 THE CLERK: Juror Number 271, were these your
16 verdicts and are they still your verdicts.

17 JUROR NUMBER 271: Yes.

18 THE CLERK: Juror Number 46, were these your
19 verdicts and are they still your verdicts?

20 JUROR NUMBER 46: Yes.

21 THE CLERK: Juror Number 274, were these your
22 verdicts and are they still your verdicts?

23 JUROR NUMBER 274: Yes.

24 THE CLERK: Juror Number 168, were these your
25 verdicts and are they still your verdicts?

1 JUROR NUMBER 168: Yes.

2 THE CLERK: Juror Number 235, were these your
3 verdicts and are they still your verdicts?

4 JUROR NUMBER 235: Yes.

5 THE CLERK: And Juror Number 199, were these your
6 verdicts and are they still your verdicts?

7 JUROR NUMBER 199: Yes.

8 THE CLERK: Was there anybody's number that I did
9 not call?

10 Thank you.

11 THE COURT: Anything else from the State?

12 MS. ABEE: No, Your Honor.

13 THE COURT: Anything else from the defense?

14 MS. MAULDIN: Your Honor, we would move for a new
15 trial on the basis that a reasonable jury would not --

16 THE COURT: All right. I really need you to be quiet
17 in the gallery, please.

18 Go ahead. I'm sorry, Ms. Mauldin.

19 MS. MAULDIN: -- would not have reached the
20 conclusion that this one did.

21 THE COURT: Thank you.

22 MS. MAULDIN: And based on our prior objections and
23 motions, both individually and cumulatively.

24 THE COURT: Okay. Thank you, Ms. Mauldin.

25 From my previous rulings I'm gonna deny those

1 motions.

2 Madam Forelady, Ladies and Gentlemen of the Jury,
3 I'm gonna ask you that go back to your jury room. You
4 are not excused yet. I'm gonna come back and excuse
5 you. It will be just a few moments, but if you could go
6 on back to your jury room, I'll be back there in just a
7 moment.

8 (Whereupon, the jury retires to the jury room to
9 be excused at 3:12 PM.)

10 THE COURT: All right. How long does the State need
11 before -- I plan to move right on into sentencing.

12 MS. ABEE: Your Honor, we have sentencing sheets
13 prepared for defense counsel. We just may need a moment
14 to -- a couple of minutes to figure out who would like to
15 address regarding victim impact. We have four people.

16 THE COURT: Okay. Well, I'm gonna go back.
17 Do you need any more time, Sarah?

18 MS. MAULDIN: No, just a few minutes.

19 THE COURT: Okay. I'm gonna go back and excuse the
20 jury, make sure that they sign the warrants. I do this
21 with every case that I do. And I also -- I always invite
22 them to come into the courtroom.

23 So I'm gonna do that and I'll be back in just a
24 moment.

25 (Recess taken at 3:13 PM.)

1 (Back on the record at 3:22 PM.)

2 THE COURT: Did we decide what the sentence was
3 back --

4 MS. WEISS: Yes, Your Honor.

5 MS. ABEE: I'm gonna defer to Ms. Weiss.

6 THE COURT: Then, Ms. Weiss, tell me.

7 MS. WEISS: So as far as the murder charge, the
8 1986 mandatory life imprisonment with parole eligibility
9 at twenty years is -- it's life or death, but the life
10 sentence with parole eligibility at twenty years would be
11 the appropriate statute to sentence under.

12 THE COURT: So it's twenty to life?

13 MS. WEISS: Well, it's a life imprisonment with
14 parole eligibility at twenty years is the way the statute
15 is written. And I've spoken with defense counsel that if
16 they wanted to consider the current sentence, they would
17 have to waive ipso facto and they've indicated they don't
18 want to do that. So we've talked to our appellate folks
19 and everybody is in agreement that it's the life
20 imprisonment with parole eligibility at twenty years.

21 MR. MAULDIN: It's not a part of the sentence you
22 write, Your Honor. The sentence is life or death is what
23 you write and it's not a death penalty case.

24 THE COURT: So it's a life sentence?

25 MR. MAULDIN: Yes. Yes.

1 THE COURT: And kidnapping, is it life?

2 MS. WEISS: Kidnapping -- you don't sentence for
3 kidnapping if you're being sentenced for murder.

4 THE COURT: It's what?

5 MS. WEISS: You don't sentence for kidnapping if
6 you've been sentenced for murder.

7 THE COURT: That's right. Under the new law that's
8 a lesser --

9 MS. WEISS: And actually under the law then, too,
10 so.

11 THE COURT: Okay. For the burg two?

12 MR. MAULDIN: The burg is no less than fifteen is the
13 way it reads.

14 THE COURT: Okay. No less than fifteen --

15 MS. WEISS: Yes, Your Honor.

16 THE COURT: -- and we're not sentencing on the
17 kidnapping?

18 MS. WEISS: Correct, Your Honor.

19 THE COURT: Because I just did that in another case
20 with that new Supreme Court opinion that came down.

21 Okay. But, Ms. Weiss, if the -- if the burg first
22 is no less than fifteen, what's the max?

23 MS. WEISS: I believe it's fifteen to life.

24 THE COURT: Fifteen to life?

25 MS. WEISS: Yes, Your Honor.

1 THE COURT: Is that an 85 percent charge or was
2 there 85 in --

3 MS. WEISS: There wasn't truth in sentencing back in
4 1986, so he would get the benefit of parole eligibility
5 from 1986, and I don't -- I'm not gonna pretend to be able
6 to calculate that. I don't know what they did.

7 (Pause in proceedings.)

8 THE COURT: All right. Is everybody ready?

9 MS. ABEE: Yes, Your Honor.

10 MS. MAULDIN: Yes, Your Honor.

11 THE COURT: All right. Let me hear from you.

12 MS. ABEE: Thank you, Your Honor.

13 On behalf of the State there are four separate
14 family members of Jessica Gutierrez that would like to
15 address you at the appropriate time. Your Honor, if
16 you'd like to hear from them first and then the State,
17 we're happy to do that or if you want to hear from us
18 first, we're happy to do that as well.

19 THE COURT: Let me go ahead and hear from the State
20 and then I'll hear from the victims and then, Ms. Mauldin,
21 I'll let you follow up.

22 MS. ABEE: Thank you, Your Honor.

23 You've heard the facts throughout the course of this
24 trial and have heard the heinous nature of this crime.
25 We obviously leave sentencing in the discretion of Your

1 Honor. Most importantly, what I do want to know is the
2 prior convictions of Mr. McDowell and the prior record
3 that he has. Most significantly out of 1986 in North
4 Carolina, he has a breaking and entering for larceny, a
5 rape second degree and a sexual offense second degree
6 conviction. In 1987, he has an attempted burglary, a
7 grand larceny and a burglary in the second degree violent.
8 That would be the notable record of the defendant, Your
9 Honor.

10 At this time four individuals would like to address
11 you. That would be David Gutierrez, Kim Gutierrez,
12 Rebecca Gutierrez and Debra Gutierrez. Those are the
13 three siblings and the motor of Jessica.

14 THE COURT: Okay.

15 MS. ABEE: First will be David Gutierrez, Your Honor.

16 VICTIM ADVOCATE: Is this okay or do you want us to
17 come up?

18 THE COURT: Either way. He can come up to the podium
19 if he'd like.

20 DAVID GUTIERREZ: Good afternoon, Your Honor.

21 THE COURT: Good afternoon.

22 DAVID GUTIERREZ: My name's David Gutierrez. Jesse
23 was my sister. I honestly thought that I would have one
24 more day to kind of put my thoughts and words together,
25 but I've had close to thirty-eight years I've -- I've

1 lived this.

2 I'd like to start off by saying that though it's --
3 it's a great day, it's still not gonna bring my sister
4 back. I was the only boy. My mom used to call me the
5 rose amongst the thorns because I had all sisters and it
6 was just me, the only boy.

7 That night in 1986 when my sister was taken,
8 everything changed. Our dynamic as a family. My
9 relationship with my mother, my relationship with my
10 sisters. The level of fear that came over this
11 five-year-old boy, it was unreal. I was afraid to go
12 outside and play. This loving mom that my sisters were
13 always jealous like maybe she took up more time with me,
14 I was the only boy, she would just sit there in a daze
15 rocking in a chair because something was missing from her.
16 And as a father, I can't imagine what it would be like to
17 lose one of my kids and then have to raise your other
18 children. So she's a strong woman in that sense, but it's
19 almost been thirty-eight years and I haven't seen my best
20 friend. I haven't seen her.

21 There's not a -- not a day that's gone by that I
22 haven't prayed for some kind of answers. I still don't
23 have answers. I don't -- I don't know where she's at
24 and there's only one person in this room that can tell
25 us -- tell us that. Will that happen? I don't know,

1 Your Honor. I don't know. I just -- I prayed before
2 today that if things happened, if he was guilty, then --
3 then let that be the verdict, and I think maybe God has
4 answered my prayers on that.

5 I just have one more prayer and I would like to
6 share that with you, Your Honor. I pray that this man's
7 soul has the same percentage of finding God as I do of
8 finding the remains of my sister, and that's -- that's
9 all I have, Your Honor.

10 THE COURT: Thank you.

11 MS. ABEE: Your Honor, next would be Kim Gutierrez.

12 THE COURT: Ms. Weiss, tell me her name again.

13 KIMBERLY GUTIERREZ: Kimberly Ann Gutierrez.

14 THE COURT: Thank you.

15 KIMBERLY GUTIERREZ: I wish he had brought her home
16 and let her go. Ain't no telling what she went though
17 and I hope he never dose it again. That's all I've got
18 to say.

19 THE COURT: Thank you.

20 MS. ABEE: Your Honor, next will be Rebecca Gutierrez.

21 REBECCA GUTIERREZ: Good afternoon, Your Honor.

22 THE COURT: Good afternoon.

23 REBECCA GUTIERREZ: With a heavy heart I come before
24 you seeking justice for my sister who was, as you know,
25 tragically taken away from us. The pain of her absence

1 has lingered in our lives leaving an open wound that will
2 never heal. Every day I'm haunted by the thoughts of what
3 could have been, the milestones she could have reached,
4 the dreams she would have pursued, the beautiful family
5 she may have had. The weight of the guilt hangs heavy on
6 my shoulders and heart as I try to navigate a world that
7 feels so empty without her presence.

8 Your Honor, I implore you to consider giving him the
9 maximum sentence allowed by law. May justice be served
10 for my sister in her memory and honor to be fair in the
11 proceedings of this Court.

12 Thank you.

13 THE COURT: Thank you.

14 MS. ABEE: Finally, Debra Gutierrez, Your Honor.

15 DEBRA GUTIERREZ: Thank you, Your Honor.

16 I want to thank the members of the jury, although
17 they're not present and I also thank --

18 THE COURT: They are. They are in the back of this
19 courtroom.

20 DEBRA GUTIERREZ: I thank them as well as and
21 everybody that put all the effort into making this
22 possible. I've fought this battle for more than half of
23 my life, thirty-eight years. Jesse just turned forty-two
24 December 3rd this past year.

25 I can't tell you how much I appreciate the

1 truthfulness of this verdict today. It's something I've
2 long awaited for. I wanted to let Tommy know that I've
3 been to his mother's grave. I've been there. Not only
4 did his mom die, I lost my mom, I lost two brothers, I
5 lost a niece and I lost a sister-in-law. Four of those
6 within one year or so together. And I've lost my daughter
7 and all I ask of him now is to please, please tell me
8 where her body is. That is the next step I need in
9 closure. I deserve to have my daughter back and I would
10 like to have her back. And just like my son said, he
11 prayed that, you know, for him to find his peace. We
12 need our peace, too, and I appreciate everything.

13 Thank you.

14 THE COURT: Thank you.

15 MS. ABEE: Your Honor, there's nothing further from
16 the State.

17 THE COURT: Okay. Ms. Mauldin.

18 MS. MAULDIN: Thank you, Your Honor.

19 You heard about Mc McDowell's prior criminal history.
20 I will tell you that the other offenses that are on his
21 record occurred within a few months of June 6, 1986. He
22 served a sentence in North Carolina and then was
23 transferred to South Carolina. He served the sentence
24 there and was out in 1996. Since then he has had no
25 interactions with the law. He has been a productive

1 member of society. He's done construction work and he's
2 lived in North Carolina. He's separated from his family,
3 but he's built a life for himself there.

4 He is from a very difficult background and I will
5 not make this any more painful for him by telling the
6 details of his childhood, but I do think that the best
7 proof of that was when I mentioned that while his sister
8 was on the stand she was so overcome that she broke down
9 in tears at the thought of it.

10 So, Your Honor, I'm -- I'm asking you to give
11 whatever leniency you can. He served in the military and
12 received an honorable discharge and he has one friend who
13 is here that's been with him this week. His name is Ted
14 Wilder. I'd ask for you to hear from him as well.

15 THE COURT: I'd be happy to hear from him.

16 Mr. Wilder.

17 TED WILDER: Thank you, Your Honor.

18 As Ms. Mauldin mentioned, I'm Ted Wilder. I'm a
19 business owner in Wake Forest and I met Tommy in '97 and
20 -- he -- he first met my brother-in-law, who was like a
21 brother to me. I worked for him through junior high
22 school, high school on the farm. Tommy was -- met Robert,
23 who died last year. If Robert would be living, he would
24 be here right now. Kyle had to leave, our wives came
25 and they had to leave, and I wasn't gonna leave. Tommy

1 has been like a brother to me since '97. He's worked for
2 me. I've owned -- I own some properties and he's helped
3 me with that. Every property I've had, rental property --
4 in fact, he lived beside of me for five years. We had an
5 apartment beside of our house and my wife and our seven
6 children lived in the house beside of him. He has helped
7 my children with every part of their lives. He has been
8 like an uncle to all of my children. He has been like an
9 uncle to Robert's children, my sister's children, that she
10 has three. He's worked on -- all my children are grown now
11 and they all have their own properties and Tommy has helped
12 every one of my children with their properties. He is the
13 best carpenter I've ever met and he's a really good guy.
14 And I'm a jokester and when I work with Tommy I joke with
15 him. I'll hold tape measurer longer than I should just to
16 try to make him mad and I can't make him mad. He does not
17 get mad. This man is a good man.

18 I'm very sorry about you-all's loss. I really am.

19 THE COURT: And you need to -- you need to talk to
20 me.

21 TED WILDER: Okay. I can't imagine losing a child,
22 and as I mentioned I have seven, and I have ten
23 grandchildren and I can't imagine losing one of them and
24 I cannot imagine the hurt that you-all have, but the
25 verdict that was found today I think was found against

1 the wrong person. I hadn't heard any evidence, any
2 concrete evidence to say Tommy did it, and so I think
3 the wrong verdict has happened. And it's not gonna bring
4 Jessica back, but putting Tommy in jail any longer --
5 he's already served two years for this thing and nothing's
6 going -- nothing's good is gonna come for Tommy serving
7 any more time. And he has been a very upstanding member
8 of society since I met him in '97, I guess.

9 And, like I said, Robert would be here. If my sister
10 didn't have her sickness, she would be here, and some of
11 my kids would be here if they could because they're all
12 thinking and praying for him because he has just done a
13 -- been a really upstanding guy and like a brother to all
14 of us.

15 THE COURT: Okay. Thank you for coming.

16 Ms. Mauldin, how many days has he served?

17 MR. MAULDIN: What's the arrest date?

18 MS. MAULDIN: January 7th.

19 MR. MAULDIN: Credit since January 7th of '22,
20 Your Honor. I don't have the exact days.

21 MS. MAULDIN: Your Honor, he was taken into custody
22 in North Carolina and was -- he arrived here in South
23 Carolina on January 13th of 2022.

24 THE COURT: I've got 762 days that he gets credit
25 for by law.

1 All right. Anything else, Ms. Mauldin?

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: Anything else from the State?

4 MS. ABEE: No, Your Honor.

5 THE COURT: Okay.

6 All right. First off, I'm gonna tell you this is
7 a first for me to have a case be thirty-six years old.

8 Let me thank law enforcement for not giving up and
9 I have no doubt that Ms. Gutierrez made sure you-all
10 didn't get up. I bet she called you-all every single day.
11 But thank you for sticking with her.

12 You know, I said something that I know the press
13 quoted me about that justice was slow, and I didn't mean
14 that justice was slow and I don't know how they got that
15 out of what I said, but sometimes -- sometimes I guess
16 it is slow, Ms. Gutierrez, but I don't think it was on
17 anyone's fault. It was just new evidence kept coming up,
18 the case turned cold and, you know, my heart breaks for
19 you. It really does. Because thirty-six years to sit
20 and wait to see justice for your daughter was slow for
21 you. I certainly don't think that it was on anybody's
22 part. It's just what was meant to happen.

23 And I'm just gonna tell you from the testimony that
24 I heard in this trial, this is horrific, what happened,
25 and I believe the jury got it right. They sat here, they

1 paid attention. I listened to the testimony. They got
2 a right and I want to thank them for paying attention and
3 being here every day.

4 I'm gonna tell you, Mr. McDowell, this was a
5 four-year-old child. This mother needs to know where her
6 child is and I hope, Ms. Gutierrez, that you get to find
7 out. I don't know that you will, but I hope that one day
8 you will.

9 All right. The sentence of the Court. Mr. McDowell,
10 I'm not sentencing you on the kidnapping because I'm
11 sentencing you on the murder and the burg first. Both of
12 those sentences will be life and they will run concurrent.

13 Court's adjourned.

14 MS. ABEE: Thank you, Your Honor.

15 MS. WEISS: Thank you, Your Honor.

16 (Whereupon, the proceedings were concluded for
17 February 8, 2024, at 3:44 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh 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 the evidence introduced
in the hearing of the captioned case in Circuit Court
on February 5th-8th, 2024.

This transcript may contain quoted material.
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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

August 23, 2024

/s/ Stacy S. Johnson
STACY S. JOHNSON, RPR
CIRCUIT COURT REPORTER

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Docket Number 2022-GS-32-6098
The State of South Carolina
County of Lexington

WITNESSES
David Pritchard-LCSD

Defendant

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

I, _____ hereby appear in my own proper person and plead guilty to the within indictment or to _____

June Term

2022A3210200051

THE STATE

vs.

ACTION OF GRAND JURY

Thomas Eric McDowell
DOB: _____

DEFENDANT

Foreperson of Grand Jury
Date: 6-13-22

Defendant

Indictment for

VERDICT

Witness:

Murder

Guilty

C.C.C. Pls. And G.S.

16-03-0010
Felony/Exempt
CDR Code: 0116

Foreperson of Petit Jury

DATE

2-8-24

DATE

RECEIVED

SC Court of Appeals

DATE

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

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IN THE COURT OF GENERAL SESSIONS

INDICTMENT

At a Court of General Sessions, convened on June the Grand Jurors of
Lexington County present upon their oath:

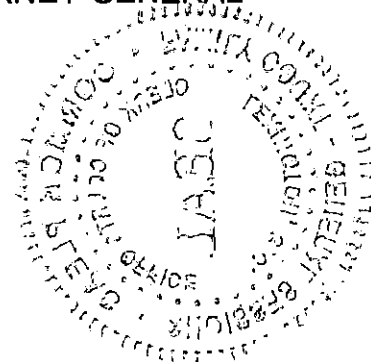
MURDER

On or about June 6, 1986, the Defendant, Thomas Eric McDowell, did, in Lexington
County, intentionally and with malice aforethought, kill J G DOB:
in violation of §16-03-0010, *THE CODE OF LAWS OF SOUTH CAROLINA*
(1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.



ALAN WILSON/ KBA
SOUTH CAROLINA ATTORNEY GENERAL



STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

IN THE COURT OF GENERAL SESSIONS

Thomas Eric McDowell

AKA:

Race: WhiteSex: MaleAge: 63

DOB:

SS#:

Address:

City, State, Zip:

DL#*

SID#

INDICTMENT/CASE#: 2022-GS-32-6098

AW#:

2022A3210200051

Date of Offense:

June 6, 1986

S.C. Code §:

16-03-0010

CDR Code #:

0116

SENTENCE SHEET

RECEIVED

FEB 20 2024
SC COURT OF APPEALS*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kiner Abbe160017

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of LIFE days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.762 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

2022-65-32-6097
2022-65-32-6096

STATE VS. Thomas McDowellINDICTMENT/CASE#: 2021-10-32 - 6048**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____ Beginning	\$ _____
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>75</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>125.00</u>

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____

Stacy Johnson

Conner Mc

Presiding Judge: _____
Judge Code: _____
Sentence Date: _____

John McCasti

2769

2/8/29

WITNESSES

David Pritchard-LCSD

ARREST WARRANT NUMBER

2022A3210200050

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

6-13-22

VERDICT

Guilty

Foreperson of Petit Jury

Date:

M. D. Scott

2-8-24

Docket Number 2022-GS-32- 6097

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

June Term

THE STATE

vs.

Thomas Eric McDowell

DOB:

DEFENDANT

Indictment for

Kidnapping

16-03-0910

Felony/A

CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Defendant

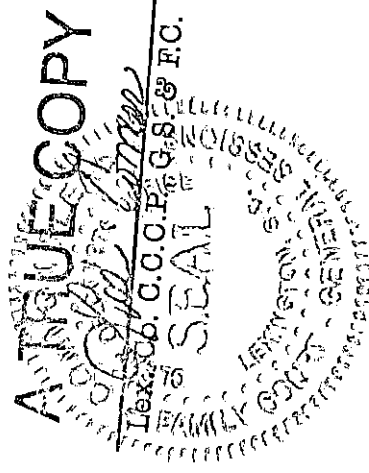
I, hereby appear in my own proper person and plead guilty to the within indictment or to

RECEIVED
FEB 20 2024
SC Court of Appeals

Defendant

Witness:

C.C.C. Pls. And G.S.



STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF LEXINGTON)

INDICTMENT

At a Court of General Sessions, convened on June the Grand Jurors of
 Lexington County present upon their oath:

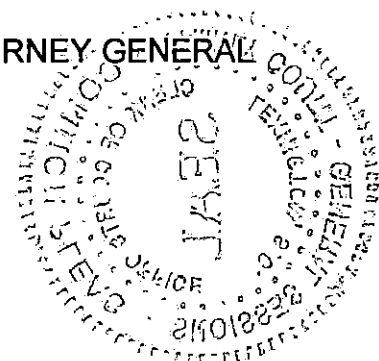
KIDNAPPING

On or about June 6, 1986, the Defendant, Thomas Eric McDowell, did, in Lexington
 County, intentionally and unlawfully abduct and carry away J. G. DOB:
 [REDACTED], without authority of law, in violation of §16-03-0910, *THE CODE OF LAWS OF*
SOUTH CAROLINA (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made
 and provided.

Alan Wilson

ALAN WILSON/ KBA
 SOUTH CAROLINA ATTORNEY GENERAL



STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Thomas Eric McDowell

AKA:

Race: White Sex: Male Age: 63

DOB: _____ SS#: _____

Address: _____

City, State, Zip: _____

DL#* _____ SID# _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: KidnappingIn violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0079☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kiner Abbe 10007

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Correction ☐ County Detention Center,for a determinate term of _____ days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

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

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.700 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

A TRUE COPY

IN THE COURT OF GENERAL SESSIONS

Lex. Co. C.C.G.P. INDICTMENT/CASE# 2022-GS-32-6097

AW#: 2022A3210200050

Date of Offense: June 6, 1986S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

RECEIVED
FEB 20 2024
SC Court of Appeals2022-65-32-6096
2022-65-32-6098

STATE VS. Thomas Eric McDowellINDICTMENT/CASE# 2022 GS-134 - 6097**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

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

TOTAL

\$

Clerk of Court/Deputy Clerk: _____

Court Reporter: _____

Presiding Judge: Debra McLaughlinJudge Code: 2769Sentence Date: 2/8/24

WITNESSES

David Pritchard-LCSD

ARREST WARRANT NUMBER

2022A3210200049

ACTION OF GRAND JURY

TRUE BILL

Emily Chetwode

Foreperson of Grand Jury

Date:

6-13-22

VERDICT

Guilty

Foreperson of Petit Jury

Date: *Mult D Scott, 12011*

2-8-24

Docket Number 2022-GS-32- *6096*

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

June Term

THE STATE

vs.

Thomas Eric McDowell

DOB: _____

DEFENDANT

Indictment for

Burglary-First Degree

16-11-0311

Felony/Exempt

CDR Code: 0079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Defendant

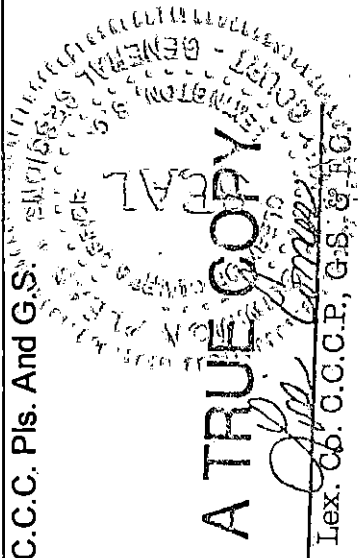
I, _____ hereby appear in my own proper person and plead guilty to the within indictment or to _____

RECEIVED
FEB 20 2024
SC Court of Appeals

Defendant

Witness:

C.C.C. Pls. And G.S.



STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

)
) IN THE COURT OF GENERAL SESSIONS
)

INDICTMENT

At a Court of General Sessions, convened on June the Grand Jurors of
Lexington County present upon their oath:

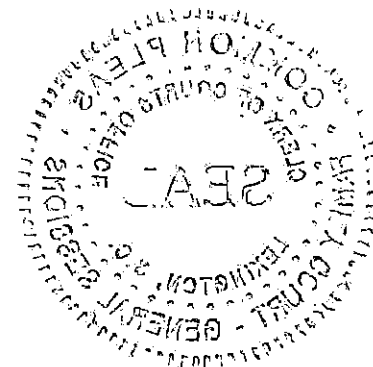
BURGLARY-FIRST DEGREE

On or about June 6, 1986, during the nighttime hours, the Defendant, Thomas Eric McDowell, did intentionally and unlawfully enter the residence located at _____ in Lexington County, with the intent to commit a crime therein, to wit: the kidnapping of J. G. _____ DOB: _____, in violation of §16-11-0311, *THE CODE OF LAWS OF SOUTH CAROLINA* (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Alan Wilson

ALAN WILSON/ KBA
SOUTH CAROLINA ATTORNEY GENERAL



STATE OF SOUTH CAROLINA

COUNTY OF Lexington

STATE

VS.

Thomas Eric McDowell

AKA: _____
 Race: White Sex: Male Age: 63
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#* _____ SID# _____

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

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

TO: **Burglary First Degree**

In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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

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

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

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

ATTEST:

Heather S. Weir 116700
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

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

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

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

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

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

712 days/months

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

☐ The Defendant Shall be Released from County Detention Center.

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

A TRUE COPY

IN THE COURT OF GENERAL SESSIONS

Lex. Co. C.C.G.P. INDICTMENT/CASE#: 2022-GS-32-6096

A/W#:

2022A3210200049

Date of Offense:

June 6, 1986

S.C. Code §:

16-11-0311

CDR Code #:

0079

SENTENCE SHEET

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 FEB 20 2024
 SC Court of Appeals

2022-65-32-6097
 2022-65-32-6098

STATE VS. Thomas McDowellINDICTMENT/CASE#: 2022-GS-32-16046**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

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

TOTAL

\$125.00

Clerk of Court/Deputy Clerk: Stacy Johnson
Court Reporter: Stacy JohnsonPresiding Judge: Debra McClain
Judge Code: 2769
Sentence Date: 2/8/24



Lexington County Sheriff's Department Statement Form



DATE November 5, 2008 PLACE Wake Forest Police Dept. TIME STARTED 8:20 A.M.

I, the undersigned, Thomas McDowell, am 47 years of age, my date

and place of birth being the [REDACTED] day of December, 19 60, at York, S.C.

My present address is 842 North White St. Wake Forest, N.C. 27587

I completed GED grade(s) in school. I can read and write. TM (Initials)

CONTACT NUMBERS: H) _____ W) _____ C) _____

ALTERNATE CONTACT: Name _____ Phone Numbers: _____

Before answering any questions or making any statements, Det. Pritchard

a person who identified him/herself as a Lex. Co. Detective

duly warned and advised me that:

- 1) I HAVE THE RIGHT TO REMAIN SILENT. TM
- 2) ANYTHING I SAY, CAN AND WILL BE USED AGAINST ME IN A COURT OF LAW. TM
- 3) I HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE ASKED ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH ME DURING QUESTIONING. TM
- 4) IF I HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT ME WITHOUT COST TO ME IF I WISH. TM
- 5) IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, I WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. I ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL I TALK WITH A LAWYER. TM

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. TM I MAKE THE FOLLOWING STATEMENT:

TM I met Debbie around 1985 while at a card game. We became interested in each other and dated for about 2 months. The relationship didn't work out so we stopped seeing each other. I met her children while we were together.

I learned of Jesse from my mom. I don't know much about the case other than what I learned from her (my mom).

I did work at Debbie's house on an awning for about 1 day.

I believe it had been more than 6 months before Jesse disappeared that I was at her house. TM

Willie SLED

Witness

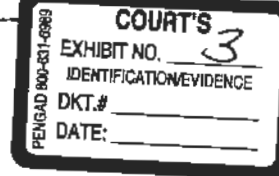
Notary Public

Person giving Statement

Date

My Commission expires

Pg 1 of ___pgs



COURT'S
EXHIBIT NO. 4
IDENTIFICATION EVIDENCE
DKT.#
DATE:

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South Carolina

SUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐
AMOUNT RECOVERED \$

OFFENSE _____ CASE # 8614106
VICTIM _____
ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

8-22-86
Det and Agent Mondor, FBI, interviewed sus at LCSD in ref to above case and his taking a second polygraph. Sus pending charges were discussed, and that it was likely that other charges would be forth coming, for the controlled prescription he had in his possession on his arrest date, on the 18th.

It was further discussed that if sus submitted to a polygraph, and did not do well on it, that sus and officers would have a serious talk. Sus agreed to this.

8-25-86
Det met with sus at LCSD in order to determine if he was ready to take the polygraph. Sus stated that he had thought about the test over the weekend, and that he had changed his mind and did not wish to do so. Det explained that it had been understood on the 22nd that sus would stand by his word, and proceed as he had stated. Sus stated that he did not want to take the test and was left at LCSD jail.

8-26-86
Det and Mondor again meet with sus at LCSD at which time the polygraph was again discussed. Upon completion of this interview, sus stated that he would submit to the test and not change his mind. The test was set for the 27th.

8-27-86
Det transported sus to the US Marshalls office in Cola where sus was to undergo the polygraph. Upon completion of this test, which sus showed some discrepancies, Det and Mondor interviewed him. During this interview, sus was advised of Miranda, and the facts surrounding the case, as to why he was a suspect. That he did not do well on the test, and he was expected to serious talk with officers. It was discussed that sus did have a drinking (alcohol) and dope problem.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐

CLEARED BY ARREST.....☐

Over 18.....☐

EXCEPTIONALLY CLEARED Under 18.....☐

ADMINISTRATIVELY CLEARED.....☐

ACTIVE.....☐

SIGNED R Bartlett DATE 8-29-86
Investigating Officer

SIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

McDowell 07954

Agency ID SC0320000

SUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

LEXINGTON COUNTY SHERIFF'S DEPARTMENT

Lexington, South Carolina

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

and that it was apparent that when he was intoxicated or doped that he developed another personality. That also he became violent not only physically, but verbally as well.

Sus admitted that he became so and that he could remember nothing of incident night, after Clarence and John had left him, at home.

It was also discussed that he could not recall the next night, the 6th, when he went to comp hosue, according to comp, when sus was very intoxicated.

Nor could sus recall the night of Aug 3 when he made the phone calls, case # 8619756, until Det offered him the reslts of the phone bill, showing that he had made the calls from his residence.

Sus stated that if he had been involved in the incident involving Jessica, that he wanted to know, and that if he could remember that he would advise officers.

Sus was very humble during this interview, when denying any involvement with the abduction, however, when Det informed and asked why he had no longer a picture of vic he stated that he did, and was very direct and positive about it, whereas he was not direct or positive about about the incident and his possible involvement. He stated that he had a picture of vic, at his residence, whereas Det advised him that this picture was not observed on the 19th. Sus stated that he had a picture of vics family that he had hung on the wall, but had taken it down in order to forget vic. He could not give a reason why he wanted to forget vic.

Sus did not show any remorse for vic nor did he show any emotions. Sus did indicate that the possibility existed that he was involved with the abduction.

Sus was transported back to LCSD later this date.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐CLEARED BY ARREST.....☐EXCEPTIONALLY CLEARED Over 18.....☐Under 18.....☐ADMINISTRATIVELY CLEARED.....☐ACTIVE.....☐SIGNED R BartlettDATE 8-29-86

Investigating Officer

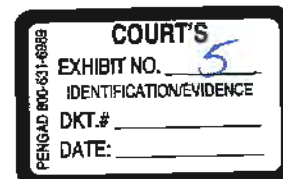
SIGNED _____

DATE _____

Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	INDICTMENT NUMBERS:
THE STATE	)	2022GS3206096, 2022GS3206097,
	)	2022GS3206098
vs.	)	
	)	
	)	MOTION TO SUPPRESS
Thomas Eric McDowell,	)	
Defendant.	)	
_____	)	



Motion to Exclude Evidence Obtained from
"1975 Ford Elite2 door, white in color, bearing SC tag ONJ-711"

On November 3, 1986, Investigator Robert Bartlett of the Lexington County Sheriff's Department obtained a search warrant for the Defendant's vehicle. The search warrant and accompanying paperwork are attached as Exhibit 1.

The search warrant contains a statement allegedly made by the Defendant on September 3, 1986, to Investigator Robert Bartlett that he knew Debra Gutierrez, the victim's mother and that he had been to the residence before. In Investigator Bartlett's report of the interview it clearly states that the Defendant only agreed to talk with him if his attorney was present. Investigator Bartlett called the Defendant's North Carolina attorney who refused to participate. After this phone call, Investigator Bartlett continued to talk with the Defendant, after he invoked his right to counsel, and elicited the information that was included in the search warrant. Investigator Bartlett's report of this interview is attached as Exhibit 2. It is the Defense's position this statement was taken from the Defendant in violation of his Fifth and Sixth Amendment rights under the U.S. Constitution and Article I, sections 12, 3, and 14 of the South Carolina Constitution. This information should not have been submitted to the magistrate to determine probable cause to issue the search warrant because it is fruit of the poisonous tree.

Similarly, there is information in the search warrant that fingerprints were taken from the Defendant at this September 3, 1986, meeting and that these fingerprints were sent to the FBI to compare with a print taken from a window at the scene. And that the FBI later informed Investigator Bartlett that the print matched one of the Defendant's. These prints were obtained from the Defendant after he invoked his right to counsel in violation of his Fifth and Sixth Amendment rights of the U.S. Constitution and Article I, sections 12, 3, and 14 of the South Carolina Constitution. See Exhibit 2. A copy of the Defendant's prints from North Carolina that was provided in discovery is attached as

Exhibit 3. The card does not contain any identifying information of the Defendant in the locations designated for height, weight, etc. This is obviously not an official record obtained from the North Carolina authorities, but a record obtained during the unconstitutional interview. The information regarding the Defendant's fingerprint being a match should not have been submitted to the magistrate to determine probable cause to issue the search warrant because it is fruit of the poisonous tree.

Additionally, there is information on page 2 continuation of the affidavit for the warrant that that a "confidential informant" informed law enforcement that the Defendant made statements regarding a kidnapping of a child in Lexington South Carolina and that evidence may be found in his car. There are no statements in the affidavit regarding the confidential informant's credibility or the fact that they had provided relevant information in the past. Such information is required in a search warrant based solely on that information. State v. 192 Coin-Operated Video Game Machs., 338 S.C. 176.

It is true that lack of information regarding the credibility of a confidential informant may be cured by police investigation that corroborates certain facts given by the informant. However in this case the corroboration like the Defendant's statement to law enforcement and his fingerprints were obtained unconstitutionally and should not have been presented to the magistrate. It is the defense's contention that under a totality of the circumstances, when considering only legally obtained evidence, probable cause did not exist to issue the warrant and the items seized pursuant to that warrant should be suppressed.

Respectfully submitted,



Sarah H. Mauldin
Attorney for the Defendant
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

Lexington, South Carolina
Date: 2/1/24

STATE OF SOUTH CAROLINA

County of _____

SEARCH WARRANT

Date _____

Officer _____

COUNTY OF Lexington

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-140
March 15, 1978

COPY

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF _____ :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, S.C.,
Lexington County. This vehicle is white in color.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

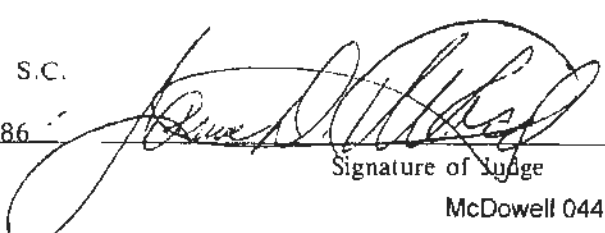
Magistrate Bruce Rutland

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington _____, S.C.

November 3 _____, 19 86


Signature of Judge

(L.S.)

McDowell 04468

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Detective Robert Bartlett who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Jessica Gutierrez's clothing, hair, fingerprints, and body fluids. Clothing that she was wearing at the time of her disappearance, a pink and white sleeveless t-shirt and white panties, and fibers.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is parked Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, South Carolina, Lexington County. This vehicle is white in color.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

That on about the 6th day of June at approximately 9:00 AM, the Lexington County Sheriff's Department responded to a call at the residence of Debbie Gutierrez, located at 2779 South Lake Drive, Highway #6, Lexington County, South Carolina. That upon their arrival they were informed by Debbie Gutierrez that her child Jessica Gutierrez, four years of age was missing from her residence. Investigation revealed that Ms. Debbie Gutierrez had retired at approximately midnight on the 5th of June and that Jessie along with her other children were asleep in the Gutierrez residence. That at approximately 9:00 AM on the 6th of June 1986, Ms. Gutierrez checked on all of her children but was unable to locate four year old Jessica in or about the residence. Further investigation revealed that upon retiring on the night of the 5th of June 1986, Ms. Gutierrez had latched the front screen door and the front door of her residence. Further the window to the right of the front door as you face the front door was propped open several inches with a stick, however the screen was intact and in place. Upon checking the residence the morning of June 6th, 1986, Ms. Gutierrez discovered that the front door and front screen door were both unlocked. She further noticed the screen on the window to the right of the front door was hanging down and that the stick that had formally propped the window open had fallen to the deck on the front of the residence. Investigation revealed that this window was a point of entry into the residence and
(reason continued on attached page)

Sworn to and Subscribed before me

this 3 day of June, 1986

Signature of Judge

(L.S.)

Robert Bartlett

Affiant

Address 501 Gibson RdLex SCPhone 359 8230 McDowell 04469

Affidavit of Search Warrant

(continued)

1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

that the door was unlocked and used as a point of exit therefrom. Crime scene technician with the Lexington County Sheriff's Department responded to the scene of the abduction and located on the mentioned window, one fingerprint suitable for identification and comparison purposes. Print was examined and photographed by Identification Officer R.M. Freeman, of the Lexington County Sheriff's Department. Investigators are informed and believed that the print is a print left by an individual who was responsible solely or with others for the abduction of Jessie Gutierrez. That on or about the 19th of August, 1986, investigators with the Lexington County Sheriff's Department began an investigation into a Burglary, Attempted Rape, and Grand Larceny of a Motor Vehicle, which occurred at a residence located on Highway 321 in Lexington County. Follow on August 19, 1986, investigation revealed one Thomas Eric McDowell was a suspect in this case. After Lexington County Sheriff's Officers received information that subject McDowell had been arrested in the North Carolina, County of Columbus, for an addition charge of rape, burglary, and Grand Larceny. That on or about the 3rd day of September, 1986, officers of the Lexington County Sheriff's Department went to Columbus County, North Carolina for the purpose of interviewing suspect Thomas Eric McDowell about the 19th August 1986 incident in Lexington County. McDowell stated, among other things that he knew Debbie Gutierrez, the mother of abducted Jessie Gutierrez, that he had been to her residence which was at the same location at the time he went there as it was at the time of the abduction of Jessica, but he had not been to the residence at about a year. That officers further obtained fingerprints of Thomas Eric McDowell on this same date of September 3rd, 1986. The prints thereafter were compared by Special Agent Marion Moore of the Federal Bureau of Investigations with the print which was located at the Gutierrez by Identification Officer Freeman on the morning of 6 June 1986 and Agent Moore has advise that the print found on the Gutierrez window is the same as fingerprint of Thomas Eric McDowell. Further investigation by the Lexington County Sheriff's Department and the State Law Enforcement Division revealed that Ms. Debbie Gutierrez had completely cleaned the window upon which the latent (later identified as McDowell) print was found in April of 1986. Further that Ms. Gutierrez had additional wash the window in June of 1986. Prior to the 5th of June, 1986. Prior to the 5th of June, 1986, that the affiant was further informed that Jennie Sturkie, sister of Debbie Gutierrez, that Thomas McDowell had wrecked his vehicle on or about the 6th or 7th of June 1986. That officers were able to determine that during June of 1986, Mr. McDowell was operating a 1975 Ford vehicle, two doors, bearing South Carolina license number ONJ 711. That officer had viewed this vehicle and have seen that the vehicle has damage on the left rear, said damage consistent with the vehicle having been wrecked on or about the first weekend of June 1986. That this affiant has talked with Lt. Earl Wells, Forensics Laboratory of the State Law Enforcement Division. Agent Wells is an expert in the comparison of hairs and has so testified in the courts of South Carolina in the past. The affiant talked with Col. Seboe of the Lexington County Sheriff's Department, who has been qualified in courts of records in South Carolina as an expert blood hound handler and trainer. Col. Seboe has advised this officer that blood hounds were called to the scene of the Gutierrez residence on the morning of June 6th, 1986, but were unable to pick and trail. Col. Seboe further advised that in his expert opinion the individual or individuals responsible for the abduction of Jessie Gutierrez had access to and use of a vehicle in their flight from the scene of the abduction.

Sworn to and Subscribed before me

this 3rd day of November, 1986.

Signature of Judge

Robert Cantrell

Affiant

McDowell 04470

RETURN

I received the attached Search Warrant _____, 19____, and have executed it as follows:

On _____, 19____ at _____ o'clock _____ M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____
Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: _____

This inventory was made in the presence of _____

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____, 19____

Signature of Judge (L.S.)

(Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

County of _____

SEARCH WARRANT

Date _____

Officer _____

RETURN

I received the attached Search Warrant NOV 3rd, 19 86, and have executed it as follows:
 On NOV 3rd, 19 86 at 1910 o'clock P M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Shirley McDowell
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: A 1975 Ford
ELITE Bearing SC Tag ONJ 711 for SC, VIN
5G21 H154 044 Vehicle taken to Lexington County
Sheriff's Dept where it was processed and the following
items seized:

- (A) Hand towel
- (B) Pipe wrench (Fam trunk)
- (C) Hairs - Fibers
- (D) Cigarette Butts
- (E) Debris (Cigarette lighter - Trash for Hairs)
- (F) One box and various paper items
- (G) Photographs and fingerprint lifts.

This inventory was made in the presence of George TANSILL, Virginia Jacobs
 AND Robert Bartlett

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 6th
 day of Nov, 19 86

[Signature]
 (L.S.)
 Signature of Judge

[Signature]
 (Signature of Officer Executing Warrant)

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF _____ :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, S.C.,
Lexington County. This vehicle is white in color.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

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A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

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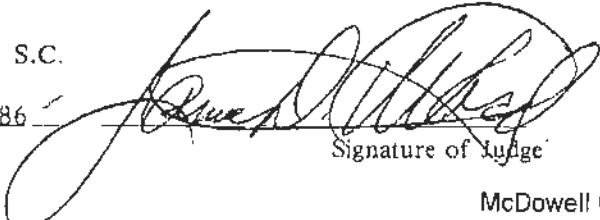
Magistrate Bruce Rutland

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington _____, S.C.

November 3 _____, 19 86


Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Detective Robert Bartlett who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Jessica Gutierrez's clothing, hair, fingerprints, and body fluids. Clothing that she was wearing at the time of her disappearance, a pink and white sleeveless t-shirt and white panties, and fibers.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986. VIN 5G21H154044 which is parked Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, South Carolina, Lexington County. This vehicle is white in color.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

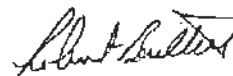
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(reason continued on attached page)

Sworn to and Subscribed before me

this 3 day of June, 19 86

(L.S.)

Signature of Judge



Affiant

Address 521 Gibson RdLex SCPhone 359 8230 McDowell 04476

Affidavit of Search Warrant

(continued)

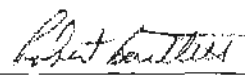
1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

that the door was unlocked and used as a point of exit therefrom. Crime scene technician with the Lexington County Sheriff's Department responded to the scene of the abduction and located on the mentioned window, one fingerprint suitable for identification and comparison purposes. Print was examined and photographed by Identification Officer R.M. Freeman, of the Lexington County Sheriff's Department. Investigators are informed and believed that the print is a print left by an individual who was responsible solely or with others for the abduction of Jessie Gutierrez. That on or about the 19th of August, 1986, investigators with the Lexington County Sheriff's Department began an investigation into a Burglary, Attempted Rape, and Grand Larceny of a Motor Vehicle, which occurred at a residence located on Highway 321 in Lexington County. Follow on August 19, 1986, investigation revealed one Thomas Eric McDowell was a suspect in this case. After Lexington County Sheriff's Officers received information that subject McDowell had been arrested in the North Carolina, County of Columbus, for an addition charge of rape, burglary, and Grand Larceny. That on or about the 3rd day of September, 1986, officers of the Lexington County Sheriff's Department went to Columbus County, North Carolina for the purpose of interviewing suspect Thomas Eric McDowell about the 19th August 1986 incident in Lexington County. McDowell stated, among other things that he knew Debbie Gutierrez, the mother of abducted Jessie Gutierrez, that he had been to her residence which was at the same location at the time he went there as it was at the time of the abduction of Jessica, but he had not been to the residence at about a year. That officers further obtained fingerprints of Thomas Eric McDowell on this same date of September 3rd, 1986. The prints thereafter were compared by Special Agent Marion Moore of the Federal Bureau of Investigations with the print which was located at the Gutierrez by Identification Officer Freeman on the morning of 6 June 1986 and Agent Moore has advise that the print found on the Gutierrez window is the same as fingerprint of Thomas Eric McDowell. Further investigation by the Lexington County Sheriff's Department and the State Law Enforcement Division revealed that Ms. Debbie Gutierrez had completely cleaned the window upon which the latent (later identified as McDowell) print was found in April of 1986. Further that Ms. Gutierrez had additional wash the window in June of 1986. Prior to the 5th of June, 1986. Prior to the 5th of June, 1986, that the affiant was further informed that Jennie Sturkie, sister of Debbie Gutierrez, that Thomas McDowell had wrecked his vehicle on or about the 6th or 7th of June 1986. That officers were able to determine that during June of 1986, Mr. McDowell was operating a 1975 Ford vehicle, two doors, bearing South Carolina license number ONJ 711. That officer had viewed this vehicle and have seen that the vehicle has damage on the left rear, said damage consistent with the vehicle having been wrecked on or about the first weekend of June 1986. That this affiant has talked with Lt. Earl Wells, Forensics Laboratory of the State Law Enforcement Division. Agent Wells is an expert in the comparison of hairs and has so testified in the courts of South Carolina in the past. The affiant talked with Col. Seboe of the Lexington County Sheriff's Department, who has been qualified in courts of records in South Carolina as an expert blood hound handler and trainer. Col. Seboe has advised this officer that blood hounds were called to the scene of the Gutierrez residence on the morning of June 6th, 1986, but were unable to pick and trail. Col. Seboe further advised that in his expert opinion the individual or individuals responsible for the abduction of Jessie Gutierrez had access to and use of a vehicle in their flight from the scene of the abduction

Sworn to and Subscribed before me

this 3rd day of November, 1986.

Signature of Judge


 Affiant

McDowell 04476

Arrival Time

11/4/86 9⁰⁰ AM

Arrival Date

County

Jexington

Law Enforcement Agency

SLED + LCSD

Offense

Kidnapping

Victim(s)

Gutierrez

Subject(s)

Thomas Eric McDowell

Vehicle VIN (if applicable)

5G21H154044

Model

Ford Elite

Year

75

Tag #

ONJ 711

10/86

Two Door

White

White Vinyl Top

Items Received for Analysis:

- (A) ~~Contents of Big Bag - hood bag (Chalk, Brakes, pul, sheet) (all back)~~
 (B) Pipe Wrench Truck
 (C) HAIRS - Fibers
 (D) Cigarettes
 (E) Debris (Cig lighter - trash for hairs)
 (F) 1-Box and VARIOUS paper items
 (G) Photos (taken/shot by George) and fingerprint lifts

George T.

F+G

11/4/86 1315 hrs

INVENTORY OF TOWED VEHICLES

MAKE: Ford MODEL: ELITE YEAR: 75 COLOR: White TAG #: ONS 711
 VIN: 5G21H154044
 OWNER: Shirley McDowell DRIVER: _____
 Address: 2550 Charleston Hwy # Address: _____
#18 Door mtd w/Car SC
 SITUATION: Driver Arrested _____ Vehicle Abandoned _____
 Vehicle Seized ☒ Stolen and Recovered _____
 TOW SERVICE: Name Ree Wre Wrecker Driver Ree Wre
 Towed To LCSD From 2550 Charleston Hwy w/Car

ITEMS INVENTORIED:

Glove Compartment:

Front Passenger Area:

Vehicle

NOT checked

Rear Passenger Area:

Rear Cargo Area:

Vehicle to be processed

Spare Tire? _____ Jack? _____

DAMAGE TO VEHICLE: Drivers side tires inflated so veh could be towed -
Drivers side Rear Quarter Panel Dented, Drivers side front fender side dent
1 wheel cover Pass front arch (3 missing) - front bumper mold loose - vinyl Top Trim-Rear
Passenger side Rear Quarter mold loose - Oil leak from Transmission
Ree Wre
 Wrecker Driver Signature OFFICER: Robert
 TIME: 1910 DATE: 11-3-16

CHECK IF APPLICABLE:

Hold For Owner

☒ Hold For Lexington County Sheriff's Department

RELEASED TO:

Name _____

Address _____

Signature _____

Time _____

Date _____

RELEASED BY:

White - Incident Report
 Green - Wrecker Service
 Yellow - With Vehicle
 Pink - Front Desk (File Copy)
 Gold - Front Desk (Release Copy)

McDowell 04478

Arrival Time

11/4/86 9⁰⁰ AM

Arrival Date

County

Jexington

Law Enforcement Agency

SLED + LCSD

Offense

Kidnapping

Victim(s)

Gutierrez

Subject(s)

Thomas ERIC McDowell

Det. Bob Benzel (LSC)

George Tansil

Ken

Jeff H.

Jacobs

Pink & white
Sleeveless T-shirt
White pants

Vehicle VIN (if applicable)

5G21H154044

Model

Ford Elite

Year

75

Tag #

ONJ 711

10/86

TWO DR.

White

White vinyl top

Items Received for Analysis:

- (A) ~~Contents of 1-Box hood bag (Chatter, Brakes, pulley, sheet) - (Ken took)~~
- (B) Rope wound around trunk
- (C) HAIRS - Fibers
- (D) Cigarettes
- (E) Debris (Cig lighter - Trunk for Hairs)
- (F) 1-Box and VARIOUS paper items
- (G) Photos (taken/shot by George) and fingerprint lifts

Ken
A-EGeorge T.
F+G

11/4/86 13:15 hrs

LEXINGTON COUNTY SHERIFF'S DEPT.
LEXINGTON, SOUTH CAROLINA 29072

JAMES R. METTS
Sheriff

RELEASE FORM

11-4-86

RELEASED TO

R Barrett From Roy Rawn

ADDRESS

521 Gibson Rd 2550 Charleston Hwy Cape

TELEPHONE NO.

3598230 779 3580 work

DESCRIPTION OF ARTICLE

Two Ford vehicle keys

H-33 Ignition Key & one Trunk Key

SERIAL NO.

MODEL NO.

CASE OR FILE NO.

OFFICER

R Barrett

SIGNATURE

Roy Rawn

WITNESS

WITNESS

NOTARY PUBLIC FOR S. C.
MY COMMISSION EXPIRES

LEXINGTON COUNTY SHERIFF'S DEPT.
LEXINGTON, SOUTH CAROLINA 29072

JAMES R. METTS
Sheriff

RELEASE FORM

RELEASED TO Shirley M. McDowell

ADDRESS 2558 Charleston Hwy

TELEPHONE NO. n/a

DESCRIPTION OF ARTICLE 1975 white Ford

Elite DC DJS 711

SERIAL NO. 5M214154044

MODEL NO. _____

CASE OR FILE NO. 86- 86-14106

OFFICER Metts

SIGNATURE Shirley McDowell

WITNESS Virginia Jacob

WITNESS _____

NOTARY PUBLIC FOR S. C.
MY COMMISSION EXPIRES _____

STATE OF SOUTH CAROLINA

County of Lexington

SEARCH WARRANT

Date 7-21-87

Officer Robert J. [Signature]

ORIGINAL
IN OFFICE w/court
FILED
UNDER McDOWELL, STEVEN

RETURN

I received the attached Search Warrant 21 July, 19 87, and have executed it as follows:
 On 21 July, 19 87 at 1410 o'clock P M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Kathleen Loran (Daughter of Shirley McDowell)
 Name of person searched or "at the place of search" with. #16
 Together with a receipt for the items seized. 2550 class 1 item WBL

The following is an inventory of property taken pursuant to the warrant: _____

1975 Ford ELITE SC TRG OVS 711
VIN 5F21 A154044

FLOOR CARPET in Passenger compartment
and CARPET from TRUNK

This inventory was made in the presence of _____
 AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 29th
 day of July, 19 87
[Signature] (L.S.)
NAM Signature of Judge

[Signature]
 (Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF _____ :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, S.C.,
Lexington County. This vehicle is white in color.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

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This Search Warrant shall not be valid for more than ten days from the date of issuance.

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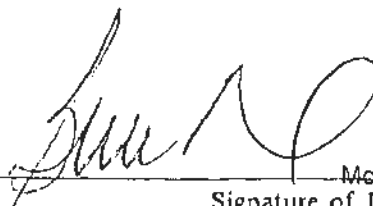
Magistrate Bruce Rutland

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington, S.C.

July 21, 19 87



McDowell 04483 (L.S.)

Signature of Judge

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Detective Robert Bartlett
 who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
 of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Jessica Gutierrez's body fluids.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, South Carolina,
Lexington County. This vehicle is white in color.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

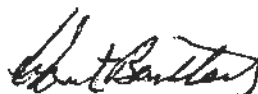
That on about the 6th day of June at approximately 9:00 AM, the Lexington County
Sheriff's Department responded to a call at the residence of Debbie Gutierrez, located at
2779 South Lake Drive, Highway #6, Lexington County, Lexington, South Carolina. That upon
their arrival they were informed by Debbie Gutierrez that her child Jessica Gutierrez, four
years of age was missing from her residence. Investigation revealed that Ms. Debbie Gutierrez
had retired at approximately midnight on the 5th of June and that Jessie along with her
other children were asleep in the Gutierrez residence. That at approximately 9:00 AM on the
6th of June 1986, Ms. Gutierrez checked on all of her children but was unable to locate four
year old Jessica in or about the residence. Further investigation revealed that upon re-
tiring on the night of the 5th of June 1986, Ms. Gutierrez had latched the front screen door
and the front door of her residence. Further the window to the right of the front door as
you face the front door was propped open several inches with a stick, however the screen was
intact and in place. Upon checking the residence the morning of June 6th, 1986, Ms. Gutierrez
discovered that the front door and front screen door were both unlocked. She further noticed
the screen on the window to the right of the front door was hanging down and that the stick
that had formally propped the window open had fallen to the deck on the front of the resi-
dence. Investigation revealed that this window was a point of entry into the residence and
 (reason continued on attached page)

Sworn to and Subscribed before me

this 12/27 day of July 1987

Signature of Judge

(L.S.)



Affiant

Address

521 Gibson Rd
Lex SC

Phone

McDowell 04484

Affidavit of Search Warrant

(continued)

1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

that the door was unlocked and used as a point of exit therefrom. Crime scene technician with the Lexington County Sheriff's Department responded to the scene of the abduction and located on the mentioned window, one fingerprint suitable for identification and comparison purposes. Print was examined and photographed by Identification Officer R.M. Freeman, of the Lexington County Sheriff's Department. Investigators are informed and believed that the print is a print left by an individual who was responsible solely or with others for the abduction of Jessie Gutierrez. That on or about the 19th of August, 1986, investigators with the Lexington County Sheriff's Department began an investigation into a Burglary, Attempted Rape, and Grand Larceny of a Motor Vehicle, which occurred at a residence located on Highway 321 in Lexington County. Follow on August 19, 1986, investigation revealed one Thomas Eric McDowell was a suspect in this case. After Lexington County Sheriff's Officers received information that subject McDowell had been arrested in the North Carolina, County of Columbus, for an addition charge of rape, burglary, and Grand Larceny. That on or about the 3rd day of September, 1986, officers of the Lexington County Sheriff's Department went to Columbus County, North Carolina for the purpose of interviewing suspect Thomas Eric McDowell about the 19th August 1986 incident in Lexington County. McDowell stated, among other things that he knew Debbie Gutierrez, the mother of abducted Jessie Gutierrez, that he had been to her residence which was at the same location at the time he went there as it was at the time of the abduction of Jessica, but he had not been to the residence at about a year. That officers further obtained fingerprints of Thomas Eric McDowell on this same date of September 3rd, 1986. The prints thereafter were compared by Special Agent Marion Moore of the Federal Bureau of Investigations with the print which was located at the Gutierrez by Identification Officer Freeman on the morning of 6 June 1986 and Agent Moore has advise that the print found on the Gutierrez window is the same as fingerprint of Thomas Eric McDowell. Further investigation by the Lexington County Sheriff's Department and the State Law Enforcement Division revealed that Ms. Debbie Gutierrez had completely cleaned the window upon which the latent (later identified as McDowell) print was found in April of 1986. Further that Ms. Gutierrez had additional wash the window in June of 1986. Prior to the 5th of June, 1986. Prior to the 5th of June, 1986, that the affiant was further informed that Jennie Sturkie, sister of Debbie Gutierrez, that Thomas McDowell had wrecked his vehicle on or about the 6th or 7th of June 1986. That officers were able to determine that during June of 1986, Mr. McDowell was operating a 1975 Ford vehicle, two doors, bearing South Carolina license number ONJ 711. That officer had viewed this vehicle and have seen that the vehicle has damage on the left rear, said damage consistent with the vehicle having been wrecked on or about the first weekend of June, 1986. That this affiant has talked with Lt. Earl Wells, Forensics Laboratory of the State Law Enforcement Division. Agent Wells is an expert in the comparison of hairs and has so testified in the courts of South Carolina in the past. The affiant talked with Col. Seboe of the Lexington County Sheriff's Department, who has been qualified in courts of records in South Carolina as an expert blood hound handler and trainer. Col. Seboe has advised this officer that blood hounds were called to the scene of the Gutierrez residence on the morning of June 6th, 1986, but were unable to pick and trail. Col. Seboe further advised that in his expert opinion the individual or individuals responsible for the abduction of Jessie Gutierrez had access to and use of a vehicle in their flight from the scene of the abduction.

(continued - second page)

Sworn to and Subscribed before me

this

2nd day of July, 1987.

Signature of Judge

Robert B. Balliett
Affiant

McDowell 04485

Affidavit of Search Warrant

(page 2 continuation)

1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

On February 5, 1987, as investigation continued by Lexington County Sheriff's Department, Investigator Bartlett learned from a confidential informant that suspect Thomas Eric McDowell confided in him of his concern that body fluids from the small child he had abducted and placed on the floorboard of his car would be found by authorities. Description of the car is a 1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044. The informant was told by McDowell that the abduction took place in Lexington County, Lexington, South Carolina.

Robert Bartlett
Sworn to and Subscribed before me

this 21st day of July, 1987.

Dwight R. [Signature]
Signature of Judge

(E)

LEXINGTON COUNTY SHERIFF DEPARTMENT

IDENTIFICATION DIVISION

EVIDENCE REPORT

FILE NUMBER _____

DEFENDANT _____

DATE 7-21-87TIME 1515

COMPLAINANT _____

CASE OFFICER R BARTLETTEVIDENCE DELIVERED BY GardnerVICTIM(S) Jessica GutierrezVIA R BARTLETTCASE NUMBER 8614106

TEST OR EXAMINATION REQUESTED _____

EVIDENCE RECEIVED: (Include color, make, brand, model and serial number when applicable)

1975 Ford ELITE SC TRQ ONT 711
VIN 5G21H1521044 - white in blue

NO KEYS + NO WHEELS

Test or Examination results done by L.C.S.D. or the agency evidence was forwarded to for analysis:

CHAIN OF CUSTODY:

TO <u>[Signature]</u>	FROM <u>R. Bartlett</u>	DATE <u>7-21-87</u>	TIME <u>1515</u>
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____

INVENTORY OF TOWED VEHICLES

MAKE: Ford Torino ELITE MODEL: ELITE YEAR: 1975 COLOR: White TAG #: ONT 711VIN: 5G2H154044OWNER: Shirley McDowellDRIVER: N/AAddress: #18 Davis MHAAddress: 29169

SITUATION: Driver Arrested

Vehicle Abandoned

Vehicle Seized ☒

Stolen and Recovered

TOW SERVICE: Name

Towed To

Wrecker Driver

From

ITEMS INVENTORIED:

Glove Compartment:

Front Passenger Area:

Vehicle TO Be TowedTO L C S D For

Rear Passenger Area:

Rear Cargo Area:

ProcessingNOT INVENTORIED

Spare Tire?

Jack?

DAMAGE TO VEHICLE:

DIRTY - no wheels or tires -Minor Damage Drivers sideVinyl Roof torn need of Repair

Wrecker Driver Signature

OFFICER:

TIME:

DATE:

CHECK IF APPLICABLE:

☐ Hold For Owner☒

Hold For Lexington County Sheriff's Department

RELEASED TO:

Name

Address

Signature

Time

Date

RELEASED BY:

White - Incident Report

Green - Wrecker Service

Yellow - With Vehicle

Pink - Front Desk (File Copy)

Gold - Front Desk (Release Copy)

McDowell 04488

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
LEXINGTON, SOUTH CAROLINA

JAMES R. METTS
SHERIFF

RELEASE FORM

RELEASED TO Ronnie McDowell

ADDRESS 2550 Chris Hwy W Columbia SC

TELEPHONE NUMBER _____

DESCRIPTION OF ARTICLE 1975 Ford 2 Dr SC Reg

ONS 711 (SC 1986) VIN 5G21H154044

SERIAL NUMBER _____

MODEL NUMBER _____

CASE OR FILE NUMBER 8614106

OFFICER [Signature]

SIGNATURE Ronald McDowell

WITNESS _____

WITNESS _____

NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES _____

Pritchard, David

From: Pritchard, David
Sent: Friday, March 07, 2008 8:20 AM
To: Whittle, Scott
Subject: Ref. Phone Call

This is in reference to the Gutierrez case from June 6, 1986. Two search warrants were obtained several months apart from Judge Rutland. One was signed on November 3, 1986 and the other one was signed on July 21, 1987. Both of them were obtained by Detective Bob Bartlett and were for a 1975 Ford bearing S.C. tag ONJ 711. Please look to see if you can find these search warrants. If you need me to, I will be glad to help look for them.

Thanks very much!



Sergeant David L. Pritchard
Lexington County Sheriff's Department
Training Division
521 Gibson Road
Lexington, S.C. 29072
(803)785-2561 Office
(803)785-2544 Fax

774 AGENCY I.D.
SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

CASE NUMBER
8614106

SUPPLEMENTAL REPORT



☐ ORIGINAL REPORT
☐ SUPPLEMENTAL REPORT
☐ STATUS CHANGE

☐ ADDITIONAL VICTIMS
☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL STOLEN PROPERTY
☐ ADDITIONAL RECOVERED PROPERTY

PAGE _____ of _____ PAGES.

ORIGINAL COMPLAINANT ☐ OR VICTIM ☐

NAME Gutierrez, Jessica

STREET ADDRESS

CITY - STATE - ZIP

TRACT

INCIDENT TYPE

TRACT

ORIGINAL SUSPECT:

NAME

DATE OF BIRTH

STREET ADDRESS

RACE

SEX

CITY - STATE - ZIP

TRACT

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____.

CANCEL NCIC ENTRY: YES _____ NO _____

November 3, 1986

A search warrant was sought on McDowell's vehicle, a 1975 Ford Elite, 2 door, which he had been operating at the time of victims abduction.

The vehicle was seized and transported to LCSD by Pee Wee Shull, where it was processed by SLED ID officers.

The vehicle was taken from 2550 Charleston highway, about 1910, and returned on the 4th about 1600.

Aside from flares found in the vehicle, also found were fingerprints, cigarette butts and fibers found in trash inside vehicle. These were to be further analyzed by SLED.

JURISDICTION OF THEFT

JURISDICTION OF RECOVERY

☒ ACTIVE
☐ UNFOUNDED
☐ ADMINIST. CLOSED

☐ ARRESTED UNDER 18
☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18
☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ VICTIM/WITNESS DECLINES COOPERATION 4 ☐ EXTRADITION DENIED 5 ☐ JUVENILE, NO ARREST

REPORTING OFFICER

DATE

UNIT NUMBER

APPROVING OFFICER

DATE

UNIT NUMBER

R. Bartlett

11-5-86

REPORTING OFFICER

DATE

UNIT NUMBER

APPROVING OFFICER

McDowell 03555

UNIT NUMBER

1-261 (REV. 3-79)

FBI LATENT FINGERPRINT SECTION

FILE
LC

NC0750000 POA

SO Polk Co.

PO Box 595

Columbus, NC 28722

SIGNATURE OF PERSON FINGERPRINTED

X [Signature]

SIGNATURE OF OFFICIAL TAKING PRINTS AND DATE

X [Signature] 11-5-00

DATE OF BIRTH

DATE OF BIRTH OF STATE

COMPLETED FINGERPRINTS

LEAVE BLANK

CLASS

COMPLETED FINGERPRINTS FOR STATE

NCIC
FPC

THIS DATA MAY BE COMPUTERIZED
IN LOCAL, STATE, AND NATIONAL FILES

ADDITIONAL IDENTIFYING DATA



5 R LITTLE



4 R RING



3 R MIDDLE



2 R INDEX



1 R THUMB



5 L LITTLE



4 L RING



3 L MIDDLE



2 L INDEX



1 L THUMB



10 L LITTLE



9 L RING



8 L MIDDLE



7 L INDEX



6 L THUMB

RIGHT FOUR FINGERS TAKEN SEPARATELY

LEFT FOUR FINGERS TAKEN SEPARATELY

776 AGENCY I.D.
SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

CASE NUMBER
8,614 106

SUPPLEMENTAL REPORT

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

PAGE 1 of 4 PAGES.

ORIGINAL COMPLAINANT ☐ OR VICTIM ☐	
NAME: <u>Jessica Gutierrez</u>	
STREET ADDRESS:	
CITY - STATE - ZIP:	TRACT:
INCIDENT TYPE:	TRACT:
ORIGINAL SUSPECT:	
NAME:	
STREET ADDRESS:	DATE OF BIRTH:
CITY - STATE - ZIP:	RACE: SEX:
	TRACT:

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

September 3, 1986

Detective along with Detective Cato traveled to Columbus N.C. in order to interview subject Thomas E. McDowell who was in custody there on charges of Burglary, Rape, and Larceny. Detectives spoke with the chief there and learned that subject had been arrested after breaking into a home and criminally sexually assaulting a female. Subject had been operating a van, which had been learned to be stolen from Lexington, S.C.

Detectives spoke with McDowell and advised him of Miranda, at which time subject stated that he would speak with Detectives with his attorney present.

Attempts to contact his attorney was met, however his attorney stated that he was not meeting with subject and detectives to represent subject on S.C. charges, and therefore he refused to meet with subject or detectives.

Detective asked subject if detective could ask him about unrelated events and subject stated that he guessed that would be ok. Detective learned that subject knew victims mother, and had been at complainants house (above case #). He knew that one of complainant's kids had been the victim of a kidnapping. Subject stated he did not know a J.R. Gordon, Jr. Subject talked freely however, detective did not continue the questioning due to not wishing to violate subjects rights.

Prior to leaving Columbus Jail, detective requested and recieved a set of fingerprints of subject due to subjects name arising in the investigation and for elimination purposes.

September 2, 1986

Detective, Agents Meyers, and Jacobs interviewed suspect at LCSD Jail this date, about 1300 hours. After advising suspect of Miranda, and inquiring of above case, suspect stated that he did not wish to speak to officers

JURISDICTION OF THEFT		JURISDICTION OF RECOVERY		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
				☐ UNFOUNDED		
				☐ ADMINIST. CLOSED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ VICTIM/WITNESS DECLINES COOPERATION 4 ☐ EXTRADITION DENIED 5 ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Bartlett, Bob	9-4-86					
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
			McDowell	03540		

STATE OF SOUTH CAROLINA

County of _____

SEARCH WARRANT

Date _____

Officer _____

COUNTY OF Lexington

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978
COPY

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF _____ :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, S.C., Lexington County. This vehicle is white in color.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Magistrate Bruce Rutland

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington, S.C.

November 3, 19 86

Signature of Judge

(L.S.)

McDowell 04468

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Detective Robert Bartlett who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Jessica Gutierrez's clothing, hair, fingerprints, and body fluids. Clothing that she was wearing at the time of her disappearance, a pink and white sleeveless t-shirt and white panties, and fibers.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is parked Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, South Carolina, Lexington County. This vehicle is white in color.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

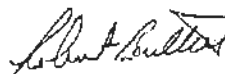
That on about the 6th day of June at approximately 9:00 AM, the Lexington County Sheriff's Department responded to a call at the residence of Debbie Gutierrez, located at 2779 South Lake Drive, Highway #6, Lexington County, Lexington, South Carolina. That upon their arrival they were informed by Debbie Gutierrez that her child Jessica Gutierrez, four years of age was missing from her residence. Investigation revealed that Ms. Debbie Gutierrez had retired at approximately midnight on the 5th of June and that Jessie along with her other children were asleep in the Gutierrez residence. That at approximately 9:00 AM on the 6th of June 1986, Ms. Gutierrez checked on all of her children but was unable to locate four year old Jessica in or about the residence. Further investigation revealed that upon retiring on the night of the 5th of June 1986, Ms. Gutierrez had latched the front screen door and the front door of her residence. Further the window to the right of the front door as you face the front door was propped open several inches with a stick, however the screen was intact and in place. Upon checking the residence the morning of June 6th, 1986, Ms. Gutierrez discovered that the front door and front screen door were both unlocked. She further noticed the screen on the window to the right of the front door was hanging down and that the stick that had formally propped the window open had fallen to the deck on the front of the residence. Investigation revealed that this window was a point of entry into the residence and
(reason continued on attached page)

Sworn to and Subscribed before me

this 3 day of June, 1986

Signature of Judge

(L.S.)



Affiant

Address 521 Gibson RdLx SCPhone 359 8230 McDowell 04469

Affidavit of Search Warrant

(continued)

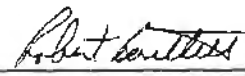
1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

that the door was unlocked and used as a point of exit therefrom. Crime scene technician with the Lexington County Sheriff's Department responded to the scene of the abduction and located on the mentioned window, one fingerprint suitable for identification and comparison purposes. Print was examined and photographed by Identification Officer R.M. Freeman, of the Lexington County Sheriff's Department. Investigators are informed and believed that the print is a print left by an individual who was responsible solely or with others for the abduction of Jessie Gutierrez. That on or about the 19th of August, 1986, investigators with the Lexington County Sheriff's Department began an investigation into a Burglary, Attempted Rape, and Grand Larceny of a Motor Vehicle, which occurred at a residence located on Highway 321 in Lexington County. Follow on August 19, 1986, investigation revealed one Thomas Eric McDowell was a suspect in this case. After Lexington County Sheriff's Officers received information that subject McDowell had been arrested in the North Carolina, County of Columbus, for an addition charge of rape, burglary, and Grand Larceny. That on or about the 3rd day of September, 1986, officers of the Lexington County Sheriff's Department went to Columbus County, North Carolina for the purpose of interviewing suspect Thomas Eric McDowell about the 19th August 1986 incident in Lexington County. McDowell stated, among other things that he knew Debbie Gutierrez, the mother of abducted Jessie Gutierrez, that he had been to her residence which was at the same location at the time he went there as it was at the time of the abduction of Jessica, but he had not been to the residence at about a year. That officers further obtained fingerprints of Thomas Eric McDowell on this same date of September 3rd, 1986. The prints thereafter were compared by Special Agent Marion Moore of the Federal Bureau of Investigations with the print which was located at the Gutierrez by Identification Officer Freeman on the morning of 6 June 1986 and Agent Moore has advise that the print found on the Gutierrez window is the same as fingerprint of Thomas Eric McDowell. Further investigation by the Lexington County Sheriff's Department and the State Law Enforcement Division revealed that Ms. Debbie Gutierrez had completely cleaned the window upon which the latent (later identified as McDowell) print was found in April of 1986. Further that Ms. Gutierrez had additional wash the window in June of 1986. Prior to the 5th of June, 1986. Prior to the 5th of June, 1986, that the affiant was further informed that Jennie Sturkie, sister of Debbie Gutierrez, that Thomas McDowell had wrecked his vehicle on or about the 6th or 7th of June 1986. That officers were able to determine that during June of 1986, Mr. McDowell was operating a 1975 Ford vehicle, two doors, bearing South Carolina license number ONJ 711. That officer had viewed this vehicle and have seen that the vehicle has damage on the left rear, said damage consistent with the vehicle having been wrecked on or about the first weekend of June 1986. That this affiant has talked with Lt. Earl Wells, Forensics Laboratory of the State Law Enforcement Division. Agent Wells is an expert in the comparison of hairs and has so testified in the courts of South Carolina in the past. The affiant talked with Col. Seboe of the Lexington County Sheriff's Department, who has been qualified in courts of records in South Carolina as an expert blood hound handler and trainer. Col. Seboe has advised this officer that blood hounds were called to the scene of the Gutierrez residence on the morning of June 6th, 1986, but were unable to pick and trail. Col. Seboe further advised that in his expert opinion the individual or individuals responsible for the abduction of Jessie Gutierrez had access to and use of a vehicle in their flight from the scene of the abduction.

Sworn to and Subscribed before me

this 3rd day of November, 1986.

Signature of Judge



Affiant

McDowell 04470

RETURN

I received the attached Search Warrant NOV 3rd, 19 86, and have executed it as follows:
 On NOV 3rd, 19 86 at 1910 o'clock P M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Shirley McDowell
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: A 1975 Ford
ELITE Bearing SC TAG ONJ 711 For 86 VIN
5G21 H154 044. Vehicle taken to Lexington County
Sheriff's Dept where it was processed and the following
items seized:

- (A) Hand Towel
- (B) Pipe wrench (from trunk)
- (C) Hairs & Fibers
- (D) Cigarette Butts
- (E) Debris (Cigarette lighter - trash for hairs)
- (F) One box and various paper items
- (G) Photographs and fingerprint lifts.

This inventory was made in the presence of George Tansill, Virginia Jacobs
 AND Robert Brattlett

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 6th

day of Nov, 19 86

[Signature]
 Signature of Judge

(L.S.)

[Signature]
 (Signature of Officer Executing Warrant)

STATE OF SOUTH CAROLINA

County of Lexington

SEARCH WARRANT

Date 7-21-87
Officer Robert J. Stanley

ORIGINAL
IN CHARGE W/COPIES
OFFICE FILED
UNDER McDOWELL, STANLEY

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 15, 1978

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF _____ :

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
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A written inventory of all property seized pursuant to this Search Warrant shall be made to

Magistrate Bruse Rutland

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Lexington, S.C.

July 21, 19 87



McDowell 04483

(L.S.)

Signature of Judge

784
STATE OF SOUTH CAROLINA

COUNTY OF Lexington

AFFIDAVIT

Personally appeared before me, one Detective Robert Bartlett
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Jessica Gutierrez's body fluids.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A 1975 Ford 2 door bearing South Carolina tag ONJ 711 for 1986, VIN 5G21H154044 which is
parked at Lot #18 Doris Mobile Home Park, 2550 Charleston Hwy., West Columbia, South Carolina,
Lexington County. This vehicle is white in color.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

That on about the 6th day of June at approximately 9:00 AM, the Lexington County
Sheriff's Department responded to a call at the residence of Debbie Gutierrez, located at
2779 South Lake Drive, Highway #6, Lexington County, Lexington, South Carolina. That upon
their arrival they were informed by Debbie Gutierrez that her child Jessica Gutierrez, four
years of age was missing from her residence. Investigation revealed that Ms. Debbie Gutierrez
had retired at approximately midnight on the 5th of June and that Jessie along with her
other children were asleep in the Gutierrez residence. That at approximately 9:00 AM on the
6th of June 1986, Ms. Gutierrez checked on all of her children but was unable to locate four
year old Jessica in or about the residence. Further investigation revealed that upon re-
tiring on the night of the 5th of June 1986, Ms. Gutierrez had latched the front screen door
and the front door of her residence. Further the window to the right of the front door as
you face the front door was propped open several inches with a stick, however the screen was
intact and in place. Upon checking the residence the morning of June 6th, 1986, Ms. Gutierrez
discovered that the front door and front screen door were both unlocked. She further noticed
the screen on the window to the right of the front door was hanging down and that the stick
that had formally propped the window open had fallen to the deck on the front of the resi-
dence. Investigation revealed that this window was a point of entry into the residence and
(reason continued on attached page)

Sworn to and Subscribed before me

this

day of

19

(L.S.)

Signature of Judge

Robert Bartlett

Affiant

Address

521 Gibson Rd
Lex SC

Phone

McDowell 04484

Affidavit of Search Warrant

(continued)

1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

that the door was unlocked and used as a point of exit therefrom. Crime scene technician with the Lexington County Sheriff's Department responded to the scene of the abduction and located on the mentioned window, one fingerprint suitable for identification and comparison purposes. Print was examined and photographed by Identification Officer R.M. Freeman, of the Lexington County Sheriff's Department. Investigators are informed and believed that the print is a print left by an individual who was responsible solely or with others for the abduction of Jessie Gutierrez. That on or about the 19th of August, 1986, investigators with the Lexington County Sheriff's Department began an investigation into a Burglary, Attempted Rape, and Grand Larceny of a Motor Vehicle, which occurred at a residence located on Highway 321 in Lexington County. Follow on August 19, 1986, investigation revealed one Thomas Eric McDowell was a suspect in this case. After Lexington County Sheriff's Officers received information that subject McDowell had been arrested in the North Carolina, County of Columbus, for an addition charge of rape, burglary, and Grand Larceny. That on or about the 3rd day of September, 1986, officers of the Lexington County Sheriff's Department went to Columbus County, North Carolina for the purpose of interviewing suspect Thomas Eric McDowell about the 19th August 1986 incident in Lexington County. McDowell stated, among other things that he knew Debbie Gutierrez, the mother of abducted Jessie Gutierrez, that he had been to her residence which was at the same location at the time he went there as it was at the time of the abduction of Jessica, but he had not been to the residence at about a year. That officers further obtained fingerprints of Thomas Eric McDowell on this same date of September 3rd, 1986. The prints thereafter were compared by Special Agent Marion Moore of the Federal Bureau of Investigations with the print which was located at the Gutierrez by Identification Officer Freeman on the morning of 6 June 1986 and Agent Moore has advise that the print found on the Gutierrez window is the same as fingerprint of Thomas Eric McDowell. Further investigation by the Lexington County Sheriff's Department and the State Law Enforcement Division revealed that Ms. Debbie Gutierrez had completely cleaned the window upon which the latent (later identified as McDowell) print was found in April of 1986. Further that Ms. Gutierrez had additional wash the window in June of 1986. Prior to the 5th of June, 1986. Prior to the 5th of June, 1986, that the affiant was further informed that Jennie Sturkie, sister of Debbie Gutierrez, that Thomas McDowell had wrecked his vehicle on or about the 6th or 7th of June 1986. That officers were able to determine that during June of 1986, Mr. McDowell was operating a 1975 Ford vehicle, two doors, bearing South Carolina license number ONJ 711. That officer had viewed this vehicle and have seen that the vehicle has damage on the left rear, said damage consistent with the vehicle having been wrecked on or about the first weekend of June, 1986. That this affiant has talked with Lt. Earl Wells, Forensics Laboratory of the State Law Enforcement Division. Agent Wells is an expert in the comparison of hairs and has so testified in the courts of South Carolina in the past. The affiant talked with Col. Seboe of the Lexington County Sheriff's Department, who has been qualified in courts of records in South Carolina as an expert blood hound handler and trainer. Col. Seboe has advised this officer that blood hounds were called to the scene of the Gutierrez residence on the morning of June 6th, 1986, but were unable to pick and trail. Col. Seboe further advised that in his expert opinion the individual or individuals responsible for the abduction of Jessie Gutierrez had access to and use of a vehicle in their flight from the scene of the abduction.

(continued - second page)

Sworn to and Subscribed before me

this 2nd day of July, 19 87.

Signature of Judge


 Affiant

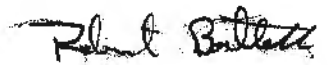
McDowell 04485

Affidavit of Search Warrant

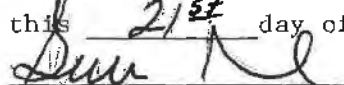
(page 2 continuation)

1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044

On February 5, 1987, as investigation continued by Lexington County Sheriff's Department, Investigator Bartlett learned from a confidential informant that suspect Thomas Eric McDowell confided in him of his concern that body fluids from the small child he had abducted and placed on the floorboard of his car would be found by authorities. Description of the car is a 1975 Ford 2 door, S.C. tag ONJ 711 for 1986, VIN 5G21H154044. The informant was told by McDowell that the abduction took place in Lexington County, Lexington, South Carolina.


Sworn to and Subscribed before me

this 21st day of July, 1987.



Signature of Judge

RETURN

I received the attached Search Warrant 21 July, 19 87, and have executed it as follows:
 On 21 July, 19 87 at 1410 o'clock P M, I searched
 (the person) described in the warrant and (the premises)

I left a copy of the warrant with Katlynn Lohan (Daughter of Shirley McDowell)
 Name of person searched or "at the place of search" with. #16
 Together with a receipt for the items seized. 2550 class 14mg w/64

The following is an inventory of property taken pursuant to the warrant: _____

1975 Ford ELITE SC TH9 CWS 711
VIN 5F21A154044

FLOOR CARPET in Passenger Compartment
and CARPET from TRUNK

This inventory was made in the presence of _____
 AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 29th
 day of July, 19 87
NAM Signature of Judge (L.S.)

Rosetta
 (Signature of Officer Executing Warrant)

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South Carolina

Agency ID SC0320000

SUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

9-3-86

Det along with Det Cato traveled to Columbus NC in order to interview sub Thomas E. McDowell who was in custody there on charges of Burglary, Rape, and Larceny.

Dets spoke with the chief there and learned that sub had been arrested after breaking into a home and criminally sexually assaulting a female. That sub had been operating a van, which had been learned had been stolen from Lexington SC.

Dets spoke with McDowell and advised him of Miranda, at which time sub stated that he would speak with Dets, with his attorney present.

Attempts to contact his attorney was met, however his attorney stated that he was not meeting with sub and Dets, to represent sub on SC charges, and therefore he refused to meet with sub or Dets.

Det asked sub if Det could ask him about unrelated events and sub stated that he guessed that would be ok.

Det learned that sub knew victims mother, and had been at comps house (above case #1).

That he knew that one of comps kids had been the victim of a kidnapping.

That sub stated he didnt know a J.R. Gordon Jr.

Sub talked freely however, Det didnt cont the questioning due to not wishing to violate subs rights.

Prior to leaving Columbus jail, Det requested and received a set of fingerprints of sub due to subs name arising in investigation, and for elimination purposes.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐

CLEARED BY ARREST.....☐

Over 18.....☐

EXCEPTIONALLY CLEARED Under 18.....☐

ADMINISTRATIVELY CLEARED.....☐

ACTIVE.....☐

SIGNED R Bartlett DATE 9-4-86
Investigating Officer

SIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

McDowell-07958

SIGNATURE OF PERSON FINGERPRINTED

W. E. McQuinn

SIGNATURE OF SPECIAL TRAINING PRINTS AND DATE

John C. Aet

NC0750000 POA

50 Polk Co.
PO Box 595
Columbus, NC 28722

File 6084

LEAVE BLANK

CLASS

REF

THIS DATA MAY BE COMPUTERIZED
IN LOCAL, STATE AND NATIONAL FILES

NCPC
FPC

1 R THUMB

2 R INDEX

3 R MIDDLE

4 R RING

5 R LITTLE

6 L THUMB

7 L INDEX

8 L MIDDLE

9 L RING

10 L LITTLE



FBI LATENT FINGERPRINT SECTION
1001 JUNE 2 1975
FILE
LC

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South Carolina

Agency ID SC0320000

SUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

11-3-86

A search warrant was sought on McDowell's vehicle, a 1975 Ford Elite, 2 door which he had been operating at the time of victim's abduction.

The vehicle was seized and transported to LCSD by Pee Wee Shull, where it was processed by SLED ID officers.

The vehicle was taken from 2550 Charleston Hwy W. Cola, about 1910, and returned on the 4th about 1600.

Aside from hairs found in the vehicle, also found were fingerprints, cigarette butts and fibers found in trash inside vehicle.

These were to be further analyzed by SLED.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐

CLEARED BY ARREST.....☐

EXCEPTIONALLY CLEARED Over 18.....☐
Under 18.....☐

ADMINISTRATIVELY CLEARED.....☐

ACTIVE.....☐

SIGNED R Bartlett DATE 11-5-86
Investigating Officer

SIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

McDowell 07909

AGENCY I.D.
SC0320000

LEXINGTON COUNTY SHERIFF'S OFFICE

791

8, 6, 1

SUPPLEMENTAL REPORT

PAGE

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

ORIGINAL COMPLAINANT ☐ OR VICTIM ☐

NAME: Jessica Gutierrez

STREET ADDRESS:

CITY - STATE - ZIP:

TRACT:

INCIDENT TYPE:

TRACT:

ORIGINAL SUSPECT:

NAME:

DATE OF BIRTH:

STREET ADDRESS:

RACE:

SEX:

CITY - STATE - ZIP:

TRACT:

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

July 21, 1987

Detective sought a second search warrant on suspect vehicle, 1975 Ford Elite, SC Tag ONJ711, from Magistrate Rutland, and upon receiving same approached the location of vehicle at 2550 Charleston Highway and with the assistance of Gardners Towing took possession of vehicle and it was brought to L CSD where Ken Habben, SLED removed carpeting from the vehicle.

Later this date, detective and agent Jacobs, SLED, traveled to York, SC in order to speak with Charles McDowell on contacting Mr. McDowell work records for suspect were received showing that suspect had worked to June 5th but did not work on June 6th. Mr. McDowell was at that time building his own home and was preparing the foundation for his home. The foundation was actually poured on June 9th.

July 23, 1987

Not having the vehicle keys of the 1975 Ford being searched, detective went to the McDowell residence and spoke with Mrs. McDowell and inquired if the key could be used to enter the truck of the vehicle. Mrs. McDowell supplied this key which detective returned to LCSD and opened the trunk for search of the carpet there.

JURISDICTION OF THEFT		JURISDICTION OF RECOVERY		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
				☐ UNPROVISED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
				☐ ADMINIST. CLOSED		
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Bartlett, Bob	7-23-87	310				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
			McDowell 03583			

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	INDICTMENT NUMBERS:
THE STATE	)	2022GS3206096, 2022GS3206097,
	)	2022GS3206098
vs.	)	
	)	
	)	MOTION TO DISMISS
Thomas Eric McDowell,	)	
Defendant.	)	
_____	)	

The Defendant, Thomas Eric McDowell, through his under-signed counsel hereby moves for an order dismissing the charges on which he is held. Mr. McDowell makes this motion pursuant to the Due Process Clause of the Fifth Amendment to the United States Constitution and pursuant to Article I, section 3 of the South Carolina Constitution.

Allegations

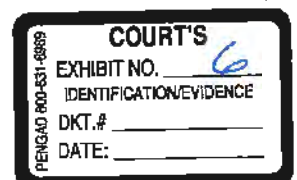
The State alleges that Mr. McDowell committed murder; burglary, first degree; and kidnapping on or about June 6, 1986, by entering the home of Debra Gutierrez, taking her daughter Jessica Gutierrez, and subsequently killing Jessica Gutierrez. The same year, law enforcement determined that Mr. McDowell's fingerprint was on the window of the Gutierrez home, and Mr. McDowell has been the primary suspect ever since.

Several law enforcement agencies investigated the case, including the Lexington County Sheriff's Department, the South Carolina Law Enforcement Division, and the Federal Bureau of Investigation, in addition to a multitude of police agencies around the country.

On January 1, 2022, David Pritchard of the Lexington County Sheriff's Department appeared before the presiding magistrate judge and requested an arrest warrant. The magistrate determined that there was probable cause and issued a warrant. Mr. McDowell was arrested in North Carolina, where he lived at the time, and by January 13, 2022, he was incarcerated at the Lexington County Detention Center.

Pre-Indictment Delay

The South Carolina Supreme Court has found that excessive pre-indictment delay violates due process rights under the Fifth Amendment. In State v. Lee, 375 S.C. 394, 653 S.E.2d 259 (2007), the Court affirmed the decision of the Court of Appeals vacating the convictions and forty-five year sentence of Larry Lee. The Department of Social Services investigated Lee in 1988 for sexually



abusing his stepdaughters, following a juvenile criminal investigation. The stepdaughters were removed from the home but later returned. The solicitor's office prosecuted the DSS case in family court, but no criminal charges were filed until Lee was indicted in 2001.

The Court applied the two-pronged inquiry of State v. Brazell, 325 S.C 65, 72-73, 480 S.E.2d 64, 68-69 (1997), which requires a defendant to show that the delay caused substantial actual prejudice to his right to a fair trial and requires the court to consider the reason for the State's delay and to balance the justification for the delay against the prejudice to the defendant.

First, the Court found that Lee had proved that the delay caused substantial actual prejudice to his right to a fair trial and that he had shown that he was meaningfully impaired in his ability to defend against the State's charges to such an extent that the disposition of the criminal proceeding was likely affected.

The twelve-year delay in Lee's case meant that all records from the family court case had been destroyed, including those explaining why the stepdaughters were returned. Lee was unable to find the same information from other sources because he could not find his original attorney and because the DSS investigator could not remember the details of the investigation. These problems meant that Lee could not adequately cross-examine the witnesses or refute delayed disclosure evidence.

Second, the Court considered the prosecution's reasons for the delay. In addressing the second prong, the Court adopted the standard from the Fourth Circuit, which does not require a defendant to show an improper motive on the part of the prosecution, but rather requires the court to consider the prosecution's reasons for the delay and to balance the justification for delay with any prejudice to the defendant. The Court said that the basic inquiry is whether the delay violates fundamental conceptions of justice or the community's sense of fair play and decency.

The Court found that the State had no valid explanation for the delay and found that the State's explanation, that other allegations and charges of similar conduct with other alleged victims had surfaced, did not explain the delay nor justify the substantial prejudice to Lee.

Law enforcement obtained the significant physical evidence against Thomas McDowell and identified the significant witnesses early in the investigation. Law enforcement reviewed the progress of the investigation with the Lexington County Solicitor's Office on multiple occasions. Law enforcement has known the whereabouts of Mr. McDowell and has had no difficulty locating him since 1986.

Argument

Between 1986 and 2022, the State made no attempt to prosecute Mr. McDowell. The case was

never presented to a magistrate judge for an arrest warrant nor to a grand jury for an indictment.

The delay of over thirty-five years between the time that Mr. McDowell was considered the primary suspect and the time of his arrest has prevented Mr. McDowell from investigating the case and will prevent him from meaningfully cross-examining key witnesses expected to testify against him. The State has shown no valid reason for the delay in prosecuting Mr. McDowell, and any justification it may present does not outweigh the prejudice to Mr. McDowell.

Respectfully submitted,

Sarah H. Mauldin

Sarah H. Mauldin
Attorney for the Defendant
202 E. Main St.
Lexington, SC 29072
(803) 785-8873

Lexington, South Carolina

Date: 2/1/24



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

4400 Broad River Road (J.P. Strom Boulevard) • Mail: P. O. Box 21398
Columbia, South Carolina 29221-1398 • Phone: 803/758-6000

January 5, 1987

RICHARD W. RILEY
Governor

J.P. STROM
Chief

J. LEON GASQUE
Captain

TO:	Chief J. P. Strom	SLED CASE NO.: S86-778
FROM:	Agent Ginny Jacobs Agent Danny Meyers	PLACE: Lexington
RE:	Jessica Gutierrez	CHARACTER: 02

December 10, 1986, this writer and Detective Bob Bartlett of Lexington County met with Attorney David Greer concerning his client, Tommy McDowell. (This meeting was held at Mr. Greer's office in Columbus, North Carolina.) Mr. Greer was advised that these officers would like to speak with Mr. McDowell concerning Jessica Gutierrez. At this time, Mr. Greer accompanied these agents to the Columbus County Jail.

After being introduced to Mr. McDowell, he was shown a photo of Jessica Gutierrez by Mr. Greer and informed that these agents needed to ask him some questions. At this time, Mr. Greer gave Mr. McDowell his Miranda Warnings. Mr. McDowell requested that he be allowed to speak with his attorney outside the presence of these agents. Approximately five minutes later, Mr. Greer returned without Mr. McDowell and related he had been informed by Mr. McDowell that he had some information concerning Jessica Gutierrez. Mr. Greer further related Mr. McDowell would talk with us at a later date but that he wanted to be granted immunity. Mr. Greer stated

McDowell 07937

SLED CASE NO.: S86-778
January 5, 1987
Page Two

from the information he received he did not believe Mr. McDowell was involved. This writer advised Mr. Greer that if during the investigation, information arose showing Mr. McDowell was indeed involved in the disappearance of Jessica Gutierrez, all agreements would be void. Mr. Greer replied that to his knowledge no Federal or State immunity would hold if a subject perjured himself. Mr. McDowell was at this time advised by Mr. Greer that complete honesty would be required of him in presenting his information concerning Jessica Gutierrez and that if such was not given, any and all agreements would be void. Mr. Greer advised Mr. McDowell of this several times and asked Mr. McDowell if he understood. Mr. McDowell's reply was that he did. At this time, the interview with Mr. McDowell was concluded. Mr. Greer related to these agents that his understanding of the information Mr. McDowell has was that he could tell where the child is. Mr. Greer further related "and it's not good". Mr. Greer stated if any information arose showing Mr. McDowell was involved in the taking of Jessica Gutierrez, he would take the stand and testify that Mr. McDowell had been informed if complete honesty was not given any agreement would be broken and that he could be charged.

Approximately 5:30 p.m. this same date, these agents met with Assistant Solicitor Knox McMahon. Present during this meeting was Agent Danny Meyers and Lt. Al Davis of Lexington County. During this period of discussion, Solicitor Myers was advised of the situation. Approximately 7:00 p.m., these agents were informed by Assistant Solicitor McMahon that at this time these agents could not return to North Carolina.

Respectfully submitted,

Virginia D. Jacobs
Virginia D. Jacobs, Agent
S. C. Law Enforcement Division

VDJ/bnk

McDowell 07938

7-15-87

Mike Fowler & Ann Wilson
Knox McMahon

Taped her mouth
& arms

Told Don deputy @ jail

ok on girl missing from
shop center - 6 mo's from
killing child

att J Weaver
in Green saw

Ted Beatty

Virgil Wilson cousin - serving
time to Mike - may know

Susan Craven Mike's att.
Anderson Co.

Grey tape

7-15-87

page 2

Blue jean jacket

Shirley Pound
Admin office for if Dad
ofLandfill near Belle Meade
Father lived in family
@ Belle Meade - Cong
River near bothCall nurse @ Belle Meade
to see if Dad did live
there

PERSONS INTERVIEWEDADDRESSDATEFINAL DISPOSITIONOFFENSESENTENCE

1) _____

2) _____

3) _____

4) _____

COURT: () General Sessions

() Magistrate

JUDGE: _____

DATE TRIED: _____

COUNTY: _____

NARRATIVE REPORT:

This is a copy of Det. Bartlett
 met in Sali Karp Mc Mahon
 concerning obtaining arrest warrant
 for Thomas Mc Dowell on
 Sept 22 1975.

DATE: _____

SIGNATURE: *D. J. Ash*

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
INVESTIGATIVE NOTES FORM

OPENING D 3/14/88
CLOSING D 3/14/88
SLED CASE NO.: 86-778

INFORMATION DESCRIPTION:

STATUS OF CASE:

SLED CASE NO.: 86-778

() Opening Date: _____ () Active Cross Ref. No.: _____
 () Closing Date: _____ () Awaiting Court Character: _____
 () Re-open Date: _____ () Insufficient Information Character Details: _____
 () Re-close Date: _____ () Unfounded _____
 () Progress Date: 12-15-87 Lab No.: _____

REPORTING AGENT (Last Name, Initials) Jasper JD OTHER AGENT (Last Name, Initials) _____

Source of Complaint, other than Headquarters:

() Telephonic () Personal () Mail

RECEIVED FROM: _____ Address: _____

DATE RECEIVED: _____ DATE OF CRIME: _____

LOCATION OF CRIME (Jurisdiction/County): _____

SUSPECTS: (Last Name First)

Tommy M^c Daniel

VICTIMS: (Last Name First)

Jessie L. Harris

OPENING

UPDATE

JAN 1 1988

SLED CHARACTER CODES:

1 Abortion	15 Disorderly Conduct	29 Obt./False Pretense
2 Abduction	16 Destruction of Property	30 Official Misconduct
3 Administrative	17 Drug Violation	31 Operating Nuisance
4 Arson	18 Election Law	32 Robbery
5 Assault & Battery	19 Escapee	33 Receiving Stolen Goods
6 Blue Laws	20 Ethics	34 Safe Cracking
7 Breach of Peace	21 Forgery	35 Sex Crimes
8 Bribery	22 Fraud	36 Traffic
9 Burglary	23 Gambling	37 Trespassing
10 Civil Rights	24 Housebreaking	38 Vehicle
11 Conspiracy	25 Inter. w/officer	39 Weapon Offense
12 Death Investigation	26 Kidnapping	40 Worthless Checks
13 Delinquent	27 Larceny	41 Other
14 Desertion/Non-support	28 Vio. Liquor Law	

NOTE: This form must be filled out completely for all reports.

PERSONS INTERVIEWED

ADDRESS

DATE

NARRATIVE REPORT

This agent is writing on a
reply for Solicitor Myers
Office.

FINAL DISPOSITION: DATE TRIED: _____ COUNTY: _____

COURT: () General Sessions () Magistrate Judge: _____

DEFENDANT(S): _____

SENTENCE: _____

REPORTING AGENT: W. J. Gash DATE: 12-15-87

McDowell 07815

CWA

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
INVESTIGATIVE NOTES FORMOPENING D: 1-1-88PROGRESS D: 4-22-88CLOSING D: 1-1-88

INFORMATION DESCRIPTION:

STATUS OF CASE:

SLED CASE NO.: 86-778

() Opening Date: _____

() Active

Cross Ref. No.: _____

() Closing Date: _____

(✓) Awaiting Court

Character: _____, _____, _____

() Re-open Date: _____

() Insufficient
Information

Character Details: _____

() Re-close Date: _____

() Unfounded

(✓) Progress Date: 6-24-88

Lab No.: _____

REPORTING AGENT (Last Name, Initials) Jacobs JD OTHER AGENT (Last Name, Initials) _____

Source of Complaint, other than Headquarters:

() Telephonic () Personal () Mail

RECEIVED FROM: _____ Address: _____

DATE RECEIVED: _____ DATE OF CRIME: _____

LOCATION OF CRIME (Jurisdiction/County): _____

SUSPECTS: (Last Name First)

VICTIMS: (Last Name First)

Jessica L. Turner

SLED CHARACTER CODES:

- 1 Abortion
- 2 Abduction
- 3 Administrative
- 4 Arson
- 5 Assault & Battery
- 6 Blue Laws
- 7 Breach of Peace
- 8 Bribery
- 9 Burglary
- 10 Civil Rights
- 11 Conspiracy
- 12 Death Investigation
- 13 Delinquent
- 14 Desertion/Non-support

- 15 Disorderly Conduct
- 16 Destruction of Property
- 17 Drug Violation
- 18 Election Law
- 19 Escapee
- 20 Ethics
- 21 Forgery
- 22 Fraud
- 23 Gambling
- 24 Housebreaking
- 25 Inter. w/officer
- 26 Kidnapping
- 27 Larceny
- 28 Vio. Liquor Law

- 29 Obt./False Pretense
- 30 Official Misconduct
- 31 Operating Nuisance
- 32 Robbery
- 33 Receiving Stolen Goods
- 34 Safe Cracking
- 35 Sex Crimes
- 36 Traffic
- 37 Trespassing
- 38 Vehicle
- 39 Weapon Offense
- 40 Worthless Checks
- 41 Other

NOTE: This form must be filled out completely for all reports.

PERSONS INTERVIEWED

ADDRESS

DATE

NARRATIVE REPORT

This agent is waiting on
a reply from the Solicitors
Office in Lexington.

FINAL DISPOSITION: DATE TRIED: _____ COUNTY: _____

COURT: () General Sessions () Magistrate Judge: _____

DEFENDANT(S): _____

SENTENCE: _____

REPORTING AGENT: W. J. Ash DATE: 6-24-88

McDowell 07821

CWR
473 11/12/88SOUTH CAROLINA LAW ENFORCEMENT DIVISION
INVESTIGATIVE NOTES FORMOPENING D: 1-1-
PROGRESS D: 1-1-
CLOSING D: 11/21/88

INFORMATION DESCRIPTION:

STATUS OF CASE:

SLED CASE NO.: 86-778

() Opening Date: _____

() Active

Cross Ref. No.: _____

() Closing Date: 11-7-88

() Awaiting Court

Character: _____

() Re-Open Date: _____

() Insufficient
Information

Character Details: _____

() Re-Close Date: _____

() Unfounded

() Progress Date: _____

Lab No.: _____

REPORTING AGENT (Last Name, Initials)

OTHER AGENT (Last Name, Initials)

Source of Complaint, other than Headquarters:

() Telephonic () Personal () Mail () Captain

RECEIVED FROM: _____ Address: _____

DATE RECEIVED: _____ DATE OF CRIME: _____

LOCATION OF CRIME (Jurisdiction/County): _____

SUSPECTS: (Last Name First)

VICTIMS: (Last Name First)

OPENING
NOV 7 1988
CLOSING

Jessica Luterio

SLED CHARACTER CODES:

1 Abortion	15 Disorderly Conduct	29 Obt./False Pretense
2 Abduction	16 Destruction of Property	30 Official Misconduct
3 Administrative	17 Drug Violation	31 Operating Nuisance
4 Arson	18 Election Law	32 Robbery
5 Assault & Battery	19 Escapee	33 Receiving Stolen Goods
6 Blue Laws	20 Ethics	34 Safe Cracking
7 Breach of Peace	21 Forgery	35 Sex Crimes
8 Bribery	22 Fraud	36 Traffic
9 Burglary	23 Gambling	37 Trespassing
10 Civil Rights	24 Housebreaking	38 Vehicle
11 Conspiracy	25 Interfering w/officer	39 Weapon Offense
12 Death Investigation	26 Kidnapping	40 Worthless Checks
13 Delinquent	27 Larceny	41 Other
14 Desertion/Non-support	28 Violation Liquor Law	42 Drug Related

NOTE: This form must be filled out completely for all reports.

PERSONS INTERVIEWED

ADDRESS

DATE

NARRATIVE REPORT

This writer has been informed by Det. Mess of Lexington County that the suspect Tommy M^cDowell could not be charged at this time. Until additional information is received this agent is considering this case closed.

FINAL DISPOSITION: DATE TRIED: _____ COUNTY: _____

COURT: () General Sessions () Magistrate Judge: _____

DEFENDANT(S): _____

SENTENCE: _____

REPORTING AGENT: W. Paul DATE: 11-3-88 McDowell 07811

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
INVESTIGATIVE NOTES FORM

OPENING D: 1/1
PROGRESS D: 1/1
CLOSING D: 3/13/89

INFORMATION DESCRIPTION:

STATUS OF CASE:

SLED CASE NO.: 86-778

() Opening Date: _____

() Active

Cross Ref. No.: _____

() Closing Date: 3-13-89

() Awaiting Court

Character: _____

() Re-Open Date: _____

() Insufficient
Information

Character Details: _____

() Re-Close Date: _____

() Unfounded

() Progress Date: _____

Lab No.: _____

REPORTING AGENT (Last Name, Initials) Davis, ID

OTHER AGENT (Last Name, Initials) _____

Source of Complaint, other than Headquarters:

() Telephonic () Personal () Mail () Captain

RECEIVED FROM: _____ Address: _____

DATE RECEIVED: _____ DATE OF CRIME: _____

LOCATION OF CRIME (Jurisdiction/County): _____

SUSPECTS: (Last Name First)

VICTIMS: (Last Name First)

OPENING

UPDATE

MAR 13 1989

CLOSING

COMPUTER

SLED CHARACTER CODES:

1 Abortion	15 Disorderly Conduct	29 Obt./False Pretense
2 Abduction	16 Destruction of Property	30 Official Misconduct
3 Administrative	17 Drug Violation	31 Operating Nuisance
4 Arson	18 Election Law	32 Robbery
5 Assault & Battery	19 Escapee	33 Receiving Stolen Goods
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13 Delinquent	27 Larceny	41 Other
14 Desertion/Non-support	28 Violation Liquor Law	42 Drug Related

NOTE: This form must be filled out completely for all reports.

PERSONS INTERVIEWED

ADDRESS

DATE

NARRATIVE REPORT

Until additional information
or evidence is found this
agent is considering the case
closed

FINAL DISPOSITION: DATE TRIED: _____ COUNTY: _____

COURT: () General Sessions () Magistrate Judge: _____

DEFENDANT(S): _____

SENTENCE: _____

REPORTING AGENT: S. Faust DATE: 3/12/89 Mr. Dowell 07813

INVESTIGATIVE REPORT

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	PAGE _____ of _____ PAGES.

ORIGINAL COMPLAINANT ☒ OR VICTIM ☐	
NAME: <u>FUTIERREE DEBBIE</u>	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME:	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$

CANCEL NCIC ENTRY: YES NO

2-23-94 1246

CONTACT WAS MADE W/ DEBRA BRADY, NCMEC, WHO INFORMED DOT OF PROJECT ALERT, SPONSORED BY NCMEC. BRADY FORWARDED INFORMATION TO DOT CONCERNING PROJECT ALERT AND OF TWO RETIRED LAW ENFORCEMENT OFFICERS, CHARLES E. CONVERSE AND THOMAS A. OWEN.

WITH APPROVAL FROM SHERIFF METTS, CONTACT WAS HAD W/ CONVERSE AND OWEN, OFF + ON, UNTIL 4-6-94, 1950, WHEN OFFICERS ARRIVED IN LEXINGTON COUNTY.

4.7.94 0900

A MEETING WAS HELD AT LCSD W/ CONVERSE, OWEN AND AGENT JACOB, SLED.

ON REVIEWING CASE FILE IN THIS CASE OFFICERS RELATED THEY BELIEVED SUFFICIENT EVIDENCE TO CHARGE KNOWN SUSPECT IN THIS CASE, AND FOUND NOTHING THAT HAD NOT BEEN ACCOMPLISHED TO RESOLVE CASE.

JURISDICTION OF THEFT	JURISDICTION OF RECOVERY	☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
		☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
		☐ ADMINIST. CLOSED		
REASON FOR EXCEPTIONAL CLEARANCE: ☐ OFFENDER DEATH ☐ NO PROSECUTION ☐ VICTIM/WITNESS UNCOOPERATIVE ☐ EXTRAJURISDICTION DENIED ☐ JUVENILE NO ARREST				
REPORTING OFFICER <u>BARTLETT</u>	DATE <u>4-11-94</u>	UNIT NUMBER <u>304</u>	APPROVING OFFICER	DATE
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE

SUPPLEMENTAL REPORT
Confidential

Page 4 of 5

NATIONAL
CENTER FOR 
**MISSING &
EXPLOITED**
CHILDREN

2101 Wilson Boulevard
Suite 550 • Arlington, VA

22201-3052

Telephone: 703/235-3900

Facsimile: 703/235-4067

LOG#: 601626

Case Type: Non-Family Abduction

Child's Name: Gurierrez Jessica

Narrative: Speak with the investigators if granted immunity. This was denied.

All information developed in this case has been presented to the County Solicitor, who has refused to indict this individual. No explanation has been given.

After reviewing all available information the following recommendations were made:

1. Locate and interview other cell-mates for information.
2. Re-submit Blood and hair for further examination re: DNA
3. Advise parole board of suspect's connection to this case
4. Re-interview, the two co-workers of suspect's high school friend. (At the time of the disappearance, it was believed these subjects had information but were afraid to testify because they worked for the suspect's father.)

Project Alert representatives Converse and Owen were impressed with the dedication and determination of all

ALERT Volunteer: Converse/Owen

Date: 4/12/94

cc: NCMEC
Law Enforcement Agency



Branches:
California
Florida
New York
South Carolina

Adam Walsh Children's Fund

Log #601626

Case Type; Non Family Abduction

Child's Name: Gutierrez, Jessica

meeting participants to resolve this perplexing incident. In particular, the Lexington County Sheriff's Department, displayed a genuine willingness to accept meaningful investigative assistance if such help will lead to the solution of this difficult case.

The meeting with Det. Bartlett, Agent Jacobs and ALERT Representatives was concluded at 1730 hours, April 8, 1994.

Alert Volunteer: Converse and Owen
Date: 4/12/94

02/04/2020 12:57





03/04/2015 11:41

 Search by Name

Robert M. "Bob" Bartlett
Bartlett / Robert Bartlett

1948 - 2019

 Send Flowers

 Share

BORN 1948

DIED 2019

FUNERAL HOME Caughman-Harman Funeral Home - Lexington Chapel
503 N Lake Dr
Lexington, South Carolina

Robert Bartlett Obituary

814
Robert M. "Bob" Bartlett LEXINGTON Robert M. "Bob" Bartlett, age 71, passed away July 19, 2019. Bob grew up in the Colonial Heights area of Columbia, graduated from BC High School and then joined the USAF, serving his country as a military air policeman in the canine division in Vietnam. He was an excellent canine handler and enjoyed that very much. He worked with security dogs on his return from active duty and then served Lexington County as a Deputy Sheriff for many years. He then worked with Bank Air, a courier and air charter service, at the Columbia airport. After his retirement he continued his love of hunting and fishing, showing his trophies on his wall at home. Bob is predeceased by his parents, Benjamin F. Bartlett, Sr. (Ethel M. Bartlett). He is survived by his three children, Kristie Rowe, Karen Robinson (Dion), Rob Bartlett (Grace); ten grandchildren; his brother, Ben Bartlett, Jr. (Pat) of Sharpsburg, GA; sister, Kay Whitney (Frank) of Cape Coral, FL as well as many nieces, nephews and cousins. A memorial service will be held at Northside Baptist Church on Saturday, July 20, 2019 at 1:00 p.m. Visitation will follow. In lieu of flowers, a donation can be made to Agape Hospice House, 141 Stoneridge Dr., Lexington, SC 29210. www.caughmanharmanfuneralhome.net
Published by The State on Jul. 19, 2019.



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See more records on Ancestry®

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South Carolina

SUPPLEMENTARY REPORT ☐

ORIGINAL REPORT ☐

AMOUNT RECOVERED \$

OFFENSE B&E Kidnapping CASE # 8614106

VICTIM Jessica Gutierrez

ADDRESS Hwy 6 Lex SC

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

6-6-86

Det responded to incident location and upon arriving, learned from Lt. Corley, that sometime during the previous night, between 2330. and 0900, that unk sub had forced entry to the residence, via front window, entered the bedroom where vic slept, and removed vic from the residence. According to Lt. Corley, and Col Seboe, comp had awakened, found vic gone, and had called her family and relatives who had arrived prior to LCSD units and had apparently destroyed what tracks that sub may have made.

Det learned also that comp was divorced, her ex husband beleived to be in Mexico, or Calif, but that comp had a male friend, who comp had broken off relationship with on the 2 June.

Also that this male friend, Henry Gordon, was very fond of comp and of vic, and who may have taken vic in spite of comp ending their relationship.

Henry Gordon lives at 4512 Fish Hatchery Rd, and Det along with Sgt Meetze went there to speak with Gordon. Det found Gordon at home, and advised Gordon of why Det wished to speak with him. Gordon stated that comp had called him about 30 mins prior to Dets arrival, and informed him of vic's disappearance. Gordon appeared glassy eyed, and unconcerned about vic, saying that he had gotten up when comp had called him. Gordon stated that he had worked the previous day, gotten a ride home with Clarence Gardner, and John Owen, about 2200.

That they had drank beer, and watched skin flicks then the other two subs had left, then he hd gone to bed. That he did not see anyone, nor receive any phone calls during the night. While speaking to Gordon, in his house, there were no vieible signs of any of vic's clothing which had been described to Det by Lt Corley. There was no sign of vic either.

Gordon stated that he was preparing to go to work, and did not make inquires of vic or of what had occured. Gordon appeared to be somewhat nervous, but agreed to speak with Det.

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐

CLEARED BY ARREST..... ☐

EXCEPTIONALLY CLEARED Over 18 ☐
Under 18 ☐

ADMINISTRATIVELY CLEARED..... ☐

ACTIVE..... ☐

SIGNED e Bartlett DATE 6-6-86
Investigating Officer

SIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

Agency ID SC0320000LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

OFFENSE _____

CASE # 8614106

VICTIM _____

ADDRESS _____

AMOUNT RECOVERED \$ _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

2

Gordon further stated that he had broken up with comp on Mon, June 2, due to comp not wanting a sexual relationship, and that he and comp had had an argument. That he had gone to comp's house on either Wed or Thurs AM, 0730, on his way to work, and had spoken with comp. That comp's other three kids were not at home, but that Becky was, and had caught the school bus. That after Becky had left he had attempted to talk comp into going to bed with him, due to their being alone. Comp refused to do so. Gordon stated that he had then left comp to go to work.

That he had gotten a ride home with Clarence Gardner, and John Owen, who also worked for his dad, and arrived home about 2200. That the three of them watched skin flicks and drank beer til about 2230-2300. That Clarence and John left and he went to bed. That he saw no one nor spoke with no one.

Det informed Gordon that comp had mentioned she and Gordon had had an argument about their relationship, and that comp had mentioned that he may be responsible for vics disappearance. That Gordon may be angry and spiteful for the breaking of their relationship. Det asked Gordon if he would ride to Hwy 6 and Boiling Springs Rd with Det. Gordon stated that he needed to go to work, and Det agreed to return him home so he could. Gordon agreed to ride with Det and once at Boiling Sps Rd, Det met with Lt Corley to be updated on the incident. Lt Corley advised that comp's ex husband, David Gutierrez had also become a sus but that he was believed to be in Calif. Det asked Gordon where he worked, and advised Independent Appliances in Pine Ridge, 755 9832.

Thru LCSD that was checked it was learned that Gordon did not work there (Det later learned that LCSD had asked for David Gutierrez). Gordon maintained that he did work there for his

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED ☐ Over 18
☐ Under 18.ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett DATE 6-6-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

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Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

OFFENSE _____

CASE # 8614106

VICTIM _____

AMOUNT RECOVERED \$ _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

3

dad, and that if his dad thought he was in jail, his dad would disown him, for he had gotten into trouble before and his dad had told him that if he got into trouble again, his dad would not help him.

Lt Corley asked Gordon where his dad's business was, was told by Gordon, at which time Corley stated that he knew the business existed, and that the owner was a Henry Gordon Sr. Gordon asked questions about the incident, as was comp OK; how did sub(s) get into the house, did LCSD units find anything.

From the location of Det and Gordon, the aircraft and helicopter, and ground units were visible.

Det informed Gordon that he did not know how entry was gained, possibly the front door.

As to comp, Det did not know for Det had not spoken with her at this time. Gordon asked if he could go to the residence, Det advised that perhaps it would be best to wait until the evidence was collected, and LCSD units completed their mission before doing so.

As Det returned Gordon home, he again advised him that comp had stated that he was her previous male friend, and that their parting had been somewhat hard for Gordon to accept which Gordon stated that he understood why he was being questioned. Det asked him if he had anything to do with the missing vic. Gordon stated that he wished he knew who did.

For elimination purposes, Det asked him if he would submit to a polygraph, and he agreed to do so. Det advised he would notify him if one was needed, and took him home.

Sus Henry Jacob Gordon, Jr. W/M DOB [REDACTED]
[REDACTED] Fish Hatchery Rd W Cola 5'6 210 Bro/Bro H one #755 0455

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED Over 18 ☐
Under 18 ☐ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett DATE 6-6-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

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Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

OFFENSE _____ CASE # 8614106

VICTIM _____

AMOUNT RECOVERED \$ _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

5

Over the next couple of hours Det spoke with comp, getting additional information.

That at one time David had told comp that if comp got to the point that she could not afford the kids, that he would take custody of them. Comp stated that at one time, David had told her that if he really wanted the kids, that he would come and steal them, like a thief.

At one time during the interview with comp, Becky and other family members were present, and Becky had stated that she had awoken during the night and seen a black man, wearing a magic hat standing over the bed--the three girls were sleeping in the same bedroom, with Becky and vic in the same bed. That Becky saw this man reach down and pick vic up,

indicating how one would hold an infant, up to his shoulder. That Becky got scared that he was going to get her next, and she then pulled the sheet over her head.

Det checked the point of entry, near the front door, and observed that an interior frame had been broken, apparently as sub(s) forced entry. That the window was the phlog roll out type, and that it may be possible for someone to enter.

Returning to comp she further stated that she had locked the screen door, leaving the inside door open, as she had bathed. That the kids were watching TV, and when she put them to bed it must have been around 2300. That she had stayed up a while, had taken two transone (SPU), then she had gone to bed, probably about 2330-2345. That she had slept soundly and did not hear anything unusual.

That normally if someone comes around their dog would bark, but she did not hear the dog bark. That she normally does not lock the outside door, just the interior one.

Asked if she had found anything else missing she stated that nothing else was.

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED ^{Over 18} ☐
^{Under 18} ☐ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett
Investigating OfficerDATE 6-6-86SIGNED _____
Review Officer

DATE _____

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Agency ID SC0320000LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

8

Det along with agent Wilkins, FBI, went to the home of Henry Gordon Sr. in an attempt to contact Gordon Jr., on 6-7-86. Officers spoke with Mr Gordon who advised that his son was working in the Cola area, servicing washing machines, in the Saxon Homes and Fairfield A ms apt complexes.

Officers went to both of these areas in hopes of contacting J.R. however, this met with negative results.

About 1330, officers returned to the Gordon residence and found that J.R. had called, an hour earlier, and that he should be returning in about 15 or 20 minutes.

Officers remained in the area, and observed J.R. returning in the company truck, which was operated by unk w/m. The truck pulled over and stopped in front of Dets veh, and J.R. exited the vehicle. Det pulled alongside of J.R. at which time it became apparent that J.R. had not seen Det, but then did, as Det stopped beside him.

Det asked if he could accompany them to LCSD for an interview, that he had offered some info the day before, and it was possible that he had additional info that he could offer to assist officers.

J.R. stated that he had to go on to the shop, and clear the days work out, get paid, then that he had intended to go to a beer party. Det advised him that it shouldn't take long and that Det would return him home, or to the party, which ever he preferred.

J.R. agreed to go to LCSD, and after he had returned to the shop, and tended to business, he was transported to LCSD.

Approx 1500, the interview with Henry Gordon Jr started, with Sgt Harris and Lt Perry, Sled.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐CLEARED BY ARREST.....☐EXCEPTIONALLY CLEARED Over 18 ☐
Under 18 ☐ADMINISTRATIVELY CLEARED.....☐ACTIVE.....☐SIGNED R Bartlett DATE 6-7-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

OFFENSE _____ CASE # 8614106

VICTIM _____

AMOUNT RECOVERED \$ _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

9

Sgt Harris advised J.R. of Miranda, and inquired of his full name, address and DOB.

According to J.R. he works for his dad, servicing washing machines, and collecting the payments for machines, that his dad rents to own. That he used to drive the company truck, until he lost his DL for DUI, therefore he has to have someone to drive for him on his route. That he rides a 10 speed bicycle, but that he also has a motorcycle that he sometimes rides. That he has a couple of other cycles that are inoperative. That he often rides one of his bikes at the race track in lower Lex Co.

Asked how he met comp, he advised that back in Nov or Dec, 85, he serviced the washing machine that comp had rented. That he thought comp was ok, and that he wanted to get to know her better, therefore he let her know that he was interested in her. That he had lived with comp from early Jan 86 until a couple of weeks ago. That he stayed quite a bit. That he still would be with comp had she not broken off their relationship. Asked how she had broken their relationship, he stated that comp had wanted another friend, but that he had only wanted her. That he was in love with comp, but that he felt that she was having other male friends when he was at work. That sometimes he would check comp's panties, by smelling them to see if she had had sex when he was not there. He added that one time he had found that comp had had sex but when he had asked about it, she had denied it. He further stated that she was all he needed. Asked about the kind of sex he and comp had, he indicated that it was more than straight sex.

Asked about the night of the 5th, of what he had done, he stated that he had worked that day and had gotten a ride home from Clarence Gardner, and that a John Owen had also ridden with them, that both Clarence and John work for his dad. That they had gotten home about 2200.

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED Over 18 ☐
Under 18 ☐ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett DATE 6/7/96
Investigating OfficerSIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

OFFENSE _____ CASE # 8614106

VICTIM _____

AMOUNT RECOVERED \$ _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

12

Det along with agents Randy Mondor, FBI, and Danny Meyers, SLED transported J.R. home and executed the search. This search did not reveal anything pertaining to vic. It was found that J.R. had adult magazines, and VCR and some VCR tapes. Also found in the trash can outside his house was a Pamper, which did not appear to be old, or used. When asked about this pamper, J.R. stated that he did not know where it came from, for he knew of no one who had a child in diapers, that comp had visited his house, and the kids, but that comp's kids did not use diapers.

As officers were preparing to leave, Henry Gordon Sr arrived in a hasty manner. Mr Gordon exited his veh, and demanded to know what officers were doing on his property. He was informed that J.R. had given permission for officers to look around his property. Mr Gordon demanded to see the consent form, which Det offered him to read. Mr Gordon stated that his son could not give permission for the search, for his son did not own the property, that he, MR Gordon did, and he requested the officers leave the property now. Mr Gordon advised his son to say nothing further to officers, to allow his attorney to do his talking. Officers departed the premises.

When officers were in the house, J.R. had gotten a phone call, where he had told the caller the police were searching his property, that the police thought he, J.R. had vic. This caller must have been Mr Gordon Sr.

Officers returned to LCSD and discussed the days events.

THIS OFFENSE IS DECLARED:

UNFOUNDED ☐CLEARED BY ARREST ☐EXCEPTIONALLY CLEARED ^{Over 18} ☐
^{Under 18} ☐ADMINISTRATIVELY CLEARED ☐ACTIVE ☐SIGNED R ar let DATE 6-7-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

AMOUNT RECOVERED \$

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

16

Det asked Wayne if he could go to the LCSD and after learning that his court case would not be heard this day, agreed to do so.

At LCSD the interview cont with Wayne, with 301 in attendance.

It was further learned that Tim was a friend of Debbie's, comp. That Wayne last saw J.R. about two months previous, but that since then, J.R. called Wayne early one AM, and that J.R. was drunk.

That J.R. had told Wayne in the past that comp was a loose woman, and that J.R.'s dad, Henry Gordon Sr. had had sex with comp, and even J.R.'s younger brother Jason had had sex with comp.

Following the interview with Wayne Nix, Det and 301 went to locate John Owen, and Clarence Gardner, on Placid Valley Rd Off Fish Hatchery Rd.

Dets located the residence of John Owen, 16 yoa, Sept 10-69, 755 0140 and spoke with his mom advising her of the reason to speak with her son. With John's mother and dad present John was asked how he knew Henry Gordon Jr.

According to John, he works part time for Gordon Sr. but that he didnot work on the the 5th of June. That he was home all day, and didnot see J.R. He believes that Clarence got home before dark, adding that Clarence is his relative.

Mrs Owen stated that if Clarence had been 2200-2300 in getting home she would have recalled it, but that she felt certain that he was not that late on the 5th.

She further stated that she didnot like her son visiting J.R. nor hanging around him.

It was futher learned that Clarence lived with the Owens, but that on this date, after work he had gone fishing with Henry Gordon Sr., and it was unk what time he would return.

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED Over 18 ☐
Under 18 ☐ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett DATE 6-9-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐ORIGINAL REPORT ☐

AMOUNT RECOVERED \$

OFFENSE _____ CASE # B614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

16

Det asked Wayne if he could go to the LCSD and after learning that his court case would not be heard this day, agreed to do so.

At LCSD the interview cont with Wayne, with 301 in attendance.

It was further learned that Tim was a friend of Debbie's, comp. That Wayne last saw J.R. about two months previous, but that since then, J.R. called Wayne early one AM, and that J.R. was drunk.

That J.R. had told Wayne in the past that comp was a loose woman, and that J.R.s dad, Henry Gordon Sr. had had sex with comp, and even J.R.s younger brother Jason had had sex with comp.

Following the interview with Wayne Nix, Det and 301 went to locate John Owen, and Clarence Gardner, on Placid Valley Rd Off Fish Hatchery Rd.

Dets located the residence of John Owen, 16 yoa, Sept 10-69, 755 0140 and spoke with his mom advising her of the reason to speak with her son. With Johns mother and dad present John was asked how he knew Henry Gordon Jr.

According to John, he works part time for Gordon Sr. but that he didnot work on the the 5th of June. That he was home all day, and didnot see J.R. He believes that Clarence got home before dark, adding that Clarence is his relative.

Mrs Owen stated that if Clarence had been 2200-2300 in getting home she would have recalled it, but that she felt certain that he was not that late on the 5th.

She further stated that she didnot like her son visiting J.R. nor hanging around him.

It was futher learned that Clarence lived with the Owens, but that on this date, after work he had gone fishing with Henry Gordon Sr., and it was unk what time he would return.

THIS OFFENSE IS DECLARED:

UNFOUNDED..... ☐CLEARED BY ARREST..... ☐EXCEPTIONALLY CLEARED ☐ Over 18
☐ Under 18ADMINISTRATIVELY CLEARED..... ☐ACTIVE..... ☐SIGNED R Bartlett DATE 6-9-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

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Agency ID SC0320000

SUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

LEXINGTON COUNTY SHERIFF'S DEPARTMENT

Lexington, South Carolina.

OFFENSE _____ CASE # 8614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

8-22-86
Det and agent Mondor, FBI, interviewed sus at LCSD in ref to above case and his taking a second polygraph. Sus pending charges were discussed, and that it was likely that other charges would be forth coming, for the controlled prescription he had in his possession on his arrest date, on the 18th.

It was further discussed that if sus submitted to a polygraph, and didnot do well on it, that sus and officers would have a serious talk. Sus agreed to this.

8-25-86
Det met with sus at LCSD in order to determine if he was ready to take the polygraph. Sus stated that he had thought about the test over the weekend, nd that he had changed his mind and did not wish to do so. Det explained that it had been understood on the 22ndk that sus would stand by his word, and proceed as he had stated. Sus stated that he didnot wat to take the test nad was left at LCSD jail.

8-26-86
Det and Mondor again meet with sus at LCSD at which time the polygrph was again discussed. Upon completion of this interview, sus stated that he would submit bot he test and not change his mind. The test was et for the 27th.

8-27-86
Det transported sus to the US Marshalls office in Cola where sus was to undergo the polygraph. Upon completion of this test, which sus showed some descrepancies, Det and Mondor interviewed him. Durning this interivew, sus was advised of Miranda, and the facts surronuding the case, as to why he was a suspect. That he didnot do well ont he test, and he was expected to serious talk with officers. It was discussed that sus did have a drinking (alcohol) and dope problem.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐CLEARED BY ARREST.....☐EXCEPTIONALLY CLEARED Over 18.....☐
Under 18.....☐ADMINISTRATIVELY CLEARED.....☐ACTIVE.....☐SIGNED R Bartlett DATE 8-29-86
Investigating OfficerSIGNED _____ DATE _____
Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.

McDowell 07954

Agency ID SC0320000

LEXINGTON COUNTY SHERIFF'S DEPARTMENT
Lexington, South CarolinaSUPPLEMENTARY REPORT ☐
ORIGINAL REPORT ☐

AMOUNT RECOVERED \$ _____

OFFENSE _____ CASE # R614106

VICTIM _____

ADDRESS _____

ADDITIONAL DETAILS OF OFFENSE, PROGRESS OF INVESTIGATION, ETC.

and that it was apparent that when he was intoxicated or doped that he developed another personality. That also he became violent not only physically, but verbally as well.

Sus admitted that he became so and that he could remember nothing of incident night, after Clarence and John had left him, at home.

It was also discussed that he could not recall the next night, the 6th, when he went to comp hosue, according to comp, when sus was very intoxicated.

Nor could sus recall the night of Aug 3 when he made the phone calls, case # 8619756, until Det offered him the reslts of the phone bill, showing that he had made the calls from his residence.

Sus stated that if he had been involved in the incident involving Jessica, that he wanted to know, and that if he could remember that he would advise officers.

Sus was very humble during this interview, when denying any involvement with the abduction, however, when Det informed and asked why he had no longer a picture of vic he stated that he did, and was very direct and positive about it, whereas he was not direct or positive about about the incident and his possible involvement. He stated that he had a picture of vic, at his residence, whereas Det advised him that this picture was not observed on the 19th. Sus stated that he had a picture of vics family that he had hung on the wall, but had taken it down in order to forget vic. He could not give a reason why he wanted to forget vic.

Sus did not show any remorse for vic nor did he show any emotions. Sus did indicate that the possibility existed that he was involved with the abduction.

Sus was transported back to LCSD later this date.

THIS OFFENSE IS DECLARED:

UNFOUNDED.....☐CLEARED BY ARREST.....☐EXCEPTIONALLY CLEARED Over 18.....☐Under 18.....☐ADMINISTRATIVELY CLEARED.....☐ACTIVE.....☐

SIGNED R Bartlett DATE 8-29-86

Investigating Officer

SIGNED _____ DATE _____

Review Officer

This form is used by Officer assigned to case to report progress after seven days and as needed thereafter also to report significant developments. This form is also to be used by the Field Officer to record additional narrative information.



ANNUAL REPORT 2022

LEXINGTON COUNTY SHERIFF'S DEPARTMENT

LEXINGTONSHERIFF.COM

JOINLCSD.COM

MAKING LEXINGTON COUNTY A SAFER PLACE

CONTENTS

Throughout these pages, please find data and statistics collected during 2022. It is our hope these summaries showcase the value Lexington County Sheriff's Department (et al.) brings to our community.



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MESSAGE FROM THE SHERIFF

SHERIFF JAY KOON

2015 - PRESENT

"Thankful" is the word that comes to mind when I think back on 2022.

It's with a grateful heart I say thank you to our employees who continue to serve tirelessly to make Lexington County a safer place.

I'm thankful County Council and the administration of our county worked together to increase pay and provide retention payments to those employees for their dedication to our county.

I'm thankful community events returned and we were able to get out and enjoy time with members of our community. That's something we missed for a couple of years as COVID-19 interrupted our county's full slate of festivals and gatherings.

I'm also thankful for another year as your sheriff. You have placed your trust in me to lead the men and women who keep our community safe. I strive every day to maintain that trust and do right by you and this wonderful place I've called home my whole life.

As part of that trust, I share this annual report from the Sheriff's Department to you...our citizens. I invite you to review the information, learn more about our activities across the county and get a feel for our programs that are making a difference in the lives of so many.

So, I will close in the same way I started...by saying another thank you. This one is for you, for all the support and encouragement we receive on a daily basis. That's what fueled us in 2022 and why we see such a bright future for the rest of 2023 and beyond.

— *Sheriff Jay Koon*



ABOUT US

EXPERIENCING GROWTH WITH LEXINGTON COUNTY

The first recorded sheriff of Lexington County was Thomas Herbert who was appointed to the office in 1806. The first courthouse and jail for the area was located in the town of Granby (located in present day Cayce). Back then, the Sheriff's Department was a one-man operation with the sheriff living and working in the jail and courthouse. Until the 1970s, most investigative activities focused on illegal whiskey brewers and a few major crimes such as homicide and rape. In the late 1960s and early 1970s, illegal drug use and distribution became a significant problem.

Along with drug-related offenses, other crimes grew in frequency including business robberies, computer crimes, domestic violence and fraud. Today, increased calls for service and population in Lexington County have further stretched law enforcement resources and challenged the Lexington County Sheriff's Department to keep pace with changing law enforcement needs. Most jails and courthouses were constructed and located on Main Street in Lexington including the old courthouse and jail located at 139 East Main Street, which was built in 1940. This facility, part of which still stands today, housed a maximum of 42 inmates. By the 1960s, the facility was too small to accommodate the Sheriff's Department's needs. A new law enforcement facility was constructed in the late 1970s. This law enforcement facility, located at 521 Gibson Road, still serves as the headquarters facility for the Sheriff's Department. A new jail was built in 1999, and the Sheriff's Department complex has undergone many renovations since 1972.

We serve citizens primarily in the unincorporated areas of the county with assistance to other local agencies.

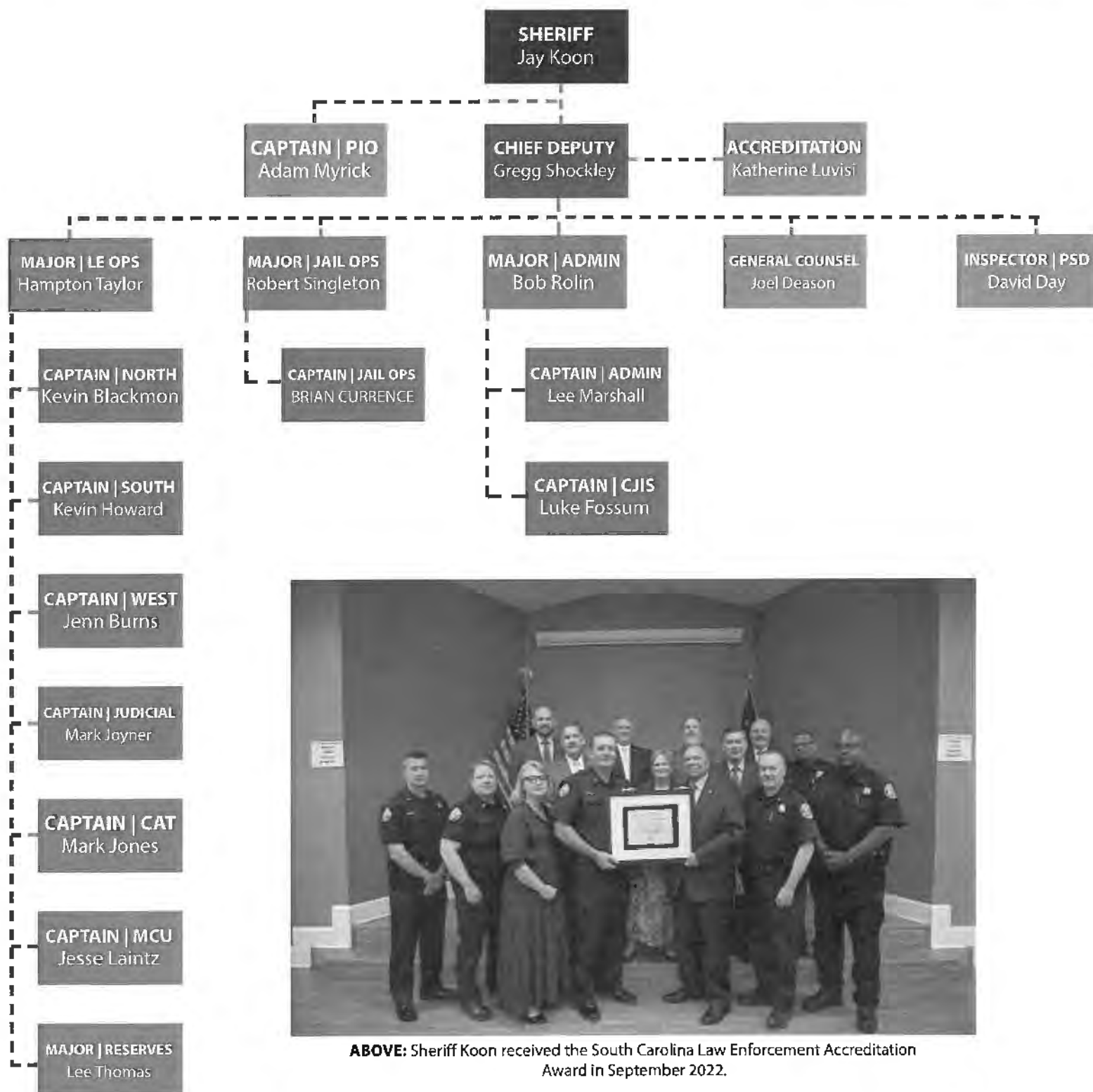
MISSION

To work as a professional law enforcement team to build relationships with those we are sworn to serve.

VISION

Making Lexington County a safer place.

ORGANIZATION CHART



ABOVE: Sheriff Koon received the South Carolina Law Enforcement Accreditation Award in September 2022.

MAJOR EVENTS

A LANDMARK ARREST

2022 started with a major development in Lexington County's most noteworthy child abduction case.

Thomas Eric McDowell was charged in January with murder, kidnapping and first-degree burglary in connection to the disappearance and death of 4-year-old Jessica Gutierrez in June 1986.

Sheriff Koon said a fresh look at the case in September 2021 jumpstarted the investigation. FBI and SLED agents, and prosecutors with the South Carolina Attorney General's Office joined the Sheriff's Department in reviewing initial reports and interviewing more than 125 people.



COUNTY EMPLOYEES RECEIVE 'PREMIUM PAY'

Lexington County employees who worked through the COVID-19 pandemic received a second round of "premium pay" in April.

The amount of the April 2022 round of premium pay ranged from approximately \$2,015 to \$4,900, based on a combination of an employee's direct risk of exposure to COVID-19 and their duties.

Sheriff Koon thanked County Council and County Administration for continuing to support employees who stood strong during the pandemic, adding the payment would go a long way to show employees how much they are appreciated.

LEXINGTON COUNTY INTEGRAL TO SHOOTING RESPONSE

A wide array of Lexington County personnel joined other Midlands law enforcement agencies immediately after a shooting at Columbiana Centre in April.

Nine people were shot and another five injured in the shooting. Lexington County deputies secured the mall's perimeter and cleared stores and public spaces inside.

Three suspects were eventually arrested and charged in connection with the shooting.



NEW LAW OPENS CAREER OPPORTUNITIES TO TEENS

A new era for a new generation of law enforcement professionals started in 2022. South Carolina lawmakers and Gov. Henry McMaster worked together to pass a new bill to lower the minimum age for detention deputies from 21 to 18.

Sheriff Koon hired the first teen detention deputy shortly after Gov. McMaster signed the bill into law. Landon Brown said when a friend told him about the new law he knew he'd be perfect for the job.

After multiple business interviews right out of high school, Brown said he felt talked down to and as though the fit wasn't quite right. At the Sheriff's Department, Brown said he immediately felt at home.

RETIREES & PROMOTIONS

WE'RE GRATEFUL FOR THE DEDICATION AND SERVICE OF THOSE WHO RETIRED IN 2022:

Senior Deputy Jeff Flanders *retired 4/01/2022*

Project Coordinator Ronnie Youmans *retired 9/30/2022*

Deputy Shawn Dunkley *retired 4/15/2022*

Sergeant Brian Anderson *retired 10/07/2022*

School Resource Officer Matt Rogers *retired 6/3/2022*

Investigator William Patterson *retired 11/27/2022*

School Resource Officer Dale Owen *retired 7/08/2022*

School Crossing Guard James Gerstle *retired 12/29/2022*

CONGRATULATIONS TO THOSE WHO WERE PROMOTED IN 2022:

Willie Harris to *Sergeant (Patrol)*

Mitchell Labesky to *Master Deputy (Patrol)*

Greg Love to *Senior Deputy (K-9)*

Dennis Bertwell to *Resident Deputy - West Columbia*

Reinaldo Chacon to *School Resource Officer*

Josh Boozer to *Resident Deputy - Gilbert*

Crystal Jenkins-Merritt to *Sergeant (Detention)*

Martin Kaminski to *Senior Deputy (Traffic)*

Hannah Joslin to *Investigator (CSI)*

Shannon Lovell to *Sergeant (Community Services)*

Josh Bice to *Senior Investigator (Narcotics)*

Adam Holt to *Senior Investigator (CRU)*

Kaaren Miller to *Sergeant (Training)*

Nick McMillan to *Senior Investigator (Narcotics)*

Lori Hayes to *Project Coordinator (HR)*

Bryan Sharpe to *Sergeant (Patrol)*

Austin Sanner to *Senior Investigator (Narcotics)*

Stephanie Cobb to *Senior Investigator (MCU)*

Casey Betts to *Master Deputy (Patrol)*

Everette Smith to *Senior Investigator (FTF)*

James Westbury to *Sergeant (MCU)*

Alexander Rosado to *Master Deputy (Patrol)*

Brannon Marthers to *Sergeant (Intel)*

David Hellman to *Master Deputy (Civil Process)*

Christopher Threatt to *Master Deputy (Patrol)*

Vickie Bookman to *Senior Detention Deputy*

Nic Ferrara to *Accounting Clerk (Finance)*

Jason Burbage to *Investigator (Property Crimes)*

Troy Hall to *Senior Detention Deputy*

Austin Sanders to *Resident Deputy - Three Fountains*

Jonathan Jeffcoat to *Investigator (Property Crimes)*

Nick Huffstetler to *Sergeant (Patrol)*

Taylor Sebben to *Resident Deputy - Dixianna*

Dane Walker to *Sergeant (Patrol)*

Mark Moore to *Investigator (Property Crimes)*

Andrew Harmon to *Resident Deputy - Boiling Springs*

Adrian Zona to *Master Deputy (Patrol)*

Kalie Natale to *Master Deputy (Patrol)*

Terrell Huffaker to *Investigator (CSI)*

Daniel Brown to *Resident Deputy - Boiling Springs*

Jeterika Porter to *Master Deputy (Patrol)*

Kalie Natale to *Resident Deputy - Dixiana*

Stefan Sharpe to *Sergeant (Patrol)*

Josh Vicari to *Resident Deputy - Red Bank*

Tom Smith to *Senior Investigator (CSI)*

Joe Hart to *Sergeant (MCU)*

Walker Spires to *Assistant Manager (Front Desk)*

Bryan Senn to *Investigator (MCU)*

Jacob Caraway to *Senior Deputy (K-9)*



10.8%

10.8% of employees received a promotion in 2022.

ACCREDITATION

The Lexington County Sheriff's Department is an internationally accredited agency. The Commission on Accreditation for Law Enforcement Agencies awarded accreditation to our department for the first time in 1999 and most recently awarded the department its eighth accreditation in 2021. CALEA has established standards designed to prevent and control crime; increase agency effectiveness and efficiency; increase cooperation and coordination with other agencies; and increase citizen and employee confidence in the goals, objectives, policies and practices of the agency.

In September 2022, the department received its eight Law Enforcement Accreditation Award from the South Carolina Law Enforcement Accreditation. To achieve dual accreditation status in law enforcement, the department has to be in compliance with all CALEA standards and an additional 12 SCLEA standards.

In October 2022, the department successfully completed its first year of the four-year cycle for CALEA accreditation. A specially trained assessor conducted a review of 117 standards to verify compliance.



**SOUTH CAROLINA
LAW ENFORCEMENT
ACCREDITATION, INC.**

PROFESSIONAL STANDARDS



All citizen complaints and allegations, to include anonymous complaints against the agency or its employees, are investigated.

6.6%

increase in total investigations
(v. 76 in 2021)

This division, often referred to as Internal Affairs, is responsible for preserving the integrity of the agency, and its employees, through a comprehensive and objective process of investigating allegations of employee misconduct.

81

INVESTIGATIONS

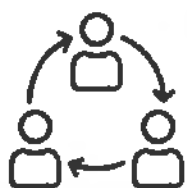
23%

increase in internal affairs investigations
(v. 56 in 2021)

- ◆ 69 Internal affairs investigations
- ◆ 7 Supervisory investigations
- ◆ 5 Miscellaneous investigations
- ◆ 27 Sustained cases

HUMAN RESOURCES & RECRUITING

APPLICATIONS RECEIVED & EMPLOYEES HIRED



59 LAW ENFORCEMENT DEPUTIES, 10 DETENTION DEPUTIES AND 14 ADMINISTRATIVE POSITIONS HIRED IN 2022.

Applications for employment were up in 2022, compared to 2021 (about 21%). 10 percent of applications received resulted in hire.* Following difficulties in 2020 and 2021, fewer employees separated in 2022 (69) from the department than in 2021 (101).**



In addition to managing the agency's pre-employment screening process, among other things, the LCSD HR team is also responsible for coordinating internal promotional testing, overseeing the timesheet submission process, managing extra-duty employment of deputies, coordinating the department's awards program, managing Family Medical Leave Act and Workers' Compensation compliance, coordinating light duty assignments, managing employee assistance program referrals and fitness-for-duty evaluations, facilitating the employee performance evaluation process and scheduling random drug testing.



In 2018, LCSD implemented **sign-on, retention and recruiting** incentives. All those continued in 2022. The Sheriff's Department also launched a new joinLCSD.com website as an effort to improve the recruiting effort of the department.

*Factors that may be contributing to this are the complexity and thoroughness of background investigations, increasing competition by surrounding agencies for a shrinking pool of qualified candidates and employees leaving the profession for other interests.

**Recruiting and retention incentives may have contributed to this.

BUDGET, FINANCE & GRANTS

BUDGET = \$61,409,157

ADMINISTRATION

13%

\$8,226,939

OPERATIONS

62%

\$37,707,782

DETENTION

25%

\$15,474,436

On the back of the county tax bill, the Sheriff's Department's portion of money received is labeled "law enforcement," constituting approximately 35 percent of the total funds received for county operations.

The budget is funded primarily by property taxes.

The funds appropriated to the department are used to pay personnel, operating and capital costs necessary to provide all services for which Sheriff Koon is responsible.

FY 21/22 GRANTS

School Resource Officer | \$127,091

Victims of Crime Act | \$196,963

Violence Against Women Act | \$133,063

Law Enforcement Network | \$10,000

Justice Assistance | \$34,055

State Body Worn Camera Program | \$85,146.50

Coronavirus Prevention Grant | \$167,200

Crime Reduction | \$87,582

Impaired Driving Countermeasures Project | \$81,910

TRAINING DIVISION

Aims to ensure every member of the department is highly qualified to best serve our citizens. State law mandates **40 hours per year** of training for all sworn corrections personnel and **40 hours every three years** for all sworn law enforcement personnel. Additionally, reserve deputies require monthly training equivalent to that which full-time officers undergo. The majority of this mandated training cannot be outsourced, and is delivered by a full-time staff, augmented by subject matter experts from across the department. Employees received **more than 22,000 hours of training** in 2022.

- ◆ 2,016 hours of law enforcement block training
- ◆ 200 hours of detention block training
- ◆ 108 hours of reserve deputy block training
- ◆ 1,440 hours of pre-service training

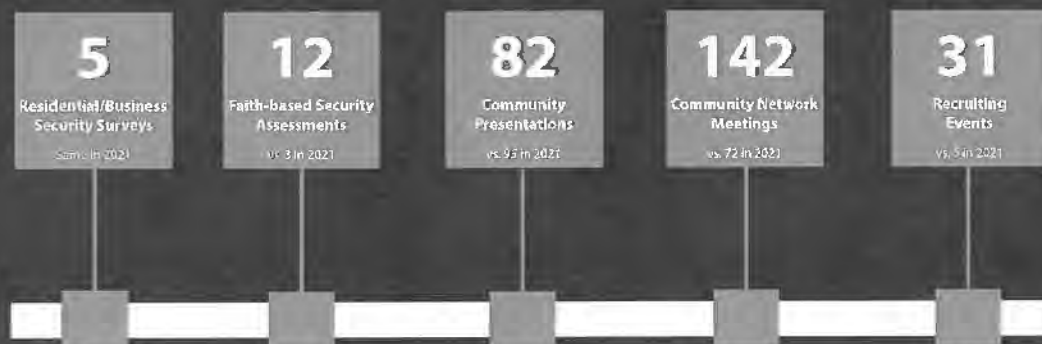
7,040

HOURS OF INSTRUCTION IN 2022

VS. 5,394 HOURS IN 2021

COMMUNITY ACTION TEAM | CAT

Seeks to **form partnerships with various businesses, churches, charity and civic groups** throughout Lexington County. The focus of CAT is to leverage strong relationships with these various groups to focus on crime prevention, citizen education, community involvement and meeting the needs of citizens in distress.



- A.L.I.C.E. Training Program (Active Shooter)
- Holiday Food/Toy Drive
- Shop with a Cop
- A/C & Fan Drive and Distribution
- Cops on the Coop
- Polar Plunge for Special Olympics
- National Night Out
- Citizens Academy
- Operation Deputy Claus

PUBLIC INFORMATION | PIO

Responsible for getting the **right information to the right people at the right time.**

Duties include: social media, media liaison, news releases and briefings, digital content and photography/videography storytelling. The goal of the PIO is to educate and inform the public and agency stakeholders to **improve the community's safety or response to a given risk or emergency.**



Across all platforms in 2022, there were over 20.5 million impressions, nearly 2 million engagements and a total of 10,237 new followers.

FRONT DESK

Operating on a 24-hour basis, the front desk of our law enforcement complex is responsible for:

Connecting citizens with appropriate LCSD personnel and services, issuing non-ferrous metal permits, accepting expired or discarded prescription medications for destruction, verifying ownership and releasing towed vehicles, performing record checks on sex offender registrants, scheduling and disseminating information concerning funeral escorts, performing telephonic welfare checks on elderly citizens and providing support to the Records and Warrant divisions after hours.

- ◆ Handled more than 82,507 phone calls in 2022
- ◆ Telephone Reporting Unit took 1,027 incident reports (down 10% from 2021)
- ◆ Issued more than 1,826 metal permits
- ◆ Helped in processing more than 1,400 registered sex offenders
- ◆ Assisted in more than 2,200 NCIC entries
- ◆ Coordinated 897 property checks

RECORDS

The primary responsibility of this unit is to maintain accurate archives of department records, while ensuring the timeliness and accuracy of data shared with state and federal partners. In 2022, this unit did the following:

- ◆ Responded to more than 22,400 requests for records
- ◆ Expunged more than 3,400 criminal records
- ◆ Conducted more than 28,000 records validations
- ◆ 1 SLED audit in 2022

-5%

In 2022, there was a 5% decrease in the amount of records requests compared to 2021.

INFORMATION TECH

This team manages a full range of technology systems and is responsible for 24/7 user support for nearly 500 employees, including 225 mobile law enforcement units.

**+16%
INCREASE**

WORK TICKETS
CLOSED SINCE 2021

In 2022, there were **4,086 work tickets closed**, compared to 3,315 tickets in 2021.

There was a **16% increase** in tickets from 2021.

During the year, the IT team worked on several initiatives. Part of its efforts included: a **complete replacement and upgrade to the Detention Center security cameras**, deployed 78 computer systems and five servers and provided approximately 340 hours of training and instruction (compared to 400 hours in 2021).

The IT department now manages more than 225 body worn cameras or in-car camera systems, more than 300 mobile phones and 200 perimeter cameras.

INTEL

The Criminal Intelligence Unit is staffed with one sworn officer and one staff analyst. It is responsible for providing support to the operational and administrative functions of the department through various statistical analysis and investigative support efforts.

◆ INDEX CRIMES

These are reportable to SLED and the FBI as part of the Uniform Crime Reporting Act; and one of the statistics the Intel Unit is responsible for maintaining and reporting.

INDEX CRIME CATEGORY	2020	2021	2022
Aggravated Assault	472	500	596
Arson	24	21	18
Burglary	1,026	819	793
Larceny	3,857	3,549	3,543
Motor Vehicle Theft	863	667	696
Murder	10	12	6
Rape	58	57	53
Robbery	85	64	66

Index crime totals increased by 1.4% from 2021 to 2022 but are still down by nearly 10% from 2020. Aggravated assaults and motor vehicle thefts drove this increase. Arson, burglary, murder and rape were down in 2022.

LEXINGTON COUNTY DETENTION CENTER

ABOUT DETENTION

Led by a major, captain and five lieutenants, the detention center serves the entire county's correctional needs.

There are three major structures. The "old jail," built in 1975, with a rated capacity of 102, stands as a three-story hardened structure attached to the main Sheriff's Department building. In 1991, the annex complex opened with a rated capacity of 176. It is designed to house inmates with minor charges or a lower risk of escape. Finally, in 1998, a third structure comprising multiple housing pods opened with a capacity of 321.

Today, the collection of detention structures has an official rated capacity of 599, according to the S.C. Department of Corrections.

Optimal maximum occupancy is 420 (allows for inmate movement and behavior management programs).

The average daily population was 540 in 2022. There has been a 3% increase from 2021 to 2022 in the amount of inmates we house on a daily basis.



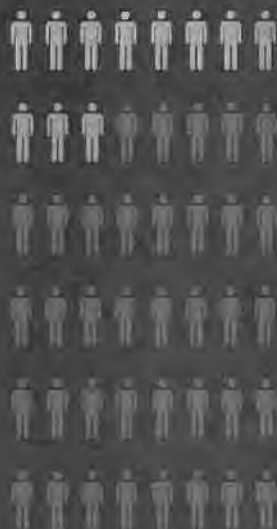
The housing of federal inmates is not a mandatory program, but revenue generated from providing temporary housing for pre-trial federal inmates subsidizes operational costs of the Lexington County Detention Center.



3%
ADP
in 2022

540

AVERAGE DAILY JAIL
POPULATION IN 2022



With the increase in ADP numbers, 2022 saw an increase in inmate-on-officer assaults to 19. There were 13 in 2021.

**DAILY
POPULATION**

The mission of the Lexington County Criminal Justice Coordinating Council is to provide a fair, effective and efficient judicial system in Lexington County; with the vision that the Lexington County judicial process is a comprehensive, coordinated and interconnected system of justice that efficiently utilizes all resources to serve and protect its citizens.

The council has met twice since the coronavirus pandemic, once in 2020 and once in 2021. Both years have seen LCDC's average daily population reach its lowest level in more than a decade.

While infection control protocols enacted during the pandemic affected detention population levels, the work of the council had prompted a downward trend in average daily population. Since the formation of the council, the data shows a consistent downward trend.

The council will continue its work to safely reduce the average daily jail population, and effectively manage the growth on Lexington County's justice system.



= 11.25 INMATES



= FEDERAL



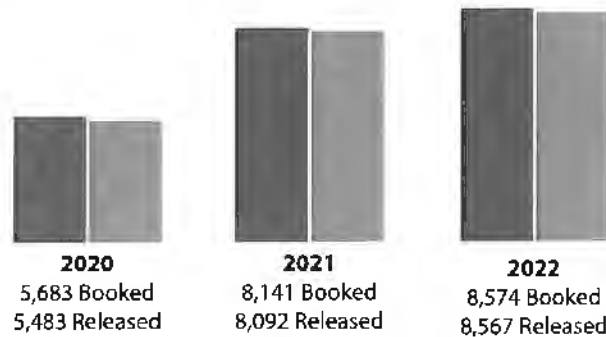
= OTHER



= GENERAL SESSIONS

BOOKING

The Booking Unit is where all the "ins" and "outs" take place. In 2022, the Booking Unit received an average of 25 inmates per day and managed about the same amount of releases.



- ◆ 72% of inmates booked in 2022 were **residents** of Lexington or Richland counties
- ◆ 28% of inmates booked were **residents** of a county outside the Midlands

Professional staff members focus on the administrative tasks in booking, leaving the available certified detention deputies to focus on managing the inmates.

JAIL PROGRAMS

CELEBRATE RECOVERY

MIDLANDS FATHERHOOD COALITION

VA OUTREACH PROGRAM

LRADAC*

LRADAC-EMPOWERMENT CENTRAL PROGRAM

U-TURN FOR CHRIST

RELIGIOUS SERVICES

PROVIDENCE HOME

JUVENILE ARBITRATION TOUR

LCDC BOOKS ON WHEELS

PRE RELEASE AND REENTRY PROGRAM

MENS FRATERNITY

DELANCEY STREET

LIFE SKILLS

UNDERSTANDING TRAUMA

ANGER MANAGEMENT

ROCK OF AGES MINISTRIES

(*MOST PARTICIPATION)

HOUSING

The Housing Unit handles 14 housing units including proper separation of males and female inmates, as well as ensuring proper classification levels, supervision needs & more.

- ◆ **One detention deputy** per 70-100 inmates
- ◆ Mental health watch requires **two detention deputies**
- ◆ Maximum security inmates require **two detention deputies**

Research has shown providing inmates with activities that keep them busy, as well as rewarding positive behavior, results in favorable reductions in inmate behavior problems.

Inmate Behavior Management: six key elements that, in combination, help jails reduce a wide array of negative, destructive and dangerous inmate behavior. We began our implementation of IBM in August 2017.

A detention deputy assigned to a housing unit is responsible for the safety and security of the unit and the overall well-being of the inmates. They are trained to recognize and diffuse disputes before they turn violent, recognize and address medical emergencies, ensure inmates take required medication, enforce hygiene standards and oversee canteen distribution.

VISITATION

Detention deputies and administrative staff assigned to visitation oversee inmate visitation matters. Since 2014, the percentage of video visitation has increased, which allowed a reduction in staffing demands to one or two deputies. Certain professional visitations are still held in person, and are supervised by the visitation detention deputies.

In 2022, **1,581 on-site visits** were managed by the unit. 13,428 visits were conducted by **remote video visitation**. This is a total of 15,009 visits handled by the unit last year.

TRANSPORTATION

Detention deputies assigned to the Transportation Unit are responsible for transporting inmates who are sentenced to SCDC, non-emergency hospital transports or inmate doctor appointments and federal inmates when requested by the U.S. Marshals Service.

The unit completed **100 general medical transports** and **38 E.R. transports** in 2022.

The unit completed **83 transports to SCDC** or other detention facilities.

NCCHC ACCREDITATION

The National Commission on Correctional Health Care is an organization dedicated to improving the quality of correctional health services and helping jails provide effective and efficient care. The Lexington County Detention Center has maintained NCCHC accreditation since 2008. The audit is conducted every three years by licensed/certified doctors affiliated with the commission, to ensure the site is compliant with the 67 standards. The last audit in January 2021 found compliance with 100 percent of essential standards and 96 percent of important standards.

The commission granted accreditation to the detention center which will carry until the next facility audit, to be conducted in 2024.



ABOVE: Lexington County Detention Center Sergeant James Davenport working in booking, May 2022.

COURTS

SECURITY

The Court Security team is part of Judicial Services. It comprises 19 deputies and 10 part-time civilian bailiffs. The main focus of the team is to ensure a safe, secure and orderly environment at the **Marc Westbrook Judicial Center**. All persons entering the courthouse are screened for weapons. Members of the Court Security team also assist in providing screening and security for events at the Lexington County administrative building and County Council meetings.

- ◆ Provided security to 1,107 courts in session
- ◆ Conducted nearly 2,500 prisoner transports
- ◆ Scanned more than 119,700 packages
- ◆ Provided 2,136 hours of magistrate security hours
- ◆ Prohibited entry of more than 1,800 dangerous items from the courthouse



Knives are the most brought-in prohibited item. In 2022, there were **1,035 knives** detected by court security.

SERVICES

Judicial Services comprises several different teams, both sworn and administrative, that work together to support safe and efficient judicial operations. This division is overseen by a captain.

The majority of the duties are specifically dictated by state law. The judicial system handles matters both criminal and civil in nature.

A significant amount of time is spent dealing with civil process. In 2022, we served more than **97% of the civil process** demands received.

- ◆ Resolved nearly **4,200** arrest warrants
- ◆ Handled **444** court-ordered evictions (up 23% from 2021)
- ◆ Received **15,142** civil process orders and served **14,691**
- ◆ Provided more than **200** hours of County Council security (decreased 50% from 2021)



FUGITIVE TASK FORCE

This group of deputies specializes in **fugitive investigations** and **warrant service** in which the suspect has serious outstanding charges or is actively evading apprehension. Since many of the suspects avoiding apprehension are ultimately located outside of Lexington County, the task force also completes necessary **extradition transports**.

 **614** 
ARRESTS

9%

DECREASE IN ARRESTS
vs. 675 in 2021

ARREST WARRANT ATTEMPTS: **2,031**

ARREST WARRANTS SERVED: **1,151**

TRANSPORTS: **101**

TRANSPORT HOURS: **795**

ADOPTED CASES: **314**



As members of the **U.S. Marshal's Fugitive Task Force** program, team members regularly work with other local, state and federal agencies to aid in the apprehension of many dangerous fugitives.

TICKETS & WARNINGS

Deputies issued approximately **13,190 tickets or warnings** in 2022, compared to 11,500 in 2021. This is a **nearly 15% increase from 2021**. Demographic analysis of these citizen contacts is conducted to ensure such contacts are representative of our service population. It should be noted that given the presence of three major interstates and the amount of non-resident traffic present in our county, demographic comparisons are not necessarily representative of our county demographics. Service population breakdown is based on data collected by the South Carolina Department of Motor Vehicles related to collisions.

2022 TICKETS	F	M
ASIAN	18	31
BLACK	695	1,064
NATIVE AMERICAN	4	12
OTHER	4	17
WHITE	1,438	2,342

2021 TICKETS	F	M
ASIAN	14	40
BLACK	549	1,000
NATIVE AMERICAN	1	9
OTHER	4	2
WHITE	1,074	2,087

Out of more than 332,800 contacts with citizens in 2022, less than 4% resulted in a ticket or warning. Less than 1.5% resulted in an arrest. Less than 1% resulted in a need to use force.

ARRESTS

The law permits some discretion in an officer's decision to arrest someone for **minor offenses** rather than simply issue a courtesy summons. Concerns about jail crowding have contributed to decisions to issue a **courtesy summons** more often than in years past for most minor misdemeanor violations.

2022 ARRESTS	2022	2021
ASIAN	12	8
BLACK	1,460	1,605
NATIVE AMERICAN	2	3
OTHER	5	11
WHITE	3,395	3,732

4,874

TOTAL
CUSTODIAL
ARRESTS

Out of more than **332,8000 contacts** with citizens in 2022, less than **4% resulted in a ticket** or warning. Less than 1.5% resulted in an arrest. Less than 1% resulted in a need to use force.

CASE ASSIGNMENT & CLEARANCE

Tracking case status is an important measurement related to follow-up investigations. Once an incident report is assigned for follow-up, the status of the case is marked as "active." Upon conclusion of the investigation, the status is updated according to the outcome. If investigative efforts are exhausted or insufficient evidence is found to continue an investigation, the case might be "closed administratively."

Cases are given a status of "cleared by arrest" when one or more suspects are identified and arrested. When a suspect is identified and sufficient evidence exists to make an arrest, but circumstances outside the control of the investigator prevent an arrest, a case will be assigned a status of "exceptionally cleared."

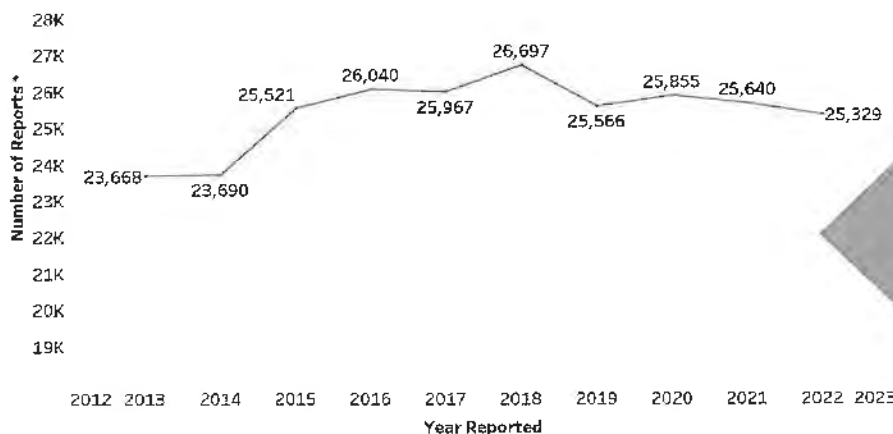


Cases are assigned a status of "unfounded" when the investigation determines a crime or the events originally alleged to have happened did not occur.

Overall, case clearance for index crimes in 2022 remains high at 32%.

INCIDENT REPORTS

While every call for service does not generate an incident report, one is always written when an arrest is made, when we determined a crime has occurred or someone requests written documentation.



-1.2%

DECREASE IN REPORTS
WRITTEN IN ONE-YEAR
PERIOD

25,640 in 2021 vs.
25,329 in 2022

+2%

INCREASE IN REPORTS
ASSIGNED FOR
FOLLOW-UP

13,442 in 2021 vs.
14,021 in 2022

This chart shows the number of incident reports written each year. While calls for service have decreased, the reports written have similarly decreased.

CALLS FOR SERVICE

Calls received at the **Lexington County Communications Center** are categorized by a general nature type at the time of dispatch, based on the primary concerns relayed by the caller.

- ◆ Burglar alarms, civil disputes, 911 hang-ups and larceny are **all** top call types year-after-year.
- ◆ 911 hang-ups have nearly doubled since 2017 and increased nearly 6% between 2021 and 2022.
- ◆ Welfare checks and trespassing complaints have also increased since 2017 nearly triple at 3112 in 2022. (vs 802 in 2017)



Calls for service include any call or activity recorded that originate from a citizen or person other than an LCSD employee. **Administrative demands** (35,537 in 2022) that do not otherwise fit neatly into a specific call type but are the result of citizen demands for service include requests for phone calls to inquire about an investigation or ask questions about the court process.

*Data throughout the years, going back to 2012, shows a 2-5% increase per year is typical and closely follows population growth.



MAJOR CRIMES

This unit comprises **49 sworn and administrative employees**, both working full- and part-time positions, and is divided into seven teams.



- ◆ One detective team
- ◆ One domestic violence team
- ◆ One special victims team
- ◆ One victim services team
- ◆ One crime scene investigations team
- ◆ One evidence management team
- ◆ One sex offender registry team

In 2022, Major Crimes Detectives investigated **2,360 cases** and obtained **1,002 warrants with 733 being felony warrants**. In 2022, the Major Crimes Unit investigated six homicides, all of which were ruled as murders, with one murder/suicide.

The Major Crimes Unit investigated and reviewed an array of different criminal offenses in 2022 to include **six murders, 111 deaths under investigation, 52 robberies, 273 aggravated assaults, 245 criminal sexual conducts, 65 criminal domestic violence assaults** of a high and aggravated nature and **485 domestic assaults**.

In 2022, the Lexington County Sheriff's Department's Victim Services continues to expand their services beyond general victim services. They have continued specialized services for the elderly and domestic violence victims as well as juvenile victims. Victim Services assisted **9,452 victims of 8,898 crimes** were reviewed by the unit.

1.32

DOMESTIC ASSAULTS
EVERY DAY

12,445

ITEMS OF EVIDENCE
COLLECTED IN 2022

801

LABS COMPLETED BY
CRIME SCENE
INVESTIGATORS

+4%

INCREASE IN CASES IN ONE-YEAR PERIOD

2,032 in 2020 v. 2,268 in 2021

-3%

DECREASE IN FELONY WARRANTS
IN ONE-YEAR PERIOD

763 in 2021 vs. 733 in 2022

-7%

DECREASE IN EVIDENCE
RECEIVED IN ONE-YEAR PERIOD

13,377 in 2021 vs. 12,445 in 2022

NARCOTICS

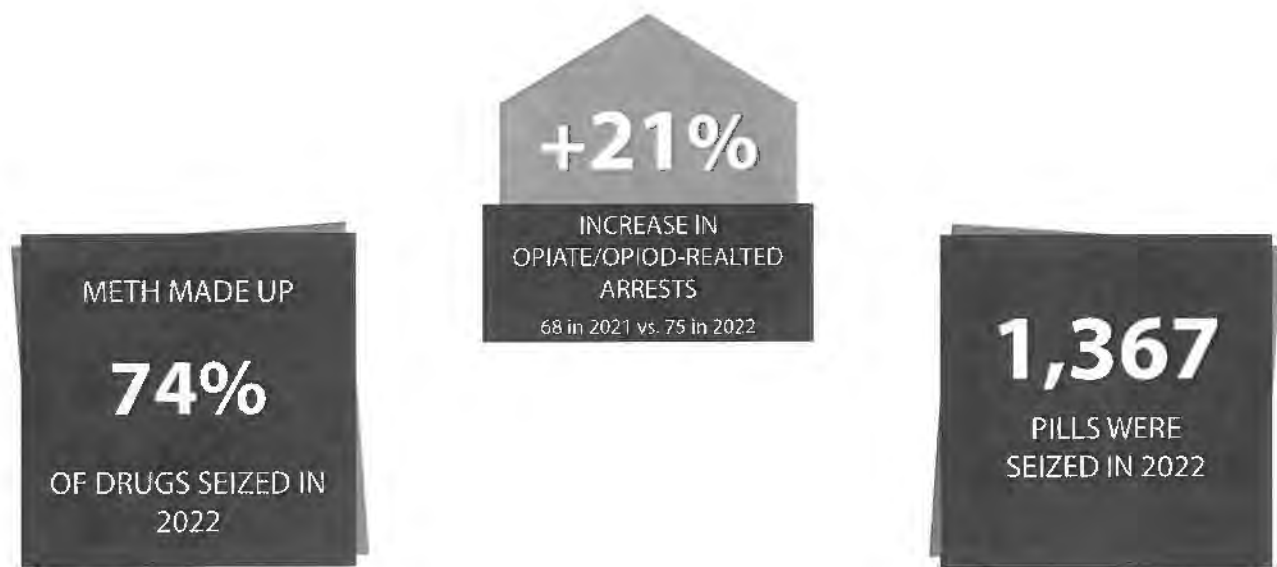
The **Lexington County Multi-Agency Narcotics Enforcement Team** comprises 27 employees with a mixture of sworn county deputies, sworn municipal police officers and administrative staff. Multiple officers work in Task Force Officer status for federal agencies including the ATF, DEA, FBI and U.S. Marshals Service.

In 2022, the team investigated **659 cases** and obtained **532 warrants** with **482 being felony warrants**. That is an **18% decrease** from 2021.

The team seized **\$132,575.00, \$34,000 in prepaid visa cards, two vehicles, 167 firearms and 161 controlled buys**. Along with this the unit also seized **887 pounds of marijuana, 93.2 pounds of methamphetamine, 7.54 kilograms of cocaine, 4.8 ounces of crack cocaine, 18.2 ounces of heroin and 13.43 pounds of fentanyl**.

There was a substantial increase in narcotic overdoses in 2022. There were **720 reported overdoses** resulting in **57 deaths and 397 doses of Narcan** administered by law enforcement and EMS. The increase in reported overdoses in 2022 (41.7%) might be a result of more accurate reporting conducted by EMS and the Coroner's Office.

	2018	2019	2020	2021	2022
ASSIGNED CASES	699	631	793	954	659
TOTAL WARRANTS OBTAINED	482	313	507	637	532
FELONY WARRANTS	353	271	443	559	482
MISDEMEANOR WARRANTS	129	42	64	78	50



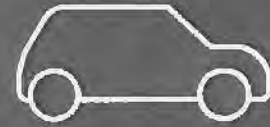
DRONE UNIT

The unit is made up of **five FAA Part 107 licensed pilots** and three observers. The team trains twice a month for four hours.

More than **640 flights for about 197 missions** were flown in 2022, primarily in support of finding missing persons and fugitive apprehension.



ABOVE: Cayce Police Department requested the drone unit to assist in finding a wanted suspect.



Selective Traffic Enforcement Program

This program is responsible for the assignment of personnel to traffic enforcement activities at times and locations where hazardous or congested conditions exist. Such assignments are usually based on factors such as traffic volume, collision experiences, frequency of traffic violations and emergency service needs.

TRAFFIC UNIT

The Traffic Division is aligned in two teams that cover all aspects of traffic, to include **accident reconstruction, public safety checkpoints, ancillary traffic services, traffic control, traffic enforcement** and **funeral escorts**. The unit has eight deputies with one sergeant who oversees the unit and two master deputies who manage each of the teams. There is a traffic deputy on call for any needs the department might require, and the teams work a rotating shift of days, nights and weekends.

79

hours worked for the Selective Traffic Enforcement Program

596

hours worked for radar saturation to address resident complaints

3,062

TOTAL TRAFFIC VIOLATIONS

1,779

SPEEDING TICKETS

1,443

TOTAL TRAFFIC WARNINGS

2,124

CALLS FOR SERVICE

104

DUI* ARRESTS

103

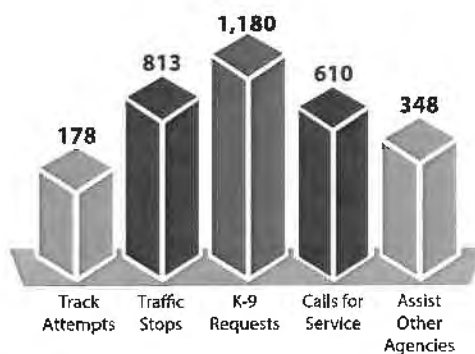
DUS** ARRESTS

K-9 UNIT

Comprised of **eight K-9 handlers** and **seven K-9s**, this unit assists with all K-9 needs the department has including: drug sniffs, explosive sweeps, violent criminal tracks/apprehension and missing and endangered person tracks.

- ◆ **Four K-9s** are German shepherds, Belgian malinois, and shepherd-malinois mixes used for tracking/apprehension and narcotics detection
- ◆ **One K-9** is a Belgian malinois used to track/apprehend and is explosive sniff-trained
- ◆ **One K-9** is a bloodhound used to track missing and endangered persons
- ◆ **One K-9** is a German shorthaired pointer used for tracking, article searching and narcotics detection
- ◆ **One sergeant** and **two master deputies** manage the five remaining handlers

In 2022, the unit had **one K-9, Vilo, retire.**



3,226

SELF-INITIATED
CALLS

48

PRESENTATIONS

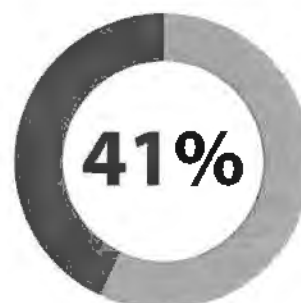
101

K-9 CALL OUTS

SWAT

The **Special Weapons and Tactics** unit is a single agency team that is mission-capable in all areas required by the National Tactical Officer Association to be a Tier 2 team, including emergency hostage rescue operations. The team comprises a **team commander, assistant team commander, two team leaders, two assistant team leaders, a sniper team leader, an assistant sniper team leader** and **12 operators**. This unit responds to escalated calls, such as barricaded individuals, that might need additional assistance and tools. It is a collateral duty position which requires 24/7 on-call availability. Training is a major component of being on the SWAT team. In 2022, the team completed **245 hours of training**, which include 16 hours of routine training a month.

- ◆ Completed 135 hours of operation
- ◆ Served in 22 operations
- ◆ Forced entry eight times
- ◆ Enacted use of force four times



41% of SWAT operations were search warrants in 2022.

RESERVE DEPUTY PROGRAM

On a volunteer basis, reserve deputies work to assist our full-time, sworn personnel by riding with them and helping respond to calls. When he or she accrues enough hours, a reserve deputy can begin to patrol on his or her own.

The program was made up of **one major, one captain, one lieutenant, one sergeant** and **eight other members**.

THIS PROGRAM
SAVED LEXINGTON
COUNTY TAXPAYERS

\$192,828

vs. \$28,191 in 2022

5,687

TOTAL HOURS
WORKED

vs. 1,140 in 2022

DRUG TAKE-BACK

This program allows people to **dispose of old or unwanted medications safely**. With drop-boxes at 521 Gibson Road, Lexington and each of the three patrol region service buildings around the county, Lexington County residents have multiple, convenient options to get rid of medicine they don't need.

- ◆ North Region drop-box: 111 Lincreek Drive, Columbia (business hours)
- ◆ South Region drop-box: 102 Airport Road, Pelion (business hours)
- ◆ West Region drop-box: 4079-D Augusta Highway, Gilbert (business hours)

April 2022
198 lbs

+

July 2022
68.8 lbs

+

October 2022
211 lbs

=

Total 2022
477.8 lbs

PHOTOS



LEFT: Sgt. Applegate talked to students at Summer Connections Camp about what it's like to be a K-9 deputy, July 2022.

RIGHT: MD Natale rode Abraham the Camel at Gaston's National Night Out event, August 2022.



LEFT: SRO Isgett shopped with a child during Shop With A Cop just before Christmas, December 2022.

PHOTOS

RIGHT: First Baptist Church of Lexington provided home-cooked meals to our deputies and their families, February 2022.



LEFT: RD Apgar jumped in the dunk tank at Relay for Life in memory of our late co-worker Beverly Smith, May 2022.

RIGHT: Senior Investigator Yancey stamps unique numbers into trailers as a new method of theft prevention, March 2022.





LEXINGTON COUNTY SHERIFF'S DEPARTMENT

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ANNUAL REPORT 2022



LEXINGTON SHERIFF

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Deputies, state and federal agents back on the ground working leads in 1986 kidnapping case

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[Sep 14, 2021](#) [Capt. Adam Myrick](#)  [News Releases](#)

LEXINGTON, S.C. – The FBI and the State Law Enforcement Division have joined Lexington County deputies to assist in the ongoing search for a girl reported missing more than 35 years ago.



Jessica Gutierrez

Members of an FBI unit specializing in child abductions arrived in Lexington Monday to work alongside deputies and SLED agents in the search for Jessica Gutierrez, who detectives said was kidnapped from her South Lake Drive home in June 1986. Gutierrez was 4 years old.

"Jessica's mother was unable to find her when family members woke up on June 6, 1986," Lexington County Sheriff Jay Koon said. "A large area was searched on foot, on all-terrain vehicles and by air in the days after she disappeared. But no one has seen Jessie since."

Koon said he asked the FBI to help search for Gutierrez and to canvas the area and talk with neighbors who lived near her family just as investigators did when she was first reported missing.

"This is a team of highly trained and experienced experts on missing children cases," Koon said. "Over the coming days, the team will provide on-the-ground investigative, technical, behavioral analysis and analytical support to find out more about what happened to Jessie."

Jessica is Still Missing



"Our goal is to help in the quest to find answers for the Gutierrez family," said Susan Ferensic, special agent in charge of the FBI's Columbia Field Office. "We want to provide an array of resources the FBI has to assist the Lexington County Sheriff's Department in solving this case."

"We'll need the community's help on this too. They're a very valuable part of the work being done here over the next couple of weeks," Koon said. "We know it's been a long time, but we believe it's very likely someone has information that can lead us to Jessie."

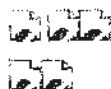
"Even if you have been interviewed before or if you have never talked to law enforcement, now is the time to come forward if you have information that can help us. You might see our investigative teams over the next two weeks, please talk with them. Even if you 'think' what you know can't help, let us decide if what you know is relevant. It might be the final piece to add to the evidence we have to find Jessie."

Anyone with information about the case can share tips by calling 803-785-2457 or contacting Crimestoppers.

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Work to solve 1986 kidnapping case continues

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1986 kidnapping case continues](#)

[Sep 19, 2021](#) [Capt. Adam Myrick](#)  [News Releases](#)

LEXINGTON, S.C. – FBI special agents and analysts assigned to the specialized Child Abduction Team, along with Lexington County deputies, continue to look into the 1986 disappearance of Jessica Gutierrez.



Jessica Gutierrez as she appeared in 1986, and in an age progressed photo provided by the National Center for Missing and Exploited Children

Investigators, along with SLED agents, have reviewed initial reports and re-interviewed more than 125 people in the search for Gutierrez, who disappeared from her home when she was 4 years old.

"Almost all of the individuals contacted and revisited this week have been cooperative and want to help," Lexington County Sheriff Jay Koon said. "The team will be in Columbia a few more days and the local FBI Field Office will continue to work with us and look into any new leads that might develop."

Koon said anyone with information about the Gutierrez case should call the Sheriff's Department at 803-785-2457 or submit a tip through Crimestoppers.

"The community has been very supportive of our efforts this past week," Koon said. "They've spoken with investigators and welcomed them into their homes. We're fortunate to have so many people on our side as we strive to get justice for Jessie's

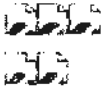
2/11/24, 6:02 PM
862
family.”

Work to solve 1986 kidnapping case continues - Lexington County Sheriff's Department

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Suspect arrested in 1986 child kidnapping, killing

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arrested in 1986 child kidnapping, killing](#)

[Jan 6, 2022](#) [Capt. Adam Myrick](#)  [News Releases](#)

LEXINGTON, S.C. – A North Carolina man has been arrested on suspicion of kidnapping and killing a child in Lexington County more than three decades ago.

Thomas Eric McDowell, 61, is charged with murder, kidnapping and first-degree burglary in connection to the disappearance and death of 4-year-old Jessica Gutierrez in June 1986, according to arrest warrants.

McDowell, who lived in Lexington County in 1986, was arrested by the Wake Forest Police Department at his home about 20 miles north of Raleigh Thursday morning. He is being held in the Wake County Detention Center.

"We took a fresh look at this case in September when FBI special agents and analysts assigned to its specialized Child Abduction Rapid Deployment Team and prosecutors with the South Carolina Attorney General's Office came to Lexington," Lexington County Sheriff Jay Koon said. "SLED agents also joined us in reviewing initial reports and interviewing more than 125 people. Because of the work we did, coming together as a team, we were able to sort and connect more pieces of the puzzle about what happened to Jessica all those years ago."

More than 3,500 case file pages were reviewed in September, according to Koon. Ten FBI field offices were involved in a reexamination of the case last year.

864

"This arrest is due in part to the many years of dedicated investigative work by local, state and federal partners, as well as the resolve of citizens who have never forgotten Jessica," FBI Columbia Special Agent in Charge Susan Ferensic said. "Regardless of how long a child is missing, we will never stop searching for answers, and we hope that this arrest is a step toward healing for the Gutierrez family."

Koon said the case would be prosecuted by the South Carolina Attorney General's Office, which has held the case since February 2015.

"I want to commend the dedicated and experienced members of law enforcement as well as prosecutors in the Attorney General's Office for their tireless efforts," South Carolina Attorney General Alan Wilson said. "Without this newly discovered information our office would not be able to prosecute this case."

Wilson stressed that all defendants are presumed innocent unless and until proven guilty in a court of law.

"We look forward to working with all the agencies involved to get justice for Jessica's family and, hopefully, bring her home. They've been waiting a long time and we're glad to be a part of another step in the process," Koon said. "And the community support to the family and to those who've worked on this case has been invaluable. We know they'll remember Jessica and stand with her family in the coming days."

Jessica is Still Missing



A video about the Jessica Gutierrez case produced by the Lexington County Sheriff's Department in June 2021

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**LEXINGTON COUNTY SHERIFF'S OFFICE
BOOKING REPORT**

CASE # [REDACTED]

LCSD# 94-04710010

ID# 931904 DATE 03/15/94 TIME 17:00

DEFENDANT NAME (Last) MCDOWELL	First THOMAS	Middle ERIC
ALIAS (Last)	First	Middle
MONIKER	DATE OF BIRTH [REDACTED]	AGE 33
	GANG	

ADDRESS (Number and Street)
LEE CORRECTIONAL INST.

City LEE COUNTY **ST** SC **Zip** [REDACTED] **SSN#** [REDACTED] **Phone Number** () - -

Place of Birth
YORK COUNTY SC

Drivers License Number NONE **ST** SC **Employer or Occupation** UNEMPLOYED

Next of Kin CHARLES MCDOWELL/FATHER **Next of Kin's Address (City and State)** YORK COUNTY SC

TOTAL CASH AT TIME OF ARREST
Booking Officer
829 SMITH

Arresting Officer
JOYNER

Jurisdiction
Lexington County

Arresting Agency
Lexington County

CHARGE A:	CHARGE B:	CHARGE C:
HOLD FOR COURT		
BOND AMT.		
BOND TYPE		
RET. DATE		
POSITION RELEASED TO R/E		
SENTENCE		
TIME SERVED		
GOOD TIME		
BALANCE		
RECEIPT # 1011/M/BAG 281		

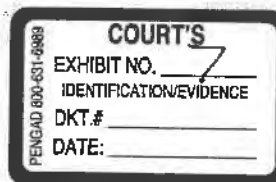
RELEASE DATE 03/28/94 TIME 10:00 AM

REMARKS

OFFICER KELLY

AGENCY

SEX Male	HEIGHT 5' ft. 11" in.	BUILD Medium or average	WEAPON	TATTOO LOC. Upper arm Other
WEIGHT 155 lbs.	COMPLEXION Medium	FACIAL HAIR Goatee Mustache	HEAD ODDITIES	Upper arm Other
RACE White		DRUGS	BODY ODDITIES	OTHER Left-Handed
HAIR COLOR Brown		EYE COLOR Hazel		
HAIR LENGTH Short (above ear)				
PRIME Her				



AGENCY I.D.
SCO320000

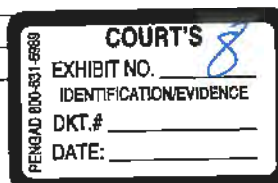
LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT

CASE NUMBER **867**
8614106

☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1 of 5 PAGES.

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: <u>Gutierrez, Jessica</u>	DATE OF BIRTH: _____
STREET ADDRESS: _____	RACE: _____ SEX: _____
CITY - STATE - ZIP: _____	AGE: _____
INCIDENT TYPE: _____	
ORIGINAL SUSPECT:	
NAME: _____	DATE OF BIRTH: _____
STREET ADDRESS: _____	RACE: _____ SEX: _____
CITY - STATE - ZIP: _____	AGE: _____
RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____	
CANCEL NCIC ENTRY: YES _____ NO _____	



On November 4, 2008, at approximately 1715, I/O along with S/A Bill Graham with SLED made contact with Detective Gibson at a Wake Forest Police Department Substation in North Carolina. (Arrangements had previously been made with her to gather some intelligence on Thomas McDowell and to place him under surveillance in an attempt to find out where he was living, who he was living with, and what his work schedule was like.) Gibson advised I/O that one of the detectives (Warren), who had assisted her with gathering the above information on McDowell, had seen him in a convenience store earlier that morning and had recognized him. That detective advised that McDowell approached her, indicated that he knew her from somewhere and began talking to her. The detective found out that McDowell did handyman work for himself.

I/O asked Gibson if she knew any way that McDowell could be asked to respond to the substation without telling him what it was about. She suggested that he be contacted and asked to come to the substation under the pretense of assisting with some construction thefts in the area, since he did that kind of work. Warren stated that McDowell lived around the corner from her and that she would go by his house on the way home and ask him to stop by the substation the next morning.

Warren went by McDowell's house at around 1830 and got no response at his door.

Gibson suggested to have one of the officers who worked the night shift try to make contact with him. Contact was made with McDowell by one of the night shift officers at around 0730 the next morning. The officer provided McDowell with a contact name and number for Gibson. The officer then contacted Gibson and advised her that contact had been made. Within a couple of minutes, McDowell contacted Gibson and agreed to come in and talk to her. McDowell stated that he would be at the substation in approximately thirty minutes.

I/O and Graham started getting the interview room ready for the interview. Within ten minutes, McDowell was at the substation. Gibson made contact with him and escorted him to the interview room where I/O and Graham were waiting. Gibson advised McDowell that I/O and Graham wanted to talk to him. McDowell had a look of surprise on his face when he saw I/O and Graham. I/O and Graham introduced themselves to McDowell and asked if it would be alright if they talked with him. McDowell stated that it would be fine. Detectives (I/O and Graham) interviewed McDowell in an interview room at the substation.

Detectives started by gathering some general information about McDowell. McDowell stated that he was self employed and did handyman work. I/O asked him how he ended up in Wake Forest. He stated that, when he got

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
YES ☐	NO ☐	YES ☐	NO ☐	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Pritchard, D. L.	11-25-08	93				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
					McDowell 03644	

868 AGENCY I.D. SCO320000	LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT	CASE NUMBER 8614106
☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY ☐ STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY		
PAGE <u>2</u> of <u>5</u> PAGES.		

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: Gutierrez, Jessica	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME:	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

released from prison in North Carolina, he wanted to stay in North Carolina because of how the sex offender registry was there. He stated that he knew that if he went back to South Carolina that he would have to register for the rest of his life. He stated that he went to a shelter that was associated with a church and they were able to get him some work and he ended up in Wake Forest. I/O asked him if he did much travelling with his work. He stated that he went wherever he needed to make money; however, the implication was that he did not normally travel more than a couple of hours away from home to work. I/O asked McDowell what the name of his business was. He stated that it did not have a name. I/O asked him if he had anyone working for him. He stated that he did not and that he usually worked by himself.

Detectives then advised him that they were investigating the Gutierrez case from years ago and that they had been going back and interviewing and re-interviewing people who may have some information which may help with the investigation. I/O asked McDowell if he was familiar with the case. He stated that he vaguely remembered something about it. I/O asked if he knew Debra Gutierrez. He stated that he did and that they had a very brief (about two months) intimate relationship years ago. I/O asked how he met her. He stated that he met her when he got together with his family and friends and played cards in Lexington. He stated that he got to know her and that he did some work for her around her house. I/O asked what kind of work that he did. He stated that he worked on a shed and an awning and some other little things for her. I/O asked him if he was familiar with her daughter, Jessica. He stated that he was. I/O asked what he had heard about her being missing. He stated that he had heard that she was missing; however, he did not know anything about it. I/O asked him if he had heard anyone say who they thought may have taken Jessica. He stated that he had not heard anything and that he did not understand screaming at kids or hitting them.

McDowell appeared to be getting nervous and asked to go to the restroom. I/O showed him where the restroom was and he went. McDowell returned to the interview room a couple of minutes later.

I/O asked McDowell if he thought Debra might have been responsible for Jessica's disappearance. He stated that she was good to her kids and that she would not do anything to them. I/O then asked about Jessica's father. McDowell stated that he did not know him and that he understood that he lived somewhere in California. McDowell stated that he never heard that he was responsible for anything. I/O asked him if he had seen anything on television about Jessica's disappearance. He stated that he does not watch "commercial TV" and that he did not hear anything about Jessica missing other than from his mother.

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED	☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER
YES ☐	NO ☐	YES ☐	NO ☐			
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Pritchard, D. L.	11-25-08	93				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
			McDowell	03645		

AGENCY I.D. SCO320000	LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT	CASE NUMBER 869 8614106
☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY ☐ STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY		
PAGE <u>3</u> of <u>5</u> PAGES.		

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: Gutierrez, Jessica	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME:	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

Detectives then asked McDowell if he remembered when the last time was that he was at Debra's house. He stated that it was a long time ago and that he could not remember exactly when it was. I/O asked him if he could estimate when it was. He stated that it was at least six months prior to Jessica coming up missing. I/O asked him how he knew that. He stated that his relationship with Debra ended before Christmas 1985. McDowell stated that he did not return to Debra's house anytime during those six months prior to Jessica coming up missing.

It was about this time that McDowell appeared to be getting nervous again and said that Detectives were going to try to "pin" this on him. Detectives assured McDowell that they did not have any warrants on him and that if they did, he would be in handcuffs.

Again, I/O asked him if he had heard any rumors about what may have happened to Jessica. He stated that he did not hear any. He stated that he lived in a trailer park on Hwy. 321 near I-26 in Lexington. He stated that he was working with his father building houses in York County and that he had to drive ninety minutes to work, work eight to ten hours a day, and then drive ninety minutes back home everyday. McDowell stated that he did not have time for anything else. McDowell also mentioned that he did drink some alcohol and took drugs back then; however, he has not had any drugs since he got out of prison and did not drink any more alcohol until about two years ago when he had a breakup with his girlfriend.

I/O then reiterated to McDowell that Detectives were re-interviewing individuals who knew Debra and Jessica and who may have some information helpful to the case. I/O explained to McDowell that written statements were not obtained during the initial investigation and that Detectives had been getting written statements from the individuals they had made contact with. I/O asked McDowell if he would provide a written statement to what he had told Detectives up to this point. He stated that he would.

I/O pulled out a Lexington County Sheriff's Department Statement Form and began filling out the top portion with McDowell's information. After filling out that information, I/O presented the form to McDowell and began explaining the form to him. I/O then read the part of the form to him advising him of his rights. McDowell indicated that he knew that those were Miranda Rights. I/O confirmed that to McDowell. I/O continued reading the rights to McDowell and asked him if he would place his initials beside each right indicating that he understood each one. McDowell initialed each one and then proceeded to write his statement (see file). In his statement, McDowell stated that he met Debra around 1985 while at a card game. They became interested in each other and dated for about two months. Their relationship did not work out so they stopped seeing each other. McDowell stated that he met

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ UNFOUNDED ☐ ADMINIST. CLOSED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
YES ☐	NO ☐	YES ☐	NO ☐						
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST									
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER				
Pritchard, D. L.	11-25-08	93							
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER				
			McDowell	03646					

870
AGENCY I.D.
SCO320000LEXINGTON COUNTY SHERIFF'S OFFICE
INVESTIGATIVE REPORTCASE NUMBER
8614106☐ ORIGINAL
REPORT☒ SUPPLEMENTAL
REPORT☐ ADDITIONAL
VICTIMS☐ ADDITIONAL
STOLEN PROPERTY☐ STATUS
CHANGE☐ ADDITIONAL
OFFENDERS☐ ADDITIONAL
RECOVERED PROPERTYPAGE 4 of 5 PAGES.

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: <u>Gutierrez, Jessica</u>	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME:	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

Debra's children while they were together. McDowell stated that he learned about Jessica being missing from his mother and that he did not know anything else about the case. McDowell also stated that he worked on an awning at Debra's house. McDowell stated that he believed that it had been more than six months before Jessica had disappeared that he was at Debra's house. McDowell then signed and dated his statement. McDowell wrote his statement left handed.

After McDowell wrote his statement, Detectives advised McDowell that evidence in the case indicated that he knew more about the case than he was telling. McDowell adamantly denied having any additional knowledge. I/O asked McDowell if he remembered detectives coming to talk to him while he was in prison. He stated no. Detectives asked him if he remembered having an attorney by the name of Greer. He stated no. He also denied asking for immunity in exchange for information regarding the case. He stated that he did not even know what immunity was. He further denied any conversation with detectives who were transporting him back to Lexington from North Carolina where he got upset and stated that he had something to tell them. I/O asked McDowell if he remembered talking to inmates in the Polk County Jail about the case. He denied any conversations with any inmates.

At this point, Graham left the interview room. McDowell asked if he could use the restroom again. I/O advised him that he could. When McDowell came out of the restroom, he asked I/O if he could go outside and smoke. I/O told him that was fine and that they could continue to talk outside. Once outside, I/O continued the interview with McDowell. I/O told McDowell that Debra wanted closure by having a place where she could go visit her little girl. I/O told McDowell that he could provide that closure. McDowell, who was leaning against the building at this point, dropped his head and then nodded it in the affirmative a couple of times. He then took a deep breath, stood up straight and said that I/O had the wrong man. McDowell finished his cigarette and walked back inside to the interview room and sat down. McDowell asked I/O if he was going to arrest him. I/O advised McDowell that he was not going to arrest him. McDowell stated that I/O was not going to arrest him; however, Graham was. I/O advised him that Detectives did not have warrants and that he was not going to be arrested and that he could walk out of the building any time that he wanted to.

I/O continued to interview McDowell about the case and advised McDowell that search warrants had been executed on the vehicle that he had been driving around the time that Jessica became missing and that evidence had been obtained as a result of the search warrant. McDowell continued to deny any involvement with the case. A short time later, McDowell stated that it was getting late and that he needed to get to work. I/O asked him if he would wait a couple of more minutes to see if Graham needed to say anything else to him. McDowell stated that was fine.

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
YES ☐	NO ☐	YES ☐	NO ☐	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Pritchard, D. L.	11-25-08	93				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
			McDowell 03647			

AGENCY I.D.
SCO320000

LEXINGTON COUNTY SHERIFF'S OFFICE INVESTIGATIVE REPORT

CASE NUMBER **871**
8614106

☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE **5** of **5** PAGES.

ORIGINAL COMPLAINANT ☐ OR VICTIM ☒	
NAME: Gutierrez, Jessica	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:
INCIDENT TYPE:	
ORIGINAL SUSPECT:	
NAME:	DATE OF BIRTH:
STREET ADDRESS:	RACE: SEX:
CITY - STATE - ZIP:	AGE:

RECOVERED PROPERTY DOLLAR AMOUNT: \$ _____

CANCEL NCIC ENTRY: YES _____ NO _____

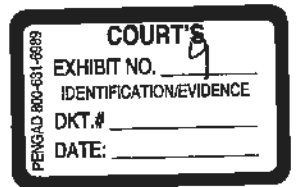
Graham came back into the room and told McDowell that if he was innocent of any involvement in the case he needed to do what he could to prove it. Graham asked McDowell if he would take a polygraph. McDowell immediately stated that they were not admissible in court, grabbed his stuff, and stated that he had to go. I/O explained to McDowell that he was right that they were not admissible in court; however, if he passed it, Detectives would not bother him any more. McDowell then started saying that he was so nervous at that point that it would say that he was lying. I/O attempted to explain to him how the polygraph worked and that it had nothing to do with his nervousness. McDowell stated that the cops were crooked and that he would not be surprised if we took his DNA (this was the first time that DNA had been mentioned in the interview) and planted it so that the case could be closed. McDowell stated that he had to go and asked if he could. Detectives thanked McDowell for his time and told him he was free to go. McDowell then left.

Based on information obtained during the initial background investigation on McDowell by the Wake Forest Police Department, Detectives were able to make contact with McDowell's ex-girlfriend, Debra Baker, at her work. Detectives advised Baker about the investigation and asked her if McDowell had ever said anything to her about the case. She stated that she had known McDowell for years and that she and her daughter, Melissa Baker, had lived with him for a while; however, he had never made any statements about the case. Detectives asked her if he had ever done anything to her or said anything to her that made her feel uncomfortable. She stated no. Detectives asked her if her daughter had ever said anything to her about McDowell in a negative sense. She stated that her daughter had recently moved back in with McDowell because she needed a place to stay and that she called her a couple of days ago and told her that she woke up a couple of nights ago with McDowell rubbing her on her legs. Detectives asked Baker if they could talk with her daughter. Baker provided Detectives with her daughter's address (which was now the same as Baker's).

Detectives responded to the address provided for Melissa; however she was not at home. Baker advised that she would have Melissa contact Detectives. Later that evening while Detectives were traveling back to South Carolina, Melissa called I/O. She advised that a couple of days ago she was asleep at McDowell's house and was awakened by him rubbing on her leg and her private area. She told him to stop and he did. The next day she received a letter from him telling her that he had feelings for her. Melissa stated that she moved out. She also stated that recently, while he was drunk, he told her that he had killed someone a long time ago and that it was easy and he could do it again. Melissa stated that she tried to get some additional information out of him; however, he would not say anything else. (A written statement will be obtained from Melissa at a later date.)

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
YES ☐	NO ☐	YES ☐	NO ☐	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ VICTIM/WITNESS DECLINES COOPERATION 4. ☐ EXTRADITION DENIED 5. ☐ JUVENILE, NO ARREST						
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
Pritchard, D. L.	11-25-08	93				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
			McDowell	03648		

The last time that Tommy McDowell ⁽¹⁾ was at my home on 2779 South Lake Drive was around October of 1985. Tommy McDowell had put up the awning over our front porch (deck). In August of 1985. It was warmer weather. I remember Tommy wearing shorts. He was putting together a shed in the back yard. When Tommy came back to finish up a few smaller things, his last visit to my home was in October of 1985.



JR Gordon (Henry Jacob Gordon Jr.) moved in our home at 2779 South Lake Dr. in late January or early February of 1986. On Monday June 3, 1986, I asked JR to leave. On Friday, June 6, 1986, I awoke to find my Daughter Jessie. had been taken.

Debra Gutierrez Ramsey

March 13, 2008



Complete Sun and Moon Data for One Day

Lexington, SC

N 33.98°, W 81.24°

Thursday, 1986-June-5

Zone: Eastern Daylight Time

Sun

Begin Civil Twilight	05:45
Rise	06:14
Upper Transit	13:23
Set	20:33
End Civil Twilight	21:02

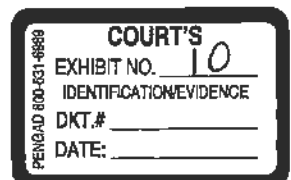
Moon

Rise	04:45
Upper Transit	11:53
Set	19:09

(Note: U.S. Daylight Saving Time conversion is included)

Closest Primary Moon Phase: New Moon on 7 June 1986 at 10:00

Phase of the moon on 5 June 1986: Waning Crescent with 3% of the Moon's visible disk illuminated.





Dates of Primary Phases of the Moon

Date and Time (Universal Time)

New Moon	First Quarter	Full Moon	Last Quarter
--	1986 May 17 01:00	1986 May 23 20:45	1986 May 30 12:55
1986 Jun 7 14:00	--	--	--

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Fraction of the Moon Illuminated

Fraction of Moon Illuminated, 1986

at Midnight

5.0 hours West of Greenwich

Day	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
01	0.77	0.61	0.75	0.57	0.49	0.33	0.29	0.19	0.10	0.08	0.02	0.00
02	0.67	0.50	0.65	0.46	0.39	0.24	0.21	0.12	0.05	0.03	0.00	0.01
03	0.57	0.39	0.54	0.35	0.29	0.16	0.14	0.07	0.01	0.00	0.01	0.04
04	0.46	0.28	0.42	0.25	0.20	0.10	0.08	0.03	0.00	0.00	0.06	0.10
05	0.35	0.18	0.31	0.16	0.13	0.05	0.04	0.01	0.01	0.03	0.12	0.18
06	0.24	0.10	0.21	0.09	0.07	0.02	0.01	0.00	0.04	0.08	0.21	0.27
07	0.15	0.04	0.13	0.04	0.03	0.00	0.00	0.02	0.10	0.15	0.32	0.38
08	0.08	0.01	0.07	0.01	0.00	0.00	0.01	0.06	0.17	0.24	0.43	0.49
09	0.03	0.00	0.02	0.00	0.00	0.03	0.04	0.12	0.27	0.35	0.54	0.59
10	0.00	0.02	0.00	0.01	0.02	0.06	0.09	0.20	0.37	0.46	0.64	0.69
11	0.01	0.06	0.00	0.04	0.05	0.12	0.15	0.30	0.49	0.57	0.74	0.78
12	0.04	0.11	0.03	0.08	0.10	0.19	0.23	0.40	0.60	0.68	0.83	0.85
13	0.09	0.18	0.07	0.14	0.16	0.27	0.33	0.51	0.71	0.78	0.90	0.92
14	0.16	0.26	0.12	0.21	0.23	0.37	0.43	0.63	0.81	0.86	0.95	0.96
15	0.25	0.35	0.19	0.29	0.32	0.47	0.54	0.74	0.89	0.93	0.98	0.99
16	0.34	0.44	0.27	0.38	0.42	0.58	0.65	0.83	0.95	0.97	1.00	1.00
17	0.43	0.54	0.36	0.48	0.52	0.68	0.76	0.91	0.99	1.00	0.99	0.99
18	0.53	0.63	0.46	0.58	0.62	0.79	0.85	0.96	1.00	1.00	0.97	0.97
19	0.62	0.72	0.55	0.68	0.72	0.87	0.93	0.99	0.99	0.98	0.93	0.92
20	0.71	0.80	0.65	0.77	0.82	0.94	0.98	1.00	0.96	0.94	0.88	0.87
21	0.79	0.87	0.74	0.86	0.90	0.99	1.00	0.97	0.91	0.89	0.81	0.80
22	0.86	0.93	0.82	0.93	0.96	1.00	0.99	0.93	0.84	0.83	0.73	0.71
23	0.92	0.97	0.89	0.97	0.99	0.98	0.96	0.87	0.77	0.75	0.65	0.62
24	0.96	1.00	0.95	1.00	1.00	0.94	0.90	0.79	0.68	0.66	0.55	0.52
25	0.99	0.99	0.99	0.99	0.97	0.87	0.82	0.70	0.59	0.57	0.45	0.42
26	1.00	0.97	1.00	0.96	0.92	0.78	0.74	0.61	0.49	0.47	0.35	0.31
27	0.98	0.92	0.98	0.90	0.84	0.69	0.64	0.52	0.40	0.38	0.25	0.21
28	0.95	0.84	0.94	0.81	0.75	0.59	0.54	0.42	0.31	0.28	0.16	0.13
29	0.89	--	0.87	0.71	0.64	0.48	0.45	0.33	0.22	0.19	0.09	0.06
30	0.81	--	0.78	0.60	0.54	0.39	0.35	0.24	0.14	0.12	0.03	0.01
31	0.72	--	0.68	--	0.43	--	0.27	0.17	--	0.06	--	0.00

Arrival Time

11/4/86 9⁰⁰ AM

Arrival Date

County

Jaxington

Law Enforcement Agency

SLED + LC50

Offense

Kidnapping

Victim(s)

Gutierrez

Subject(s)

Thomas ERIC McDowell

Det. Bob Benjett (SCD)

George Tansil

Ken

Sett H.

JACOBS

Pink & white
Sleeveless T-shirt
White pants

Vehicle VIN (if applicable)

5G21H154044

Model

Ford Elite

Year

75

Tag #

ONJ 711

Two Door

White

White Vinyl

Tag

10/86

Items Received for Analysis:

- (A) ~~Contents of Boy's Backpack (clothes, books, shoes, etc.) (all taken)~~
- (B) Pipe Wrench Trunk
- (C) HAIRS - Fibers
- (D) Cigarettes
- (E) Debris (Cig Lighter - Trunk for Hairs)
- (F) 1-Box and VARIOUS paper items
- (G) Photos (taken/shot by George) and fingerprint lifts

Ken
A-E

George T.

F+G

11/4/86 1315 hrs



~~DRIVEWAY~~
~~TO HOD~~
~~308~~

110005
woods
Dirt Road Leading to Hwy 302
woods
110005
woods

405
Wim
VII

SKED

Speeds +
roads

— Spoon
+ straw

Doc = Rachel

DECK AND
ALUMINUM
COVER

MOBILE HOME AT 2779 S. LAKE DR,
FRONT & BACK YARD CLEAN & CLEAR
WIDE OPEN VIEW (NO VISIBLE
RESIDENTS)

Q-6

2-5-Q-6
Q-26

1-VIDEO TAPE

879

LEXINGTON COUNTY SHERIFF DEPARTMENT
IDENTIFICATION DIVISION

IN MICROFILM
ROOM Cabinet

Latent to FBI 6-7-81

EVIDENCE REPORT

FILE NUMBER _____

DEFENDANT _____

DATE 6 June, 1986

TIME 10:30 AM

COMPLAINANT _____

CASE OFFICER Emmons, et/al

EVIDENCE DELIVERED BY RMF

VICTIM(S) Jessica Gutierrez

TEST OR EXAMINATION REQUESTED _____

CASE NUMBER 8614106

EVIDENCE RECEIVED: (Include color, make, brand, model and serial number when applicable)

- 1 - One (1) video tape-----
 - 2 - Latent print (from window located to the right of the front door, first pane of glass from the bottom of the window)-----
 - 3 - Piece of wood used to prop open the window, found on the porch below the window-----
 - 4 - One (1) Vantage cigarette butt, found on the ground beneath the window from which the latent was lifted-----
 - 5 - Empty Vantage cigarette pack, found in the fork of a tree in the front yard-----
- END-----END-----END-----



Test or Examination results done by L.C.S.D. or the agency evidence was forwarded to for analysis:

CHAIN OF CUSTODY:

TO <u>Rm Green</u>	FROM <u>Rm Green</u>	DATE <u>6/6/86</u>	TIME <u>10:30 AM</u>
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____
TO _____	FROM _____	DATE _____	TIME _____



Office of the Sheriff
LEXINGTON COUNTY
Bryan "Jay" Koon
Latent Print Examination

DATE: 01-30-2024

CASE #: 86-14106

REPLY TO: Sgt. David Pritchard

VICTIM: Jessica Gutierrez

This is an official report of the Lexington County Sheriff's Department ID Section and is to be used in connection with an official criminal investigation. This examination was conducted under your assurance that no previous examinations in this case has been conducted or will be conducted by any other agency.

ITEMS RECEIVED:

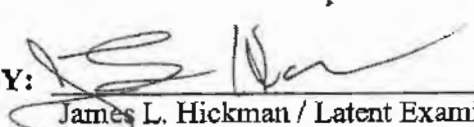
One lift

Photography of fingerprint card dated 01-02-1979 bearing the name of Thomas Eric McDowell DOB [REDACTED] and SSN [REDACTED].

RESULTS:

One latent fingerprint of value present on the lift, marked Lifted from outside of bottom pane of window to right of front door, has been identified as an impression of the left middle finger of Thomas E. McDowell.

EXAMINED BY:


James L. Hickman / Latent Examiner



A Nationally Accredited Law Enforcement Agency
P.O. Box 839 Lexington, South Carolina 29071 (803) 785-8230, Fax (803) 785-1162





VEHICLE TITLE TRANSACTION

VIN	5G21H154044	MAKE	FORD	YR	MAKE	1975	01	VEH TYPE	1	NAME	MCDOW
TITLE		DATE	12/12/1985	TITLE			17046691			LIEN	0
VIN	5G21H154044	MAKE	FORD	YR	MAKE	1975	02	VEH TYPE	1	NAME	LLOYD
TITLE		DATE	03/08/1988	TITLE			18967552			LIEN	0
VIN	5G21H154044	MAKE	FORD	YR	MAKE	1975	03	VEH TYPE	1	NAME	SPIRE
TITLE		DATE	02/26/1990	TITLE			20765781			LIEN	0
VIN		MAKE		YR	MAKE		ROLL	00000	FRAME	00000	
		DATE		TITLE			VEH TYPE		NAME		LIEN
VIN		MAKE		YR	MAKE		ROLL		VEH TYPE		FRAME
		DATE		TITLE			VEH TYPE		NAME		LIEN
VIN		MAKE		YR	MAKE		ROLL		VEH TYPE		FRAME
		DATE		TITLE			VEH TYPE		NAME		LIEN
VIN		MAKE		YR	MAKE		ROLL		VEH TYPE		FRAME
		DATE		TITLE			VEH TYPE		NAME		LIEN

*** END OF KEY ***



949-815-8947

Lexington County Sheriff's Department Statement Form



DATE November 5, 2008 PLACE Wake Forest Police Dept. TIME STARTED 8:20 A.M.

I, the undersigned, Thomas McDowell, am 47 years of age, my date

and place of birth being the [REDACTED] day of December, 19 60, at York, S.C.

My present address is 842 North White St. Wake Forest, N.C. 27587

I completed GED grade(s) in school. I can read and write. TM (Initials)

CONTACT NUMBERS: H) _____ W) _____ C) _____

ALTERNATE CONTACT: Name _____ Phone Numbers: _____

Before answering any questions or making any statements, Det. Pritchard

a person who identified him/herself as a Lex. Co. Detective

duly warned and advised me that:

- 1) I HAVE THE RIGHT TO REMAIN SILENT. TM
- 2) ANYTHING I SAY, CAN AND WILL BE USED AGAINST ME IN A COURT OF LAW. TM
- 3) I HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE ASKED ANY QUESTIONS AND TO HAVE HIM OR HER PRESENT WITH ME DURING QUESTIONING. TM
- 4) IF I HAVE NO MONEY FOR LAWYER'S FEES, THE COURT WILL APPOINT ONE TO REPRESENT ME WITHOUT COST TO ME IF I WISH. TM
- 5) IF I DECIDE TO ANSWER QUESTIONS NOW WITHOUT A LAWYER PRESENT, I WILL STILL HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANY TIME. I ALSO HAVE THE RIGHT TO STOP ANSWERING QUESTIONS AT ANYTIME UNTIL I TALK WITH A LAWYER. TM

I HAVE READ THIS STATEMENT OF MY RIGHTS AND I UNDERSTAND WHAT MY RIGHTS ARE. TM I MAKE THE FOLLOWING STATEMENT:

TM I met Debbie around 1985 while at a card game. We became interested in each other and dated for about 2 months. The relationship didn't work out so we stopped seeing each other. I met her children while we were together.

I learned of Jesse from my mom. I don't know much about the case other than what I learned from her (my mom).

I did work at Debbie's house on an evening for about 1 day.

I believe it had been more than 6 months before Jesse disappeared that I was at her house. TM

Wittke SLED

Witness

Person giving Statement

Notary Public

Date

11/5/08

My Commission expires

Pg 1 of ___ pgs

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,



Jordan Wayburn
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

RECEIVED

Jun 26 2025

SC Court of Appeals

This 26th day of June, 2025.

RECEIVED

Jun 26 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

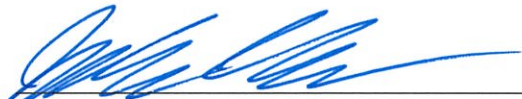
THOMAS ERIC MCDOWELL,

APPELLANT

APPELLATE CASE NO. 2024-000226

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 R. Brandon Larrabee, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 26th day of June, 2025.



Jordan Wayburn
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT